

MARRIAGES AND DIVORCES IN INDIAN SOCIETY



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MARRIAGE & DIVORCES IN INDIAN SOCIETY

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Foreword

It is with great pleasure and a deep sense of societal responsibility that I write this foreword for the book titled "Marriage and Divorces in Indian Society." This insightful work delves into the profound impact that the institution of marriage and its challenges have on our ever-evolving society. As a Chartered Accountant and a Union Minister in the Government of India, I have had the privilege of witnessing firsthand the complexities and transformations within marriages, and the implications they hold for individuals, families, and the wider community.

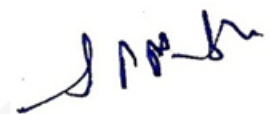
Marriage is a sacred bond that forms the very foundation of our social fabric. Yet, as our society progresses and individuals face a myriad of complexities in their lives, the dynamics of marriages have undergone significant shifts. This book offers a comprehensive exploration of the multifaceted aspects of marriage and divorces in the Indian context, shedding light on the challenges they present while also revealing the opportunities for growth and transformation within these experiences.

The authors of this book have embarked on an in-depth exploration of the intricate nuances surrounding marriages and divorces, employing thorough research and insightful analysis to navigate this complex terrain. Their work provides a holistic understanding of the socio-cultural, economic, and legal dimensions that shape our understanding of these phenomena. By examining the factors leading to marital discord, the impact on individuals, families, and society at large, as well as the legal frameworks governing divorces, this book serves as a valuable resource for scholars, policymakers, and individuals grappling with the complexities of these issues.

In addition to highlighting the challenges, the book recognizes the opportunities that lie within the realm of marriages and divorces. It sheds light on the significance of counseling, mediation, and alternative dispute resolution mechanisms in fostering healthier and more harmonious relationships. Furthermore, it emphasizes the importance of social support systems, gender equality, and education in addressing the challenges faced by married couples and in mitigating the adverse consequences of divorces on individuals and their families.

I commend the authors for their dedicated efforts in compiling this insightful work. Their commitment to exploring the complex dynamics of marriages and divorces in Indian society is truly praiseworthy. I firmly believe that this book will stimulate thoughtful conversations, foster empathy, and contribute to the development of informed policies and practices that enhance the well-being of individuals and strengthen the social fabric of our nation.

As readers embark on this enlightening journey, I encourage them to approach the contents of this book with empathy and an open mind. May it inspire meaningful discussions, instigate positive change, and pave the way for a society where marriages thrive and divorces are approached with compassion and fairness.



Suresh Prabhu

CHAPTER 1

THE EFFECTS OF SINGLE PARENTING ON THE MENTAL HEALTH AND WELL-BEING OF YOUNG ADULTS: A COMPARATIVE ANALYSIS WITH TWO PARENT HOUSEHOLDS

THE EFFECTS OF SINGLE PARENTING ON THE MENTAL HEALTH AND WELL-BEING OF YOUNG ADULTS: A COMPARATIVE ANALYSIS WITH TWO PARENT HOUSEHOLDS

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ABSTRACT

Single-parent families have been experiencing a significant increase on a global scale in recent times, understanding the potential effects on the psychological development of young adults has become increasingly important. This study compares and analyses the impact of single parenting on the mental health and well-being of young adults, contrasting it with the outcomes observed in two-parent households. Drawing on a comprehensive review of empirical studies and scholarly literature, this analysis underscores the psychological dimensions that highly influences the mental health of young adults raised in single-parent households. Factors such as parental involvement, economic stability, family structure, and social support networks are examined in relation to their influence on the outcomes of single-parent families. The findings suggest that young adults raised in single-parent households may experience unique challenges that can impact their mental health. The absence of one parent in their daily lives may lead to feelings of abandonment, identity confusion, and emotional stress. Comparatively, young adults from two-parent households generally exhibit higher levels of psychological well-being due to the presence of two parental figures, potentially providing increased emotional support and guidance. However, it is essential to note that the effects of single parenting on young

adults' mental health are not uniformly negative. Factors such as the quality of the parent and child relationship, support from extended family members, and community resources can serve as protective factors and mitigate some of the challenges that are faced by single-parent led families. This analysis underscores the need for appropriate interventions and support systems to address the specific mental health needs of young adults raised in single-parent households. By recognizing the unique circumstances and challenges faced by these individuals, policy makers, educators, and mental health professionals can develop strategies to foster resilience and well-being among this population.

Keywords: Single Parenting, Mental Health, Well-Being, Young Adults, Comparative Analysis, Two-Parent Households.

INTRODUCTION

In recent decades, the structure of families has undergone significant changes worldwide, with single-parent households becoming increasingly prevalent. Single parenting refers to the situation where one parent assumes the primary care giving responsibilities for their children, either as a result of separation, divorce, the death of a partner, or the decision to raise a child alone. The rise in single-parent families has sparked considerable interest in understanding the potential effects of this family structure on the psychological development and well-being of young adults. The mental health and well-being of young adults are vital components of their overall development and life satisfaction. Therefore, it is crucial to explore the unique challenges and experiences faced by individuals raised in single-parent households in order to better understand the impact on their mental health outcomes. This research paper aims to provide a comprehensive analysis of the effects of single parenting on the mental health and well-being of young adults, while also comparing these outcomes with those observed in two-parent households.

To achieve this objective, this study draws upon a wide range of empirical studies and scholarly literature to provide a comprehensive and systematic analysis. By examining the existing research, we can gain valuable insights into the psychological dimensions that influence the mental health and well-being of young adults raised in single-parent households.

One important factor to consider in this analysis is the level of parental involvement in the lives of young adults. Single-parent households often place a heavier burden of care giving

responsibilities on one individual, which may impact the availability of time, emotional support, and guidance that young adults receive. The absence of one parent in their daily lives may lead to feelings of abandonment, identity confusion, and emotional stress. Comparatively, young adults raised in two-parent households generally benefit from having two parental figures, potentially providing increased emotional support and guidance, as well as a sense of stability.

Economic stability is another critical aspect to consider when exploring the effects of single parenting on young adults' mental health and well-being. Single-parent households often face financial challenges due to the sole income earner supporting the family. This financial strain can impact the quality of life, access to resources, and opportunities available to young adults. In contrast, two-parent households typically have a greater combined income, which can provide a more secure and stable economic environment for their children.

Family structure also plays a crucial role in understanding the effects of single parenting on young adults. Growing up in a single-parent household may result in a different family dynamic and interpersonal relationships compared to two-parent households. Single parents may experience unique challenges in balancing their parental responsibilities with other life demands, potentially affecting the quality of the parent-child relationship. This, in turn, can influence the mental health and well-being of young adults. In contrast, two-parent households generally provide a more traditional family structure with both a mother and father figure, which may contribute to a more balanced and supportive family environment for young adults.

Social support networks are also influential factors to consider when examining the effects of single parenting on young adults' mental health. Single-parent households may have a smaller support system compared to two-parent households, as they often lack the presence of a co-parent and extended family members living in the same household. The limited availability of social support networks can impact the emotional and practical assistance received by young adults, potentially influencing their mental health outcomes.

While the effects of single parenting on the mental health and well-being of young adults may initially appear predominantly negative, it is important to acknowledge that these outcomes are not uniformly unfavourable. Factors such as the quality of the parent-child relationship, support from extended family members, and access to community resources can serve as protective factors and mitigate some of the challenges faced by single-parent families. These factors can

enhance resilience, promote positive mental health outcomes, and foster overall well-being among young adults raised in single-parent households.

This research paper seeks to explore and compare the effects of single parenting on the mental health and well-being of young adults, contrasting them with outcomes observed in two-parent households. By comprehensively examining the psychological dimensions that influence the lives of young adults in single-parent families, we can better understand the challenges they face and develop targeted interventions and support systems to address their specific mental health needs. By recognizing and addressing the unique circumstances of individuals raised in single-parent households, policy-makers, educators, and mental health professionals can work together to promote resilience, foster well-being, and ensure a brighter future for this population.

OBJECTIVE

To compare the levels of mental health and well-being of young adults raised in single-parent households versus those raised in two-parent households.

To examine the influence of parental involvement, economic stability, family structure, and social support networks on the mental health and well-being of young adults in single-parent households.

To identify protective factors and resources that can mitigate the potential negative effects of single parenting on the mental health and well-being of young adults, and to propose strategies for promoting resilience and well-being within this population.

METHODOLOGY

This research employs a convenient sampling technique with a sample size of 66 young adults. Convenient sampling is chosen due to its practicality and ease of access to participants. The sample will consist of individuals aged 18 to 25 years, who were raised either in single-parent households or two-parent households. The independent variables considered in this study include age, educational qualification, occupation, and gender, while the dependent variables focus on the influence of parental involvement, economic stability, family structure, and social support networks on the mental health and well-being of young adults in single-parent

households. To present the findings, clustered pie charts are used as statistical representations. The information for this research is derived from various secondary sources, including journals, articles, books, and other relevant publications.

LIMITATION

The findings of this study may be limited in their generalizability to the broader population of young adults raised in single-parent households. The sample size of 66 participants, obtained through convenient sampling, may not represent the entire population adequately. The characteristics and experiences of the selected participants may differ from those of young adults in single-parent households in other regions or cultural contexts.

REVIEW OF LITERATURE

Coparenting. Paul . R. Amato (2019), Divorced people in India and the United States trip over comparable issues with financial adequacy, social support, and psychological well-being. Furthermore, the predictors of divorce adjustment are comparable in each society.

However, Indian females ride extra troubles than Indian men; they additionally show up to go through greater difficulty than American women. Three elements are accountable for this pattern: Indian women's financial dependence on men, Indian cultural beliefs about ladies and marriage, and the patriarchal agency of the Indian joint family.

McLanahan, S., & Sandefur, G. (1994), The authors explore various factors related to single-parent households, including economic hardships, parental involvement, and social support. They shed light on the challenges faced by children in single-parent families and suggest potential strategies to mitigate the negative consequences. The book provides valuable insights into the complexities of single parenting and its implications for children's development.

Mize, K. D., Pettit, G. S., & Lindsey, E. W. (1999), The research highlights the importance of both mothers' and fathers' parenting in promoting children's emotional well-being. The findings indicate that children in single-parent households may face unique challenges in regulating their emotions, but the study also emphasizes the potential for positive outcomes when parents actively engage in their children's emotional development.

This study contributes valuable insights into the dynamics of parenting and emotional regulation in various family contexts.

Osborne, C., & McLanahan, S. (2007), The study underscores the importance of stable and committed relationships in providing a nurturing environment for children's development. The findings emphasize the need for policies and interventions that promote relationship stability to improve the well-being of children growing up in non-traditional family structures. This research contributes to our understanding of the complex dynamics between family structure and child outcomes.

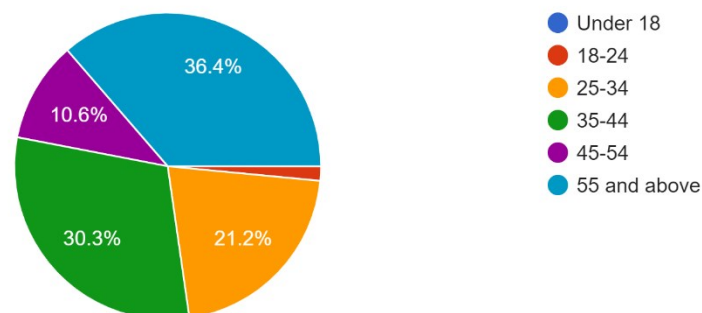
Sandler, Miles, Cookston, and Braver's (2008), The research highlights the importance of both mothers' and fathers' parenting in influencing children's well-being, particularly in the context of divorce. The findings suggest that positive and supportive parenting practices can mitigate the negative impact of parental conflict on children's mental health outcomes. This study emphasizes the significance of effective co-parenting strategies in promoting children's adjustment and psychological well-being during and after divorce.

Strohschein, L. (2005), The research examines how divorce impacts children's mental well-being over time, considering factors such as age at divorce and subsequent family transitions. The findings indicate that children of divorce are more likely to experience higher levels of psychological distress compared to those from intact families. The study underscores the importance of understanding the enduring consequences of divorce on children's mental health and highlights the need for targeted interventions to support their well-being.

ANALYSIS

What is your age?

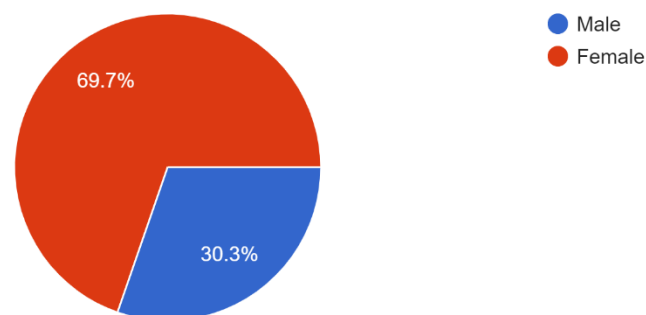
66 responses



Based on the pie chart, we can understand that the largest portion of responses, accounting for 36%, came from individuals aged 55 and above. The age group with the fewest responses was the 18-24 age group. The 25-34, 35-44, and 45-54 age groups received a relatively similar and moderate number of responses.

What is your gender?

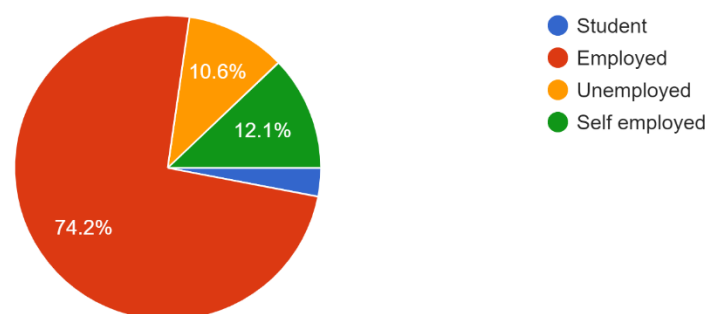
66 responses



From the above given pie chart it is evident that the majority of respondents are female, while the minority of respondents are male.

What is your occupation?

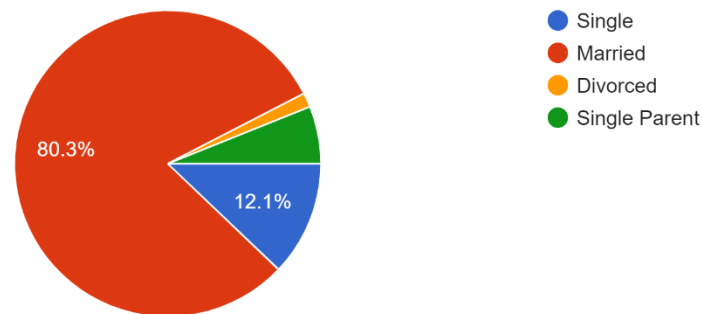
66 responses



From the above given pie chart almost 74% responses were received from people who are employed, 12% people are self employed and only 10% are unemployed which is a minority.

What is your marital status?

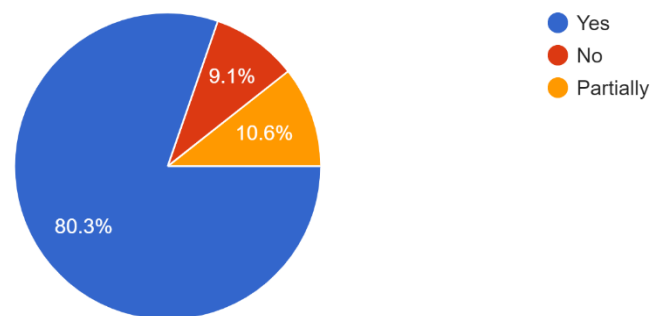
66 responses



The pie chart provides a visual representation of the distribution of responses based on marital status. The majority, comprising approximately 80% of the total responses, are from individuals who identified as married. On the other hand, 6% of the respondents indicated being single parents, while 1.5% reported being divorced. These findings highlight that a significant proportion of single parents, specifically 6%, participated in the study.

Are you aware of the concept of single parenting?

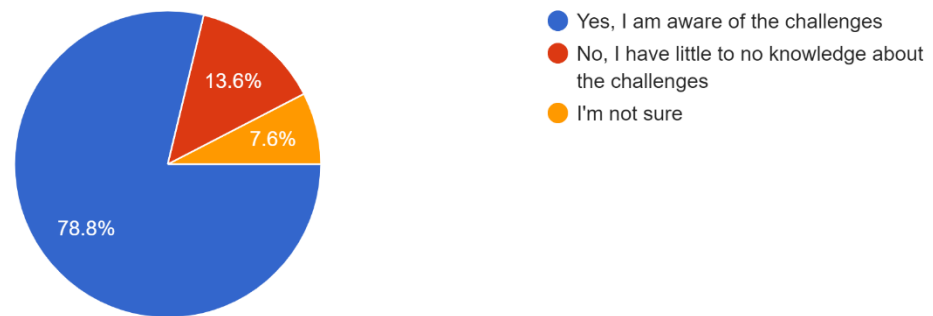
66 responses



The provided pie chart reveals valuable insights regarding participants' awareness of the concept of single parenting. The data demonstrates that a significant majority, approximately 80% of the respondents, are fully aware of the concept. This high level of awareness highlights the importance of single parenting as a relevant and significant topic for discussion and research. Furthermore, 10% of the participants indicated partial awareness of the concept, suggesting some familiarity but with room for further understanding. However, it is noteworthy that 9% of the respondents reported not being aware of the concept, indicating the need for educational efforts to increase awareness and understanding in this area.

Are you familiar with the challenges faced by single parents?

66 responses

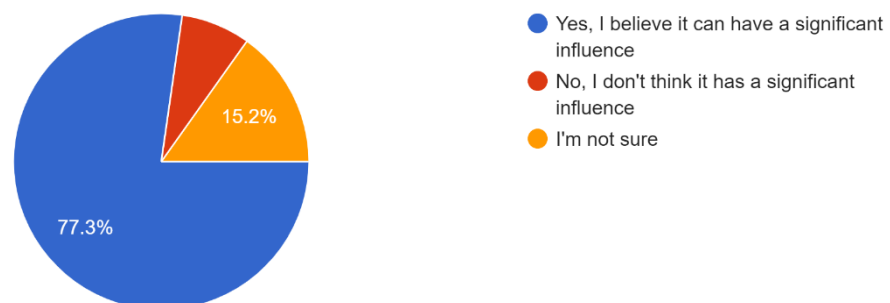


The data reveals that a significant majority, comprising 78% of the respondents, are well aware of the difficulties encountered by single parents. This high level of awareness indicates a recognition of the unique circumstances and obstacles these individuals face. Additionally, 13% of the participants reported having some knowledge about the challenges, suggesting a partial understanding.

On the other hand, 7% of the respondents expressed uncertainty regarding their awareness of the subject matter. These findings emphasize the importance of raising awareness and disseminating information to enhance understanding and support for single parents.

Do you think single parenting can have a significant influence on the mental health and well-being of young adults?

66 responses

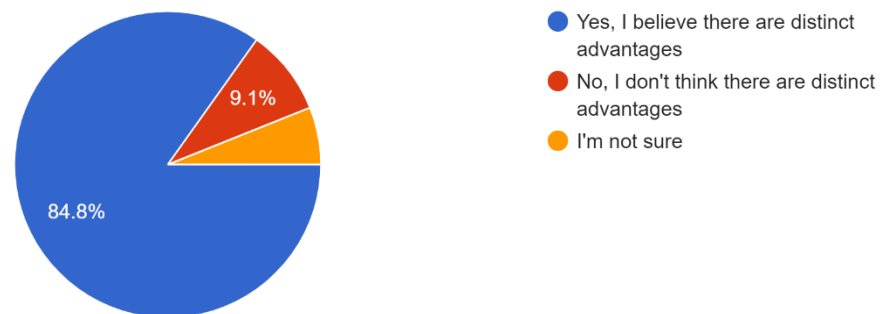


The data reveals that a substantial majority, constituting 77% of the participants, agreed that there could be a significant influence on the mental health and well-being of young adults raised by single parents. This finding suggests a widespread recognition of the potential challenges

and effects that single parenting may have on the psychological development of young adults. On the other hand, a minority of 7% disagreed with this notion, indicating a differing perspective among a smaller segment of respondents. These findings underscore the significance of further research and discussion on the topic, as well as the need for supportive measures for young adults raised in single-parent households.

Do you think there are distinct advantages to growing up in a two-parent household compared to a single-parent household?

66 responses

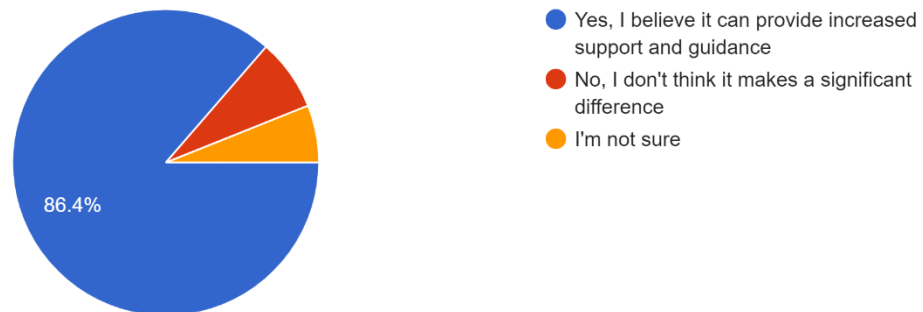


The data indicates that a significant majority, accounting for 84% of the respondents, agreed that there are distinct advantages for children in a two-parent household.

This finding suggests a widespread recognition of the potential benefits that come from the presence of two parental figures in a child's upbringing. On the other hand, 9% of the participants disagreed with this notion, indicating a differing viewpoint among a smaller portion of respondents. These findings highlight the importance of further exploration and understanding of the dynamics and outcomes associated with different family structures, as well as the need for support systems to address the unique challenges faced by single-parent households.

Do you think the presence of both parents in a two-parent household can provide increased emotional support and guidance for young adults compared to a single-parent household?

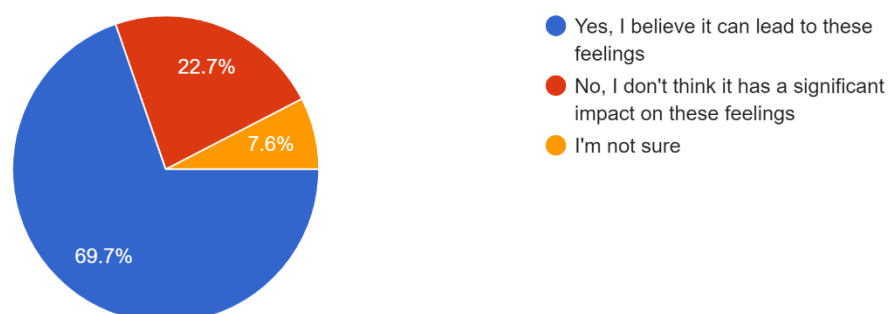
66 responses



The data reveals that a majority, comprising 86% of the respondents, believe that there is emotional support and guidance in a two-parent household. This finding suggests a widespread belief in the positive influence of having two parental figures in providing emotional nurturing and guidance to children. On the other hand, 7% of the participants responded that support and guidance are similar regardless of whether the household is single-parent or two-parent, emphasizing the importance of parental nurturing irrespective of family structure. These diverse perspectives shed light on the complexities of parental roles and the varying perceptions of support and guidance within different household contexts. Further research is needed to explore the specific dynamics and impacts on children's emotional development in both single-parent and two-parent households.

Do you believe that the absence of one parent in a single-parent household may lead to feelings of abandonment, identity confusion, and emotional stress for young adults?

66 responses

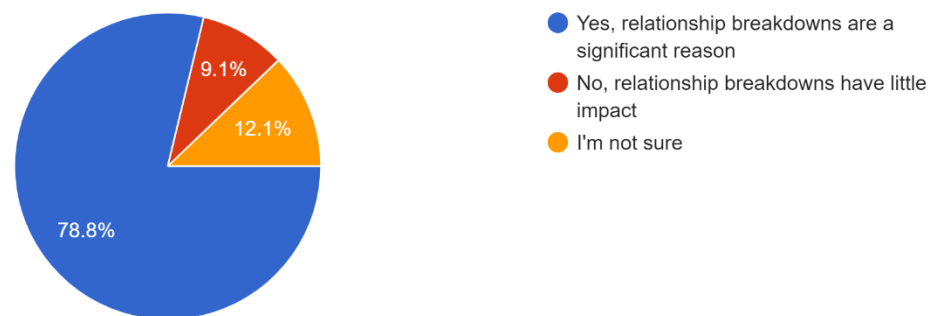


The data reveals that a majority, comprising 69% of the respondents, agreed that in the absence of one parent, young adults may face issues such as feelings of abandonment, identity

confusion, and emotional stress. This finding highlights a widespread recognition of the potential challenges that young adults from single-parent households may encounter due to the absence of one parental figure. On the other hand, 22% of the participants disagreed with this notion, indicating a differing viewpoint among a smaller portion of respondents. However, it is important to note that numerous studies have consistently demonstrated a significant impact on the behavioural patterns of young adults raised in single-parent households.

Do you think relationship breakdowns, such as divorce or separation, are significant reasons for single parenthood?

66 responses



The data indicates that a majority, comprising 78% of the respondents, agreed that relationship breakdowns such as divorce and separation are significant factors contributing to the increase in single parenting.

This finding underscores the recognition of the impact of these relationship challenges on the prevalence of single-parent households. Conversely, 9% of the participants disagreed with this notion, suggesting a differing viewpoint among a smaller portion of respondents.

It is important to note that apart from relationship breakdowns, there are various other reasons contributing to single parenting, although not explicitly mentioned in the given context. These factors could include situations such as the loss of a spouse or partner, unplanned pregnancies, or personal choices regarding parenting arrangements.

SUGGESTIONS

Establish support groups and counselling services specifically tailored for young adults from single-parent households, providing a safe space for them to discuss their challenges and seek guidance.

Implement comprehensive parenting programs that focus on equipping single parents with effective strategies for nurturing the mental health and well-being of their young adult children.

Foster collaboration between schools, community organizations, and mental health professionals to develop integrated support systems that cater to the unique needs of young adults raised in single-parent households.

Promote awareness and education about the potential impacts of single parenting on young adults' mental health through targeted campaigns and workshops for parents, educators, and the broader community.

Enhance economic support systems and resources for single-parent families, such as access to affordable childcare, job training programs, and financial assistance, to alleviate financial stressors that can impact mental health.

Foster positive co-parenting relationships and encourage active involvement of both parents in the lives of young adults, even in situations of separation or divorce, to provide stability and emotional support.

Develop mentoring programs that pair young adults from single-parent households with positive adult role models who can provide guidance, support, and serve as sources of inspiration.

Establish community centres or safe spaces where young adults from single-parent households can engage in recreational activities, socialize, and build supportive networks with peers facing similar challenges.

Promote mental health literacy among single parents, ensuring they are equipped with knowledge and resources to identify signs of mental health issues in their young adult children and seek appropriate professional help.

Advocate for policy changes that support the well-being of single-parent families, such as flexible work arrangements, affordable housing options, and access to healthcare services, to

alleviate stressors and create a more conducive environment for young adults' mental health and well-being.

CONCLUSION

In conclusion, this research paper has explored the effects of single parenting on the mental health and well-being of young adults, comparing it with outcomes observed in two-parent households. The comprehensive review of empirical studies and scholarly literature has shed light on the psychological dimensions that influence the well-being of young adults raised in single-parent households.

The findings highlight the unique challenges faced by young adults from single-parent households, including feelings of abandonment, identity confusion, and emotional stress resulting from the absence of one parent. In contrast, young adults from two-parent households generally exhibit higher levels of psychological well-being due to the presence of two parental figures, offering increased emotional support and guidance.

However, it is important to note that the effects of single parenting on young adults' mental health are not uniformly negative. Factors such as the quality of the parent-child relationship, support from extended family members, and access to community resources can serve as protective factors and mitigate some of the challenges faced by single-parent families. In summary, this research has shed light on the significant growth of single-parent households and the factors contributing to this trend. It has also highlighted the limited awareness among the general public about the concept of single parenting and the challenges faced by single parents.

The findings have provided evidence of the impact of parenting style on the mental health of young adults. The research has underscored the need for increased awareness and understanding of single parenting and its effects on the well-being of young adults. It is crucial for society to recognize the unique challenges faced by single parents and provide support systems to mitigate the negative impacts on their children's mental health.

Moving forward, further research and initiatives are necessary to promote awareness, provide resources, and develop interventions that address the specific needs of single-parent households. By fostering a supportive environment and implementing targeted strategies, we

can help alleviate the burden on single parents and improve the overall mental health and well-being of young adults raised in single-parent households.

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CHAPTER 2

INTRICACIES OF DIVORCE UNRAVELED: A COMPREHENSIVE ANALYSIS OF LEGAL AND SOCIAL ASPECTS

INTRICACIES OF DIVORCE UNRAVELED: A COMPREHENSIVE ANALYSIS OF LEGAL AND SOCIAL ASPECTS

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ABSTRACT

Marriage, which is seen as a fundamental *sankar* in Indian culture, confronts formidable obstacles in the modern period as divorce rates rise. This essay tries to present a theological analysis of divorce's root causes and chart the evolution of these tendencies across history. This research aims to provide a thorough grasp of the topic by looking at the legal and societal factors that have impacted the changing divorce trends in modern times. It explicitly looks into a number of acknowledged grounds for divorce that are recognized in many legal systems, such as fault-based divorce, the irretrievable breakdown of a marriage, and no-fault divorce.

The study sheds insight on the complex interaction between legal and social elements in determining divorce patterns by analysing the socio-legal frameworks that shape divorce laws and practices. The study investigates how the dynamics of marital breakdown are influenced by shifting gender roles, financial restrictions, and cultural perceptions on marriage and divorce. The researcher has conducted the study through doctrinal method of research. Primary sources such as legislations are used to analyse the law related to divorce in India. Secondary sources such as articles in journals and newspapers are used to analyse the pattern and causes of divorce and possible ways to mitigate them. The study seeks to comprehend the reasons for

divorce as well as its trends. It also hopes to provide ideas for improving the social and legal frameworks that regulate marital dissolution. This research aims to contribute to the development of strategies and treatments that support stronger and longer-lasting marriages by uncovering the underlying causes of divorce and its effects. The ultimate goal is to promote more understanding and discussion about divorce within the Indian cultural context in order to build a more solid foundation for future marriages.

Keywords: Tradition, Marriage, Gender roles, Divorce, Marital, Society

INTRODUCTION

Marriage, which symbolises the uniting of two people in a dedicated partnership, is a basic institution that has long been recognised as the cornerstone of society. Marriage has always been a crucial social, economic, and cultural institution that has contributed significantly to the establishment and continuity of families and communities. But recently, there have been substantial changes in the marriage scene, and divorce is now a common occurrence in many civilizations throughout the world. Significant discussion and significant issues regarding the nature and ramifications of marriage and divorce in contemporary culture have been prompted by the rise in divorce rates over the past several decades. Divorce rates are rising and marriage dynamics are changing, which has serious ramifications for people, families, and society as a whole. It is essential to comprehend the causes of marital failure and the effects of divorce on both people and society.¹

In order to fully explore the many and numerous facets of marriage and divorce, this research paper will look at its causes, effects, and societal repercussions. This research aims to give a thorough knowledge of the dynamics at play by looking at the legal, social, economic, and cultural elements that influence marriage and divorce trends. The study will look at personal characteristics, marital dynamics, and outside influences including society standards and cultural expectations to examine the many causes of divorce. We may learn more about the intricacies of divorce and its effects on people's well-being and the larger societal structure by looking at these issues.

¹ *The effects of marriage and divorce on families and children.* (2017, April 24). MDRC. <https://www.mdrc.org/publication/effects-marriage-and-divorce-families-and-children>

The paper will also examine how society's views and perceptions regarding marriage and divorce are changing. It will be looked at how gender roles are evolving, the impact of economic considerations, and cultural changes in marriage-related ideas and attitudes. To create strategies and treatments that can support strong, secure relationships and lessen the negative effects of divorce, it is essential to understand these dynamics.

This research aims to educate policymakers, practitioners, and individuals about the difficulties and possibilities in negotiating the intricacies of contemporary relationships by illuminating the complicated link between marriage and divorce. The results of this study may aid in the creation of programmes, laws, and support systems that strengthen unions and lessen the negative effects of divorce, thereby improving people's quality of life and fostering better family structures in society.

According to the study published in the BBC 2023,² in India, 1.36 million individuals are divorced. This is the same as 0.24 percent of married people and 0.11 percent of the entire population. More startlingly, 0.61% of married persons and 0.29% of the general population are separated, which is almost three times more than the number of divorces. Compared to other Indian states, the north-east states have a considerably higher divorce rate. The state with the highest divorce rate is Mizoram (4.08%), which is more than four times higher than Nagaland, which has the second-highest rate (0.88%). Among larger states with a population of more than 10 million, Gujarat records the most divorce cases, followed by Assam, Maharashtra, West Bengal, and Jammu & Kashmir. The state of Meghalaya has the most separation instances, followed by Mizoram, Sikkim, Kerala, and Chhattisgarh. North Eastern India is home to three of these five states.

LEGALITY OF DIVORCE IN INDIA

The evolution of social attitudes regarding marriage and marital breakup is reflected in the enormous changes that India's divorce laws have undergone throughout time. The Hindu Marriage Act³, Muslim Personal Law (Shariat) Application Act,⁴ and Special Marriage Act⁵,

² *What divorce and separation tell us about modern India.* (2016, September 28). BBC News. <https://www.bbc.com/news/world-asia-india-37481054>

³ THE HINDU MARRIAGE ACT, 1955, ACT NO. 25 OF 1955

⁴ THE MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937, ACT NO. 26 OF 1937

⁵ THE SPECIAL MARRIAGE ACT, 1954, ACT NO. 43 OF 1954

Indian Christian Marriage Act⁶ and Indian Parsi Marriage Act⁷ are only a few of the personal laws in India that regulate divorce depending on your religious affiliation. These laws specify the criteria, steps, and prerequisites needed to file for divorce.

Both fault-based and no-fault reasons can be used to get a divorce in Indian law. When one spouse can prove the other spouse committed adultery or other wrongdoing as the basis for the divorce, this is referred to as a fault-based divorce. Depending on the relevant personal legislation, several grounds exist for divorce that is fault-based. For instance, under Hindu law, there are a number of acceptable grounds for divorce, including abuse, adultery, desertion, conversion, mental illness, and terminal diseases.

The idea of an irretrievable breakdown of a marriage has become more important in recent years when it comes to divorce procedures. This idea acknowledges that a marriage may have failed past the point of repair, whether or not there was a specific defect. It permits divorce in cases where attempts at reconciliation have been unsuccessful or are seen as fruitless and the marriage has irreparably broken down. Through its rulings, the Supreme Court of India has advanced the concept of divorce by recognising irretrievable breakdown as a legal basis for divorce.

Furthermore, there has been a major change in divorce laws in India as a result of the adoption of the no-fault divorce idea. The dissolution of a marriage under no-fault divorce is possible without establishing any particular wrongdoing or blame on the side of either spouse. The insertion of no-fault divorce clauses in the form of "mutual consent" or "irretrievable breakdown of marriage" has in certain situations made divorce easier to obtain and less controversial.

The mutual consent divorce clause was added to the Hindu Marriage Act in 1976, enabling spouses to seek a divorce by accord. This clause stipulates that the marriage must be ended after a predetermined amount of time and after both parties have lived apart. The Special Marriage Act, in a similar vein, also recognises the possibility of divorce by mutual consent. Although divorce is legal in India, it is vital to keep in mind that depending on the relevant personal legislation, jurisdiction, and individual circumstances, the procedure might vary in complexity and length. Legal actions may entail submitting a divorce petition, appearing in court, offering testimony, and, if required, hiring legal counsel.

⁶ THE INDIAN CHRISTIAN MARRIAGE ACT, 1872 ACT NO. 15 OF 1872

⁷ THE PARSİ MARRIAGE AND DIVORCE ACT, 1936 ACT NO. 3 OF 1936

So, Divorce is allowed in India, which indicates shifting cultural views on marriage and the acceptance of personal independence and autonomy within the institution. Couples desiring to end their marriages have a variety of alternatives thanks to the presence of fault-based, irretrievable collapse, and no-fault divorce rules, which encourages a more complex and adaptable approach to marital breakdown within the Indian legal system.

CAUSES FOR MARITAL BREAKDOWN

The reasons for divorce in India have changed significantly recently, reflecting both the shifting social dynamics and the changing goals and expectations of people in marriage partnerships. Although it's crucial to remember that India still has lower divorce rates than other Western nations, there has been a definite rise in the number of divorces that are requested and granted.

The shifting roles and ambitions of women in Indian culture are one of the main reasons⁸ for divorce in recent years. Women are looking for more autonomy and agency in their life as they become more educated and financially independent. Marriage gender dynamics have changed as a result, upending conventional gender norms and power relations. When husbands and wives have different expectations about their respective roles and obligations, conflicts can result.

Increased urbanisation and exposure to external influences are important factors behind the rise in divorce.⁹ People can access a broader variety of options and chances in an atmosphere that is frequently more liberal and open in urban regions. Higher expectations in partnerships may result from this exposure, and if those expectations are not realised, marriages may become strained.

Additionally, the quest for personal fulfilment and pleasure has grown in popularity in recent years. More and more, couples want their marriages to be emotionally fulfilling and compatible. The decision to file for divorce might result from incompatibility and irreconcilable differences in terms of values, interests, and goals.

⁸ M. N. Srinivas. (1977). The Changing Position of Indian Women. *Man*, 12(2), 221–238.
<https://doi.org/10.2307/2800796>

⁹ *Just a moment...* (n.d.). ResearchGate | Find and share research. https://www.researchgate.net/publication/227694127_Sin_City_Why_is_the_Divorce_Rate_Higher_in_Urban_Areas

Economic pressures and other economic issues can significantly contribute to divorce and marital strife. The demands of financial stability and upward mobility can strain relationships as India experiences fast economic progress. Conflicts resulting from different economic origins, disagreements over resource allocation, and disagreements over money management can all lead to a marriage breaking down.

Increased social acceptability and shifting societal perspectives on divorce have also contributed to the growth in divorces. Divorce is no longer as stigmatised as it once was, making it more socially acceptable for people to think about it as a possibility when facing marital problems. People now feel more empowered to terminate an unhappy or unsatisfactory marriage because to the change in society attitudes.

It is impossible to deny how social media and technology are affecting marriages. Social networking sites are widely used, which has created new opportunities for relationships and communication. The issues it has brought with it, meanwhile, include online adultery, emotional affairs, and the deterioration of marital trust.

It is important to understand that each situation is different and that there is no universal explanation for divorce, despite the fact that the reasons for divorce in India today are numerous and complicated. A number of variables unique to each person's situation and relationship can cause marriages to fail. The rising divorce rates in India highlight the need for a better comprehension of marital dynamics as well as the creation of treatments and support systems that may assist couples in overcoming obstacles and creating healthier and longer-lasting unions.

POSSIBLE WAYS TO MITIGATE THE CASES

A comprehensive strategy that tackles the underlying causes of marital conflict and offers support services for couples having difficulties in their relationships is needed in Indian society to mitigate divorce instances. Raising people's understanding of the value of healthy relationships and good communication abilities can significantly reduce the likelihood of divorce. Relationship education programmes may be implemented at educational institutions, postsecondary institutions, and community settings to provide people the tools they need to deal with problems and disputes in their marriages.

Premarital counselling can assist couples in understanding the dynamics of a committed relationship and locating possible points of contention. Pre-marital counselling offers a secure setting for talking about objectives, beliefs, and expectations, strengthening the marriage's basis. When a marriage is in trouble, spouses can get expert advice and emotional assistance through accessible support networks including helplines, support groups, and marital counselling programmes. These materials can provide strategies for settling disputes, enhancing communication, and overcoming difficulties before they become serious enough to lead to divorce.

Couples may have the option to settle their disputes outside of the adversarial court system by encouraging the use of mediation and other alternative dispute resolution techniques. Open dialogue, bargaining, and problem-solving are made possible through mediation, which may aid in helping couples come to an amicable agreement and maybe end their conflict.

Divorce problems can be mitigated by routinely reviewing and updating divorce legislation. Couples can have opportunities for reconciliation and introspection by promoting the development of procedures like required waiting periods, cooling-off periods, and mandated reconciliation efforts before awarding a divorce.

Given the significance of family support for marriage, efforts should be made to fortify family ties and promote the participation of extended family members in offering advice and support to couples. Families that value open communication and collaboration are better able to handle difficulties and seek advice from wise elders.¹⁰

Marital strife frequently results from financial concerns. Promoting financial knowledge and empowerment, particularly among women, can assist married couples in managing their money more skillfully, lessen financial stress, and provide a sense of financial stability.

Providing married couples with relationship enrichment programmes can provide them the tools and resources they need to deepen their bond, develop intimacy, and commit to one another. These courses may concentrate on issues like conflict resolution, emotional connection, and effective communication.

¹⁰ *Chapter 14. Marriage and family – Introduction to sociology – 2nd Canadian edition.* (2016, October 5). BCcampus Open Publishing – Open Textbooks Adapted and Created by BC Faculty. <https://opentextbc.ca/introductiontosociology2ndedition/chapter/chapter-14-marriage-and-family/>

Promoting wholesome marriages through community and religious organisations may have a big influence. These organisations can provide couples' retreats, marital counselling, and marriage enrichment programmes, building a network of support for struggling marriages.

In order to lessen the impact of divorce disputes, gender equality and women's empowerment must be promoted. Equal opportunities, rights, and authority in decision-making may be guaranteed inside marriages, which can lead to more fair and healthy partnerships.

CONCLUSION

Marriage and divorce are complex and numerous facets of interpersonal interactions that influence society's structure. This study has illuminated the intricate dynamics of marriage dissolution in modern Indian culture by investigating the reasons for divorce, its effects, and its social ramifications. We get a greater knowledge of the opportunities and obstacles in promoting healthy marriages and lowering divorce rates by looking at the legal viewpoints, evolving mindsets, and potential mitigation solutions.

The analysis of fault-based divorce in different legal systems emphasizes the impact of conventional values and cultural norms on marriage breakup. It is important to understand that fault-based divorce can occasionally reinforce antagonistic dynamics, making it more difficult for spouses to reach peaceful agreements. As a result, alternative strategies that emphasize mutual agreement, mediation, and reconciliation are crucial in fostering happier and more amicable divorce procedures. The idea of an irretrievably broken marriage offers a nuanced view on divorce, noting that there may be circumstances in which attempts at reconciliation have failed and the marriage has irretrievably broken down. It demonstrates a more progressive viewpoint that prioritises human liberty and well-being within the institution of marriage to acknowledge irretrievable breakdown as a legal basis for divorce.

A notable change in divorce laws and procedures is the advent of no-fault divorce, which gives people the option to file for divorce without having to establish any specific wrongdoing or blame. This method enables couples to split amicably and with dignity while acknowledging the difficulties and complexity of marriage partnerships. But it's crucial to strike a balance between allowing people the right to end bad marriages and supporting initiatives to make marriages stronger through counselling and support services.

In Indian society, divorce disputes must be mitigated in a thorough and multifaceted manner. In order to provide people, the abilities to create and sustain healthy relationships, education and awareness are essential. Pre-marital counselling gives couples the chance to talk about expectations and potential problems, laying the groundwork for their future together. In times of marital crisis, bolstering support networks, such as marital counselling programmes and helplines, can provide expert advice and emotional support.

Alternative conflict resolution techniques like mediation can promote productive communication and assist partners in coming to an amicable agreement. Couples might consider possibilities for reunification and settlement outside of the adversarial judicial system by advocating mediation and fostering an atmosphere of open communication. Legal changes that take into account required waiting times, cooling-off periods, and forced reconciliation attempts may provide couples the time and space they need to ponder and maybe reconcile. Couples can seek advice and discover solutions within their social networks by strengthening family support networks and involving community and religious organisations.

Promoting gender equality and empowerment is crucial for reducing the impact of divorce. We can promote healthier and more equitable relationships by guaranteeing equal opportunities, rights, and decision-making inside marriages. Initiatives to promote financial awareness and empowerment can also assist couples in managing their money well, lowering the financial strains that sometimes cause marital disagreement.

As a result, addressing the reasons for divorce and minimizing divorce cases in Indian culture calls for a multifaceted strategy that takes into account legal, social, and personal considerations. We may strive towards healthier marriages, lower divorce rates, and stronger family structures by supporting gender equality and empowerment, raising awareness, bolstering support networks, and advocating alternative conflict resolution. The ultimate objective is to produce a society where people have access to the resources and assistance, they need to successfully negotiate the challenges of marriage and develop satisfying and long-lasting partnerships.

CHAPTER 3

GROUNDS OF DIVORCE AND JUDICIAL APPROACH UNDER HINDU LAW AND MUSLIM LAW

FOUNDATIONS OF DIVORCE AND JUDICIAL APPROACH UNDER HINDU LAW AND MUSLIM LAW

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ABSTRACT

Divorce is a word in India which directly strike upon the soul of any person. In the era which is very fast paced divorce is still a taboo. We can often listen these words on the departure of the bride from her parental home to marital home that *Doli Mein ja rahi ho Arthi per Aana*. These words say a lot and put psychological, social and emotional pressure upon the brides. Annual divorce rate in India is 1.1 per 1000 persons. 13 out of 1000 marriages are resulted in divorce, which is lowest in the world. Male are the main initiator of divorce. Literal meaning of world divorce is to release or setting free where as the legal meaning is repudiate the marriage contract. In Hindu and Muslim law there are many ways and theories by which marriages can be dissolved. Irrespective of ancient time today women and men have equal rights of divorce. But divorce proceedings are very time taking in India. There are many guidelines which have to be followed by the couple before getting divorce. Here we see that role of Judiciary become more important. From banning of triple Talaq to recent judgement of

Shilpa Shailesh vs. Varun Sreenivas where the court observed that mandatory 6 month waiting period under Hindu Marriage Act 1955 can be waived if the marriage is irretrievably broken down even if one of the parties is not willing, the court is playing crucial role. This chapter focuses upon Divorce under Hindu & Muslim law and recent views of Judiciary.

Keywords - Divorce, Hindu Law, Muslim Law, Indian Judiciary, Case analysis of Divorce petitions, PILs

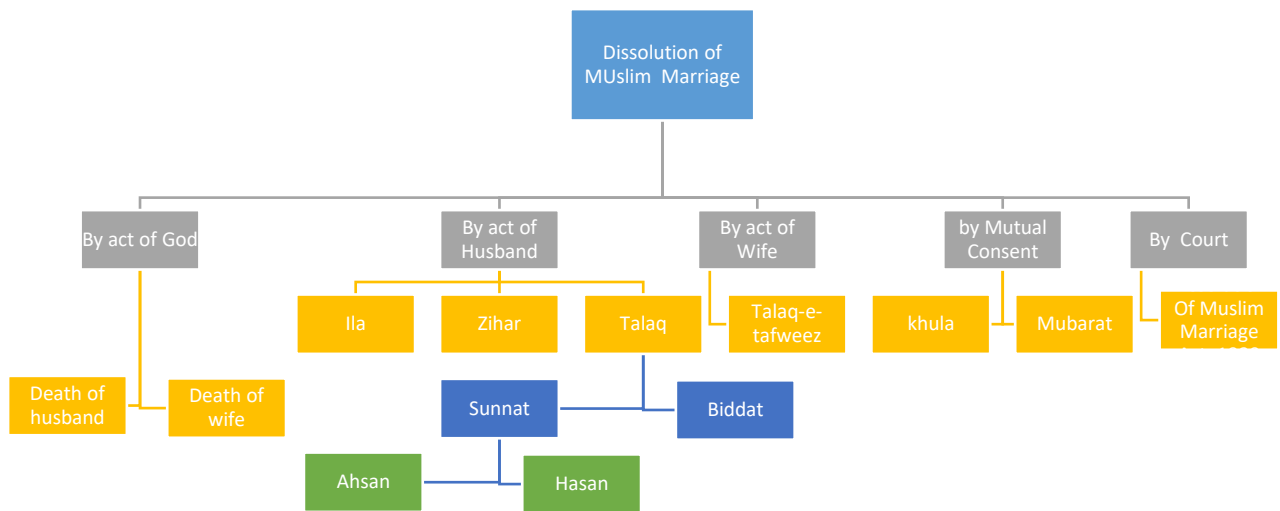
INTRODUCTION

In ancient Hindu law there was no concept of divorce. Marriage was meant for togetherness of 7 births. However, in Manu Smriti there were some grounds where Hindu women can terminate her marriage and go for second marriage. But these were exceptional conditions. On the other hand Muslim law from starting has very liberal approach towards divorce by husband but did not have any process before 1939 by which a woman can seek divorce from her husband. Divorce was one sided proceeding before the passing of Dissolution of Muslim Marriage Act, 1939 which enable a woman to seek divorce from the courts on the satisfaction of certain grounds.

In Muslim law there are two types of Talaq that is Talaq ul biddat and Talaq ul Sunnat. The later further has two kinds i.e. Talaq e ahasan and Talaq a hasan. Same under Hindu Marriage Act 1955 parties can seek divorce in four ways: 1- Divorce by either party, 2- Divorce by Mutual Consent, 3- Special Grounds of divorce for wife and 4- Irretrievable Grounds

DISSOLUTION OF MARRIAGE UNDER MUSLIM LAW

In Muslim Law marriage can be dissolved by various methods. Dissolution of marriage denotes the end of marriage contract between the parties. The status as husband and wife ceases here. Marriage can be dissolved expressly by the act of parties and there are also constructive ways to make this effective. Following chart shows the kind of dissolution of Muslim marriage.



POSITION OF HUSBAND IN DISSOLUTION OF MUSLIM MARRIAGE

In Muslim law husband has an absolute right to dissolve his marriage by various ways including Talaq, ila and zihar. He can pronounce divorce with or without reason at any time. There are no specific grounds to pronounce divorce by husband in Muslim Law.

TALAQ UNDER MUSLIM LAW

Talaq is an absolute and unqualified right of Husband in Muslim Law. Literal meaning of word divorce is to release or setting free whereas the legal meaning is repudiate the marriage contract. There are two types of Talaq in Muslim Law-

1. Talaq ul biddat or Irrevocable Talaq
2. Talaq ul Sunnat or Revocable Talaq

The later further has two kinds-

1. **Talaq e ahsan** – Most proper way of giving Talaq
2. **Talaq a hasan** – Proper way of giving Talaq

CONSTITUTIONALITY OF TALAQ-UL-BIDDAT

On 22 August 2017, in the case of *Shayara Bano and others v. Union of India and others* the Indian Supreme Court declared instant triple talaq unconstitutional. Three of the five judges in the panel concurred that the practice of triple talaq is unconstitutional and violates the Fundamental Rights of Muslim Women. The remaining two declared the practice to be constitutional.¹

The Muslim Women (Protection of Rights on Marriage) Act, 2019

1.1.1 The Muslim Women (Protection of Rights on Marriage) Act, 2019 became law on 31 July 2019, replacing the Muslim Women (Protection of Rights on Marriage) Ordinance, 2019. The Act criminalizes the pronouncement of triple talaq in all its forms including, electronic form and prescribes punishment for the same. Following are the key features of the Act-

1. Any pronouncement of talaq by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal.²
2. Any Muslim husband who pronounces talaq upon his wife shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine³.
3. A married Muslim woman upon whom talaq is pronounced shall be entitled to receive from her husband such amount of subsistence allowance, for her and dependent children, as may be determined by the Magistrate⁴.
4. A married Muslim woman shall be entitled to custody of her minor children in the event of pronouncement of talaq by her husband, in such manner as may be determined by the Magistrate⁵.
5. An offence punishable under this Act shall be cognizable, if information relating to the commission of the offence is given to an officer in charge of a police station by

¹ Writ Petition (C) No. 118 of 2016.

²The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019), S.3.

³The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019), S.4.

⁴The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019), S.5.

⁵The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019), S.6.

the married Muslim woman upon whom talaq is pronounced or any person related to her by blood or marriage;

6. An offence punishable under this Act shall be compoundable, at the instance of the married Muslim woman upon whom talaq is pronounced with the permission of the Magistrate, on such terms and conditions as he may determine;
7. No person accused of an offence punishable under this Act shall be released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman, upon whom talaq is pronounced, is satisfied that there are reasonable grounds for granting bail to such person.⁶

POSITION OF WOMEN IN DISSOLUTION OF MARRIAGE

In Muslim law husband has an absolute right to dissolve his marriage by various ways including Talaq, ila and zihar. He can pronounce divorce with or without reason at any time. Whereas wife had a very limited access to dissolve her marriage before The dissolution of Muslim Marriage Act, 1939 which gives right to get her marriage dissolved on certain grounds to wife.

Grounds of dissolution of marriage in The Dissolution of Muslim Marriage Act, 1939

In section 2 of the Act 9 grounds are given to wives, namely-

1. **Failure to perform matrimonial obligation** - the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years
2. **Imprisonment for seven years** - the husband has been sentenced to imprisonment for a period of seven years or upwards
3. **Cruelty** - the husband treats her with cruelty, that is to say. —
 - i. habitually assaults her or makes her life miserable by cruelty of conduct does not amount to physical ill-treatment, or
 - ii. associates with women of evil repute or leads an infamous life, or
 - iii. attempts to force her to lead an immoral life, or
 - iv. disposes of her property or prevents her exercising her legal rights over it, or
 - v. obstructs her in the observance of her religious profession or practice, or

⁶The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019), S.7.

- vi. if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;
- 4. **Husband missing from four years** – When the whereabouts of the husband have not been known for a period of four years.
- 5. **Impotency** - the husband has impotent at the time of the marriage and continues to be so
- 6. **Failure to maintain wife** - the husband has neglected or has failed to provide for her maintenance for a period of two years;
- 7. **Insanity, leprosy⁷ and venereal disease** - the husband has been insane for a period of two years or is suffering from a virulent venereal disease
- 8. **Option of puberty** - she, having been given in marriage by her father or other guardian before she attained the age of fifteen years., repudiated the marriage before attaining the age of eighteen years
- 9. **Any other reasonable ground** - any other ground which is recognized as valid for the dissolution of marriages under Muslim law

In short, we can see that dissolution of Muslim marriage before 1939 was one sided procedure because wife cannot give Talaq, Ila and Zihar. In dissolution by mutual consent, consent of husband was necessary whereas in delegated divorce delegation was the power of husband. It was his wish to delegate this power to someone including wife. Thus, for the protection of wives The Dissolution of Muslim Marriage Act, 1939 was enacted.

Consequences of Dissolution of Muslim Marriage -

Following consequences arises from dissolution of a Muslim marriage –

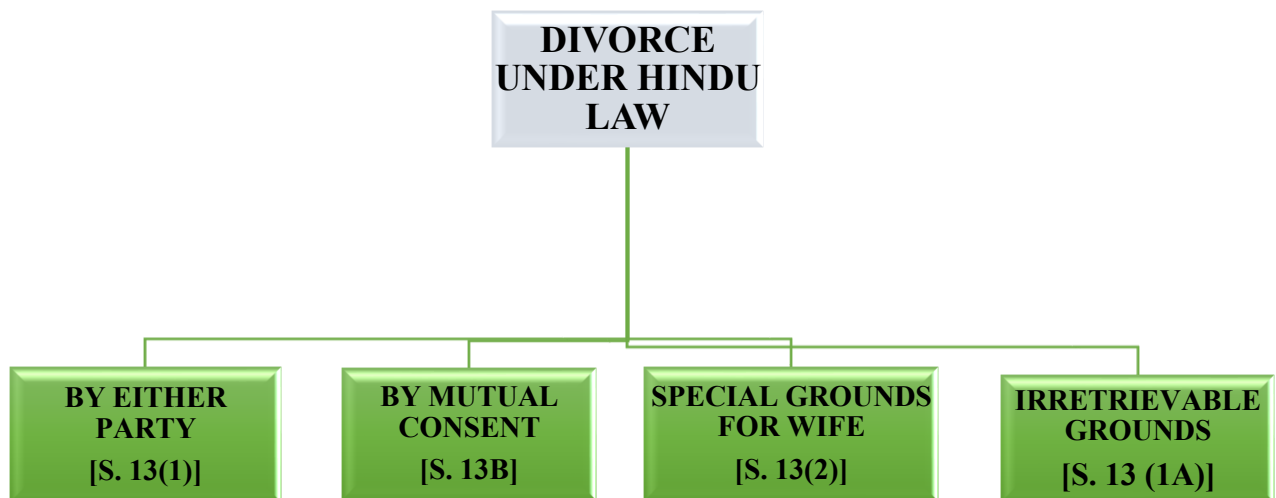
1. Wife has to observe Iddat. She cannot remarry without observing iddat.
2. There is no mutual succession after dissolution of marriage.
3. Cohabitation between husband and wife after dissolution is illegal.
4. Issues born after dissolution are illegitimate.
5. Status of husband and wife cease by dissolution.
6. Wife can claim maintenance till the duration of iddat from her former husband.

⁷ Omitted by Personal Law Amendment, Act, 2019

7. No mutual rights and liability arose after dissolution.
8. The unpaid dower becomes payable.

DIVORCE UNDER HINDU LAW

As a matrimonial remedy in Hindu Marriage Act, 1955 divorce plays a vital role to separate two parties without affecting their rights. Section 13 makes it clear that a divorce can be made only based on the grounds mentioned under it.



GROUND OF DIVORCE IN HINDU LAW

- **Adultery:** Section 13(1)(i) provides the meaning of adultery. According to the law, adultery is defined as engaging in sexual activity with a partner who is not one's husband after the marriage has been solemnised and maintaining marital links. Sections 497 of the Indian Penal Code and 198(2) of the Code of Criminal Procedure, which together deal with the crime of adultery, were found to be unconstitutional by the Honourable Supreme Court in the case of *Joseph Shine v. Union of India*⁸. As a result, the Supreme Court also struck down this legislative package.
- **Cruelty:** To torture someone or to act in an inappropriate or ruthless manner towards them is cruelty. As a result, Section 13(1)(ii) declares that even after a marriage has been

⁸ (2019) 3 SCC 39, AIR 2018 SC 4898

solemnised, treating the petitioner cruelly may still be taken into account as a basis for marriage. There are legal provisions for cruelty as well as it being a criminal offence. The Indian Penal Code Section 498A addresses abuse of a woman or others by a husband or a husband's relative. This section includes cruelty into wilful behaviour and harassment of the women. In *Krishna Sarvadhikary v. Alok Ranjan Sarvadhikary*⁹, it was decided that the genuine purpose of one spouse to harm the other is a significant consideration, while in ambiguous situations the offending spouse's state of mind would also be important.

- **Desertion:** Simple definition: Desertion is the act of leaving someone behind. Accordingly, Section 10(ib) of the Hindu Marriage Act of 1955 had given it a definition. According to this, a divorce may be granted if the petitioner had been abandoned by the respondent for a continuous two years just before the petition was presented. Even if the spouse has left the house but continues to communicate with the petitioner by phone or email, this cannot be used as a basis for divorce or as evidence that desertion has not occurred.
- **Insanity:** The word "insanity" is derived from the phrase "insane," which refers to a state of mind that is not normal. Therefore, a person cannot be regarded competent enough to bind themselves inside the married bonds if they are unable to recognise the distinction between right and wrong, to provide consent, or either approve or disapprove of what is happening around them. Section 13(1)(iii) of the HMA defines insanity into two senses: mental disorder and psychopathic disorder.
- **Conversion:** Section 13 (1)(ii) defines that if either party has ceased to be a Hindu, it shall be also a ground for the divorce. In a case¹⁰ the husband marries a different woman after converting to Islam. Here, the wife Leela filed a lawsuit and requested a divorce on the grounds of cruel treatment and conversion without her consent.
- **Leprosy:** The epidermis, mucous membranes, nervous system, etc. are all affected by leprosy, an infectious disease. One person can contract this illness from another. As a result, it is regarded as a legal basis for divorce. In a case¹¹ the leprosy which is malignant or venomous can be termed as virulent, Lepromatous leprosy is virulent and incurable.
- **Renunciation of the world:** Under Section 13(1)(vi) of the Hindu Marriage Act, 1955, the other spouse has the right to file for divorce when one spouse desires to join a holy order and renounce the world. When joining a religious order, renunciation of the world must be complete. It precludes a person from inheriting or using their right to divide, and is the

⁹ AIR 1985 Cal. 431

¹⁰ *Suresh Babu v. Leela*, (2006) 3 KLT 891

¹¹ *Peddigari Annapurnamma v. P.A. Rao*, AIR 1963 A.P.

equivalent of civil death. In a case¹² that participation in a few of the rituals and ceremonies of a faith constitutes initiation into that order. For instance, since he has not abandoned the world, it cannot be cited as grounds for divorce if a man or woman enters a religious order but goes home the same day and cohabits.

- **Presumption of Death:** According to Section 13(1)(vii) of the HMA, 1955, a person is assumed to have passed away if they have not been heard of as being alive for at least seven years by individuals who would have known of it naturally if that party had not been alive.

SPECIAL GROUNDS FOR DIVORCE

Under Section 13(2) of the HMA 1955 wife has a special ground for divorce. Under this Section wife alone can seek for divorce under following grounds:

- **Bigamy:** Section 13(2)(i) any of the two wives may seek for divorce if the husband already has a wife and marries another woman after the Act goes into effect. The only condition is that if the other wife was living when the divorce petition was filed, it would be granted.
- **Rape, Sodomy or Bestiality:** Wife alone can seek for divorce if husband has, since the solemnization of marriage has been guilty of rape, sodomy (i.e. unnatural offence) or bestiality (unnatural offence with animal).
- **Decree of maintenance:** If two conditions are satisfied, the wife may choose to file a divorce petition against her husband if a decree for the wife's encouragement has been granted issued according to Section 18 of the HAMA 1956, or when an order under Section 125 of the Code of Criminal Procedure, 1973 of maintenance has been issued against the husband:
 - a) when wife was living separately;
 - b) wife and her husband haven't cohabitated together for at least a year after the divorce was issued.
- **Early Age of Wife when married:** The wife can claim for divorce alone when she was married before the age of 15 years. She can seek for divorce on attaining the age of puberty (i.e. 15 years or above) or before the age of 18 years.

¹² Sital Das v. Sant Ram, AIR 1952 P & H 301

DIVORCE BY MUTUAL CONSENT

The Hindu Marriage Act of 1955's Section 13-B allows for a divorce if both parties to the marriage agree to it. According to Section 13B(1) of the Hindu Marriage Act of 1955, if both parties has been living apart for a year or more, has been unable to cohabit, and has mutually agreed that the marital relationship cannot be taken further, they may file a petition for a decree of mutual consent to dissolve the marriage.

After conducting the necessary inquiries, the court shall issue a divorce decree, announcing the marriage to be dissolved with effect from the date of the decree, upon the motion of either party, made not before six months after the date of presentation of the petition mentioned in under Section 13-B(1) but not later than 18 months after the said date. A total waiting period of one and a half years from the date of separation is outlined under Sections 13B(1) and 13B(2) of the Hindu Marriage Act before filing for divorce. However, cooling period of six month is not mandatory, as Supreme Court decided in a famous case¹³.

JUDICIAL APPROACH AND CURRENT SCENARIO OF DIVORCE

Being tolerant or very tradition-oriented, Indians rarely seek for divorce. However, number of cases have gone into ups and down in last few years., but the divorce rate in India is least in all over the world. According to government statistics, Uttar Pradesh has the most divorce cases open in family courts, with over 2.64 lakh cases. With 61,970 pending divorce cases, Kerala, which has a population of less than 3% of the nation, has the second-highest number. As of December 2017, there were more than 7.13 lakh divorce cases pending in courts across the nation.¹⁴ According to several studies and statistics, India is the lowest in rate of divorce which ended to a relationship. Some nations like Sweden have 54.8%, U.S. has 54%, Russia 43.5% and U.K. 42.6% but comparatively is quite down to the table with only 1% of divorces. In India, divorce rate also varies from urban to rural areas also. In urban areas the divorce rate is bit higher than the rate in rural areas. Also, some well-developed cities or state has higher rate than less developed states or cities. For instance, Delhi and NCR has higher rate than Haryana, Punjab or Uttar Pradesh. It is also noted that in last decade rate of divorce in Kerela is also increased upto 300%.

¹³ Amardeep Singh v. Harveen Kaur, AIR 2017 S.C. 4417

¹⁴ <https://inshorts.com/en/news/up-has-highest-pending-divorce-cases-in-courts-1518093796009>, Visited on 29th May, 2023

Judiciary has an important role in cases of divorce, because divorce is the matter of breakdown of relationship between two as well as it results to end of the emotional attachment. To make divorce easy court has taken many necessary steps in several cases. In a popular recent case of *Amardeep Singh v. Harveen Kaur*¹⁵ it has been held by the Supreme Court that the period of six months mentioned in Section 13 B (2) is not mandatory but directory, it will be open to the court to exercise discretion in cases where there is no possibility of parties resuming cohabitation. The court said that the object of the provision is to enable the parties to dissolve the marriage by the consent if the marriage is irretrievably broken down and to facilitate the rehabilitation. The primary object of the cooling off period was to safeguard against the hurried decision if there existed a possibility of reconciliation and not to perpetuate a purposeless marriage to prolong agony of parties in absence of reconciliation feasibility.

Also, on the other hand, when no way to keep a relationship of husband and wife or irretrievable breakdown of marriage and divorce is the only way, after a long battle of such circumstance court has found solution. In case of *Shilpa Shailesh v. Varun Shrinivasan*¹⁶ the court said that why wait for six months for divorce in a relationship where such a gap has developed that cannot be bridged? If there is a difference of years between husband and wife, it means that the desire to join them has died. Its purpose is also that couples who are married in youth do not grow old running in the courts till eternity, but they start a new life in time.¹⁷

The Supreme Court has used its powers under Article 142 in several cases to dissolve the marriage on the ground of irretrievable breakdown of marriage. In *AVG Ramu v. ASR Bharathi*¹⁸, parties moved an application for divorce by mutual consent but wife failed to appear and hence the petition got dismissed. Even in the High Court despite several notices to wife, she did not appear. Supreme Court exercised the power under Article 142 and dissolved the marriage.

In Muslim Law also, the court has played a vital role to protect rights of Muslim women. In *Shayara Bano v. Union of India and Ors*¹⁹ the S.C. declared the practice of Triple Talaq as unconstitutional and void.

¹⁵ AIR 2017 SC 4417

¹⁶ T.P. No. 1118 of 2014

¹⁷ See also: *Neeti Malviya v Rakesh Malviya*, T.P. No 899 of 2007, *Anjana Kishore v. Punit Kishore*, (2002) 10 SCC 194, *Manish Goel v. Rohini Goel*, (2010) 4 SCC 393

¹⁸ AIR 2018 SC 202

¹⁹ (2017) 9 SCC 1

CONCLUSION

Divorce is valid under Hindu law under certain conditions. But because divorce is not a part of Hinduism as a whole, the religion at all does not support it. Hinduism considers marriage to be a sacrament, a heavenly bond, and a holy union. Marriage is not a place for sexual gratification; it's a place for procreation and the continuation of the family. Hindu *dharma* dictates that it is a necessary obligation that both partners must uphold for the rest of their life. Therefore, marriage is a sacred relationship that cannot be broken through divorce for selfish or personal reasons. On the other hand, Islamic Marriage i.e. Nikaah is also a holy bond made for love, affection and procreation of children. Regarding *nikaah* Prophet says: “No house has been built in Islma more beloved in the sight of Allah than through marriage.”²⁰

It is a very heartbreaking moment to break such a holy bond. But if it is very much needed and there is no hope to live together, then it should be break down as soon as possible. The Judiciary acts to make such situation easier so that there shall be no delay and one can start a new life from new point.

It is also suggested in the same study, that with the urbanization, professionalism, independency, and freedom of rights can make a better society. But it is also mandatory needed to keep yourself calm, having patience, sharing love can make life easier and divorce rate may get drop down.

²⁰ Wasa'il ul Shi'a, Vol 14 P. 3

CHAPTER 4

A CRITICAL ANALYSIS OF INDIA'S GROWING DOMESTIC VIOLENCE PROBLEM

A CRITICAL ANALYSIS OF INDIA'S GROWING DOMESTIC VIOLENCE PROBLEM

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ABSTRACT

The concept of power asymmetry in gender relations within society is a primary driver of violence perpetrated against women. The perpetuation of violence against females is often reinforced by systemic disparities in the media, politics, and religion, as well as biased cultural norms. The issue of aggression directed towards women is a pervasive phenomenon that impacts women across various societal strata rather than being limited to specific subgroups. The manifestation of abuse or violence may vary based on factors such as sexual orientation, religion, race, socioeconomic status, age, and nationality. The escalation of racism and its internalisation among already disadvantaged individuals, leading to a curtailment of their civic and personal authority, exacerbates the marginalisation of immigrants and women within our country. Females are often regarded as the most susceptible population in society, and consequently, they are frequently subjected to victimisation. Factors such as hunger, social isolation from loved ones, language barriers, and homelessness are among the contributing elements that exacerbate this phenomenon. In cultures where males hold a predominant position, male advantage tends to become the norm. This advantage allows men to gain the prestige necessary to govern over women.

INTRODUCTION

The occurrence of domestic violence within a household may stem from multiple factors rather than being attributed to a singular cause. Various circumstances can lead to a distressing situation for a woman or a girl. Gender-based disparities, both historical and structural in nature, prevalent in numerous communities worldwide are significant factors that contribute to gender inequality and discrimination. These issues are widely recognised as fundamental causes of violence against women. The etiology of domestic violence perpetrated against women is a complex amalgamation of social, economic, and cultural factors that have contributed to the marginalisation and subjugation of women. The classification of the various categories of causes of domestic violence against women is a complex and multifaceted issue. Nonetheless, a comprehensive categorization of the primary causes of domestic violence worldwide, including India, can be provided.

CAUSES FOR CONCERNING INCREASE

An unchecked and concerning increase in incidents of this deviant behaviour has been observed. At the Beijing Conference held in September 1995, a list of factors contributing to the sudden increase in said conduct was identified. The topic of interest is the issue of discrimination in the provision of medical services. There has been a rise in the magnitude of the influence of poverty on the female population. The issue of disparate access to education based on gender is a topic of concern. Insufficient mechanisms to effectively facilitate the progression of women. Non-compliance with the human rights of women. There is a decreased level of adherence to the consequences of war, conflict, or emergency situations. The issue of unequal distribution of decision-making power The topic of concern is violence perpetrated against women. The impact resulting from armed conflict or situations of emergency. The issue of unequal and inadequate access to direct involvement in the mainstream of the nation, particularly in the spheres of economic and policy-making processes, is a significant concern.

Factors

Cultural factors have played a significant role in shaping societal attitudes towards domestic violence. Specifically, the patriarchal structure that has historically been prevalent in many societies has often been used to justify the physical abuse of women by men within households.

Throughout history, patriarchal societies have viewed women as possessions of men, devoid of individual rights, and forced to live in the shadow of their male counterparts. Moreover, women have historically been closely associated with the reputation and prestige of their respective families. Therefore, in cases where a woman's conduct or demeanour is deemed to be in violation of the family's moral principles, the husband may be justified in employing physical violence against his spouse as a means of disciplinary action. This cultural phenomenon continues to persist in contemporary society. Women are often perceived as individuals whose primary responsibility is to manage household duties and care for their families. She is prohibited from pursuing formal education or obtaining employment. She is prohibited from attaining a status equal to or greater than that of men. In the event that she chooses to advocate for her cause, she may encounter significant repercussions in the form of physical, emotional, and psychological distress inflicted upon her by her family members. It is noteworthy that this phenomenon is not limited to impoverished, uneducated families but also occurs within families of high educational attainment.

Legal factors refer to the system of laws and regulations implemented by a country to safeguard individual rights and provide appropriate recourse in the event of their violation. Occasionally, as a result of the limited efficacy of said system, the affected parties were unable to attain their entitlements and obtain efficacious redress. This is the prevailing situation in instances of domestic violence in nations such as India. In certain nations, such as India, it is customary to consider instances of domestic violence an internal affair of the household. Several studies on domestic violence have indicated that investigating agencies initially exhibit reluctance to register reports of domestic violence against women, preferring instead for the victim and their family to resolve the matter privately. Additionally, instances of domestic violence are frequently subject to more lenient treatment compared to other forms of criminal behaviour perpetrated by an unfamiliar individual. The phenomenon of male violence against women is frequently not recognised as a criminal offence in certain cultures, leading to a significant dearth of reported incidents of such violence perpetrated by husbands and family members. The current legislation pertaining to addressing instances of violence against women in the context of domestic labour is insufficient to meet the contemporary demands of society.

The economic dimension is a pertinent factor to consider, as it has been observed that domestic violence is often associated with economic dependence. Furthermore, gender inequality is a contributing factor to the economic dependency of women on men. In developing nations such as India, a prevalent circumstance is the economic dependence of women on their male

counterparts, attributable to limited access to education and employment prospects. In reality, women are reliant on their fathers during the early stages of their lives and subsequently on their husbands to fulfil their fundamental necessities for sustenance. Consequently, female individuals frequently encounter mistreatment from their male counterparts owing to their perceived inability to sustain themselves independently. Several studies have demonstrated that women who experience domestic violence are predominantly those who lack personal income. Consequently, individuals lack the physical and emotional fortitude to resist the mistreatment they encounter within their domestic environment. Moreover, it has been discovered that the reliance on women perpetuates their endurance of such exploitative conduct.

The impact of environmental factors on an individual's behaviour towards family members is noteworthy. The circumstances of one's birth and upbringing can significantly influence their attitudes and actions towards their kin. In the event that a male child is raised in a household where male family members consistently exhibit abusive and domineering behaviour towards female family members, it is probable that the child will display similar conduct when confronted with comparable circumstances in the future. Several studies have demonstrated that individuals who were raised in a harmful and abusive environment and have undergone childhood abuse are more likely to internalise such conduct in adulthood. The phenomenon under discussion is commonly referred to as the "intergenerational cycle of abuse." It is noteworthy that this type of setting has varying effects on male and female offspring. It is probable that a male child will internalise abusive behaviour and subsequently exhibit it towards female individuals. Conversely, it is common for a female child to perceive abuse from a male counterpart as a component of domestic governance based on her prior experiences.

Social factors contribute to the prevalence of domestic violence and abuse in society. In my opinion, one of the most conventional issues is related to gender norms and gender inequality. This includes the notion that women should exclusively remain at home and not participate in the workforce, as well as the expectation that they should be submissive and defer to men in matters related to work, earning for the family, and decision-making. Therefore, a cultural norm exists that endorses aggression from one individual towards another. Moreover, there is also the presence of income inequality.

It has been observed that when a woman experiences abuse within the family, instead of providing support, individuals may tend to hold the victim responsible for the abuse. This can exacerbate the challenges faced by the victim in taking a stance and reporting such abuse.

Moreover, certain moral principles or beliefs may endorse the notion that a man's aggression towards a woman is acceptable within the context of a romantic partnership. Following instances of abuse, victims are frequently subjected to close examination, with any perceived flaws or shortcomings being used against them.

In addition to the aforementioned general factors, there are various specific or individual factors that may contribute to occurrences of domestic violence.

The following items are listed as follows:

1. The correlation between domestic abuse and substance abuse, particularly the excessive consumption of alcohol and drugs, has been frequently observed. Empirical evidence indicates that a significant proportion of the mistreatment experienced by women at the hands of their male partners is attributable to the consumption of these intoxicating agents.
2. The solicitation of dowries is a significant contributor to instances of domestic violence, particularly in India. The practise of dowry is a prevalent cultural norm across various societal groups. Nevertheless, it is not uncommon for the nuptial traditions to be exploited by the groom's kin, who may insist on exorbitant dowry payments that surpass the financial means of the bride's family. Consequently, women are often subjected to various forms of abuse, including mental, physical, and emotional, by their husbands and families in order to meet the demands for dowry. Numerous studies have indicated that a significant number of women, regardless of their socioeconomic background, experience physical assault and verbal mistreatment from their in-laws if they fail to provide an adequate dowry. This form of mistreatment persists over an extended period of time, whereby a woman is consistently admonished for failing to meet her familial obligations.
3. Infertility refers to the condition where a couple is unable to achieve pregnancy despite prolonged attempts to conceive. The ability of a woman to conceive a child is perceived as a determinant of the behaviour exhibited by the husband and his family towards the wife. From a cultural perspective, women are often viewed as reproductive vessels whose primary function is to bear children. In certain cultures, they are regarded as a means to perpetuate the ancestry of their kin. Thus, the inability of women to conceive offspring is regarded as a significant deficiency on their part. Women who are deemed

unable to bear children may encounter mistreatment and psychological or verbal aggression from their spouses or their spouses' relatives.

4. The absence of formal education has been found to have a positive correlation with the incidence of domestic violence experienced by women within their households. Numerous reports have indicated a positive correlation between the level of education and the incidence of violence experienced by women. Women with higher levels of education are more likely to resist and report instances of abuse compared to those with lower levels of education. Moreover, there exists a positive correlation between the level of education attained by a woman and her likelihood of being preferred over a less educated counterpart, which in turn is associated with the incidence of domestic abuse experienced by women.
5. Infidelity in Marriage: In contemporary society, there is a growing phenomenon of husbands engaging in extramarital affairs. This phenomenon frequently arises due to the absence of a loving relationship with one's significant other. Consequently, a sense of aversion and emotional detachment arises within the husband's psyche towards his spouse, frequently culminating in minor altercations as well as instances of physical and psychological maltreatment. Throughout history, various societies have evolved under the framework of patriarchy. Traditionally, men have been viewed as the primary providers and protectors of their families, responsible for earning income and ensuring the well-being of their loved ones. In contrast, women were traditionally regarded as the possessions of men and were primarily responsible for bearing offspring and attending to the needs of their spouses and household. Historically, there has been a pervasive belief in the superiority of men over women. Historically, men have employed a set of moral codes to subjugate women and maintain their dominance in society. Failure to comply with these codes often resulted in punishment from husbands, thus perpetuating a patriarchal system. The contemporary world continues to uphold moral principles and ethical standards, which are evident not only in traditional households but also in contemporary Western households. In contemporary society, females across various age groups are subjected to physical, mental, emotional, and psychological mistreatment within the context of their household duties. Let us engage in a more comprehensive discussion.

Victims

In fact, many societies around the world have historically exhibited patriarchal tendencies, resulting in women being subjected to oppression and restrictions. This scenario continues to persist in the contemporary era. Despite the contemporary and scholarly nature of society, wherein individuals collaborate to attain the objective of societal equality, this stigma persists with entrenched tentacles within the societal mindset and culture. The escalation of atrocities such as sexual assault, torture, rape, dowry-related killings, workplace sexual harassment, trafficking, and mistreatment of young girls over time is a conspicuous manifestation of the pervasive rise in gender-based discrimination and violence against women. Furthermore, this issue is a global phenomenon that impacts individuals across various demographics, including but not limited to females of all ages, social standings, and communities. This encompasses married or unmarried women, employed women, refugees, and those from lower socioeconomic backgrounds residing in both urban and rural areas. Women may encounter various types of abuse, which can occur in various settings, such as their residence or place of employment. Moreover, the family serves as a form of protective support system for females. Indian women derive certain privileges and a sense of security from their familial and marital relationships. They primarily depend on their male counterparts for both their physical and financial well-being. The emotional and financial dependence of women on men is posited to engender an egoistic worldview and a particular form of controlling character in men. The male members of the family initiate the decision-making process for the wife and other female relatives. Traditional morality has imposed limitations on their freedom. Throughout a woman's lifespan, she is confronted with a range of societal prejudices and harmful social practises, such as feticide, infanticide, discrimination against girls in regards to education and nutrition, physical abuse, dowry demands, mistreatment in the homes of in-laws, bride burning, Sati, disregard for widows and elderly women, limited autonomy, and unequal treatment of men and women. The enumeration is extensive. It is apparent from numerous reports and research studies conducted by various organisations, including but not limited to NCW, NCRB, and independent researchers, that domestic abuse within households primarily affects women. According to the National Crime Records Bureau's findings, women between the ages of 15 and 59 have experienced some form of violence or abuse at some point in their lives, either from their own family or from their husband and his family. There are numerous contributing factors that lead to experiencing domestic abuse within a household, as previously discussed. Moreover, it is noteworthy that there are discrepancies within this demographic with regards to the extent of maltreatment they encountered in various regions of the nation. Each state

possesses a distinct set of factors, some of which are shared and others that are unique, that contribute to the occurrence of domestic violence. Furthermore, there exist discrepancies in the demographic groups that are most susceptible to experiencing violence in the context of matrimony. Research suggests that women may experience higher rates of domestic violence or abuse within the first seven years of marriage. This may be attributed to a variety of factors, including dissatisfaction with the amount of dowry received, the wife's behaviour towards the family, and the woman's inability to conceive a child, among others. These factors appear to disproportionately affect women within this specific age category compared to those in other age groups. Moreover, there exist discrepancies regarding the demographic of women who are at a higher risk of experiencing specific forms of abuse or violence due to a particular factor. There are discrepancies in the prevalence of violence against women based on the reason for the violence. For instance, the number of women who experience violence as a result of dowry demands may differ from those who experience violence due to infertility or those who experience violence for wanting to pursue independent work rather than domestic duties. Let us examine particular situations. The circumstances for women remain consistent both within and outside of domestic settings, with persistent challenges such as limited career prospects, unjust treatment from supervisors or employers in professional settings, trafficking, physical assault, and other related issues. Moreover, the insufficient provision of education and training opportunities for skill development leads to the employment of women in low-paying jobs within the unorganised sector, where they are subjected to exploitation. The biased tendency has had a notable effect on their everyday existence. Women in the workforce face challenges due to the increasing demands of their dual roles at home and work, coupled with societal expectations. The lack of robust familial ties and traditional support systems further exacerbates the stress experienced by employed women. There is a lack of prioritisation for promotions or critical job opportunities for mothers of newborn children and pregnant women. Employers exhibit caution when considering the employment of young women due to concerns regarding potential pregnancies. As a result of familial responsibilities, the individual is currently lagging behind their nearest associate in terms of marital progress. A significant number of women opt to leave their employment and engage in domestic work to provide care for their families and nurture their offspring. Urban women often experience significant challenges due to their limited literacy skills or lack of educational opportunities. Primarily, they are used for household assistance. The financial burden on nuclear families, the increasing prevalence of dual-income households, the erosion of traditional family support systems, and the deterioration of ethical values exacerbate the suffering of individuals. The proliferation of

materialism and consumerism has led to a significant rise in stress levels among urban women. The situation for untrained women residing in rural areas is notably more challenging, as they are often confronted with issues such as poverty, joblessness, and low levels of literacy. As a result of economic hardship, a significant proportion of male individuals are compelled to depart from their households and journey to remote areas in pursuit of employment opportunities, thereby leaving domestic responsibilities to be borne by women. In approximately 30% to 35% of rural households, women assume the role of solitary survivors or primary breadwinners, responsible for managing domestic affairs and nurturing offspring. They are commonly engaged in occupations where they experience both physical and economic exploitation. In contrast to their urban counterparts, women residing in rural areas encounter greater challenges in three significant domains: Insufficient provision of education that fosters the acquisition of proficient skills. Health issues. The lack of dependable credit sources. Females belonging to the privileged stratum of society, despite enjoying a higher social standing than their counterparts, are still subjected to more societal and religious restrictions than women belonging to the underprivileged class. Frequently, individuals hailing from regions such as Bengal, Rajasthan, and Northern India are subjected to various social maladies, including but not limited to infanticide, dowries, the Purdah system, the Sati-Pratha system, inhumane treatment of widows (both young and old), and polygamy (predominantly in southern India). Despite empirical evidence indicating that women from lower socioeconomic strata exhibit higher levels of autonomy and adaptability compared to their counterparts from higher socioeconomic strata, they continue to be marginalised in society. Women in this particular cultural context enjoy a higher degree of autonomy in their daily routines and are not subject to the restrictive social norms of the "Purdah system." Furthermore, they have a longstanding tradition of engaging in divorce and remarriage. Nonetheless, they remain susceptible to certain types of violence, coercion, degradation, and abuse. At times, the failure of men to protect women from exploitation can be attributed to their apathy, addiction to alcohol, misconduct, and sense of powerlessness. On other occasions, women's reluctance to confront the situation may be the cause. Polygamy, desertions, and domestic violence against wives are common practises among them. Individuals belonging to certain social groups often encounter class-based oppression due to economic deprivation, caste-based oppression due to inter-caste tensions, and gender-based discrimination. It is imperative to keep in mind that domestic violence has an impact on individuals of all genders, not solely women. Adolescents who are part of a household may experience comparable forms of mistreatment, encompassing psychological, affective, corporeal, or conduct-related abuse. Furthermore, research indicates

that females are at a higher risk of experiencing familial abuse compared to males. Offspring who are born and reared in environments characterised by violence and abuse from an early age are at an elevated risk of becoming either perpetrators or victims of domestic violence in the subsequent generation. Is it possible for men to experience domestic violence as victims? In one instance, a female individual was responsible for the death of her spouse and attempted to attribute the cause of death to COVID. In another case, the same woman was responsible for the deaths of her in-laws while her husband was present during the commission of the crime. During the COVID-19 pandemic, a number of prominent headlines emerged. The query at hand pertains to whether domestic violence can still be classified as a gender-specific matter. To a certain degree, I concur with the statement. However, it should be noted that the aforementioned assertion does not preclude the possibility of another partner encountering the same situation. Domestic violence can manifest in various forms and affect individuals of any gender. While women are often identified as the primary victims, men are also susceptible to this phenomenon. It is not always appropriate to categorise men as malevolent actors. Currently, there is a prevalent misconception that men are less likely to be victimised. However, recent research indicates that men are also frequently subjected to victimisation. Despite being a less discussed topic, it is noteworthy that men are also susceptible to experiencing intimate partner violence (IPV). Men are often hesitant to disclose their experiences, as they may be apprehensive or ashamed, resulting in a higher likelihood of concealing their situation. With the impending societal shifts, it is important to acknowledge that domestic violence will not solely affect women, as it is evident that acts of brutality are not confined to any particular group. Acquiring precise statistical information or reports regarding the prevalence of male victims of domestic violence in society can prove to be a challenging task due to the significant number of cases that exist. Could you please provide more context or information about what you are referring to? The prevalence of societal stereotypes suggests that domestic abuse is a phenomenon primarily experienced by women. Consequently, a significant proportion of male victims of domestic violence perpetrated by their intimate partners are unlikely to report the abuse to law enforcement or investigative agencies. This reluctance may stem from concerns about potential ridicule or the possibility of negative repercussions. Moreover, a significant proportion of the existing laws, such as the Domestic Violence Act or Section 498A of the Indian Penal Code, are exclusively gender-oriented, offering redress solely to women. Currently, there is a lack of legal recourse for men to seek assistance in cases of abuse. A study was conducted on a sample of approximately 1000 married men in a Haryana village, ranging in age from 21 to 49 years. The findings revealed

that 52.4% of the participants reported experiencing violence from their intimate partners. Additionally, it has been noted that the predominant form of domestic violence experienced by men is physical domestic violence perpetrated by their spouse. Additional forms of violence that women encounter include verbal abuse, physical torture, and public humiliation in the presence of community members, among other examples. It is widely acknowledged that human rights and equality are applicable to individuals of all genders. While efforts are being made to safeguard the rights of women, it is important to recognise that the rights of men should not be disregarded. Currently, there is no shortage of spurious allegations pertaining to rape, dowry demands, domestic violence, or cruelty made by women against men. Various laws have been enacted to safeguard the rights of women; however, there is no singular provision that effectively serves the interests of men. Despite men's efforts to address the domestic violence they experience, societal stereotypes prevent their voices from being heard. There is a pressing need for the revision of prevailing gender-based domestic violence stereotypes in society as well as the implementation of effective legal remedies for men. Alternatively, existing laws should be made as gender-neutral as possible.

CONCLUSION

The root causes of such abuses, particularly in India, were deliberated upon, along with an examination of their impact on the victim and the demographics of potential victims. The legal statutes and legislation implemented in India for the benefit of domestic violence victims were analysed and critiqued for their inadequate enforcement during our discussion. We engaged in a comprehensive analysis and discourse pertaining to the diverse data and information concerning victims of domestic violence within Indian households. It is widely acknowledged that the responsibility of curbing instances of abuse cannot be solely attributed to the government, given the significant population of our country and the inadequate enforcement of relevant legislation. To effectively eradicate gender-based violence, it is imperative to initiate the process within the family unit. In my opinion, there are numerous measures that can be implemented at the grassroots level to curb the emergence of such a deleterious mentality from its inception. Primarily, priority should be accorded to the education of all individuals. It is imperative that both genders receive education on their respective rights and moral values. Specifically, boys should be taught about the principles of gender equality and the importance of demonstrating respect towards women. There exists a pressing necessity to challenge the

domestic stereotype that perpetuates the notion of women as weaker or inferior to men, incapable of speaking out against their male counterparts, or solely suited for domestic duties. In the event that this stereotype remains intact, it is my belief that the likelihood of significantly reducing instances of domestic abuse is minimal, regardless of the number of laws enacted or amendments made to existing legislation. There is a pressing need to alter the prevailing mindset and societal attitudes, necessitating a fundamental shift in thinking from traditional values to contemporary values

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CHAPTER 5

UNVEILING EQUALITY: PAVING THE WAY FOR INCLUSIVE MARRIAGE RIGHTS

UNVEILING EQUALITY: PAVING THE WAY FOR INCLUSIVE MARRIAGE RIGHTS

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“In the unification of two minds, orientation of sexuality is irrelevant”

-Abhijit Naskar (Author),

Either Civilized or Phobic: A Treatise on Homosexuality

ABSTRACT

Homosexuality stands as one of the most contentious and hotly debated topics across the globe and also delves deep into the realms of human rights. Amidst a world where 80% find themselves as heterosexual, 3% as homosexual, and 4% as bisexual, these statistics alone testify to the undeniable presence of diverse sexual orientations in society. While the Indian landmark judgment of Navtej Singh Johar decriminalized consensual homosexual acts among adults, the journey towards establishing a chosen matrimonial union remains fraught with challenges stemming from social stigma, religious constraints, political complexities, and legal loopholes. Marriage, considered a sacred bond under Hindu personal law, transcends mere physical union and is widely revered as the union of two souls. In a nation that upholds the principles of freedom, life, liberty, and dignity for all its citizens, why does the right to marry

an individual of the same sex lag behind? This study explores the historical acceptance of homosexuality in ancient Indian and foreign texts and highlights the pressing need for equal marriage rights, adoption privileges, and divorce entitlements for the LGBT+ community. Furthermore, it examines pivotal judicial precedents that underscore the recognition of their status by the Indian judiciary. This research aims to chart a path towards the legalization of same-sex marriages while ensuring harmonious coexistence and upholding personal laws. By addressing these critical issues, we strive for a society where the unification of two minds transcends the barriers of sexual orientation, ushering in a new era of equality and social justice.

Keywords: Legalising LGBTQIA Marriages, Homosexuality, same-sex marriages, LGBT+ Rights in India

INTRODUCTION

We must strive to create a society that fosters acceptance, empowers every voice, and celebrates the richness of diverse identities that form the very fabric of our nation. In every corner of the globe, humanity is confronted with the harrowing realities of violence, inequality, and in some cases, even torture and execution, simply because of their love, appearance, or inherent identity. The essence of who we are, including our sexual orientation & gender distinctiveness, should never be grounds for discrimination or subjected to abuse. The rights of the lesbian, gay, bisexual & transgender (LGBT+) community encapsulate a vast array of identities and concerns, representing the diversity of human experiences. Across the world, countless individuals endure unimaginable mistreatment based solely on their sexual identification & gender. They suffer atrocities such as torture, execution, and unjust arrests under oppressive laws. These resilient souls face unequal treatment, censorship, and medical malpractices. They encounter discrimination in areas as fundamental as healthcare, employment, and housing. They endure domestic violence, witness the abuse of vulnerable children, and are denied their rightful family rights and recognition (Human Rights Watch). The year 2018 marked a momentous turning point, bringing forth a glimmer of optimism for the LGBTQIA community—a community that has valiantly waged a protracted struggle for their fundamental rights. Finally, a ray of enlightenment pierced through the darkness as the Navtej Singh Johar case pronounced the decriminalization of homosexuality. However, amidst this incremental progress, the realization of same-sex marriage in India remains an elusive and distant aspiration, yet to be attained. To realize a harmonious world where diverse communities coexist

peacefully, it is imperative that we enact laws and policies that safeguard the dignity of every individual. Such measures must extend protection to all, fostering an environment where gender discrimination and abuse based on sexual orientation become relics of the past.

The present research delves into the historical perspectives on homosexuality as depicted in ancient Indian and foreign texts, shedding light on the urgent demand for equal marriage rights, adoption privileges, and divorce entitlements for the LGBTQIA community. Additionally, it scrutinizes significant legal precedents that underscore the acknowledgment of their status by the Indian judiciary. By charting a course towards the legalization of same-sex marriages, this study aims to promote harmonious coexistence and uphold personal laws.

LEGALISATION OF SAME-SEX MARRIAGE- A BATTLE YET TO BE WON

In the year 2018, the repeal of Section 377 marked a monumental victory, decriminalizing homosexuality and igniting hope within the LGBTQIA community. However, the battle for same-sex marriage legalization rages on, leaving this resilient community to endure ongoing discrimination. Marriage holds a legal dimension that confers a myriad of rights and responsibilities upon two individuals, encompassing adoption, taxation processes, life insurance plans, inheritance mechanisms and various other entitlements. Tragically, our nation's laws fail to extend these same privileges to LGBT+ couples, reserving them solely for heterosexual marriages. The right to marriage equality stands as one of the most fundamental rights any individual should possess, yet the LGBTQIA community remains unjustly deprived of it. Though the historic annulment of Section 377 represented a momentous triumph, the dream of marriage remains an elusive one. In Indian perspective, it can be said that there exists no legal facility to solemnize marriage for the LGBT+ society, nor any legislation concerning adoption. The mere provision of civil unions, while excluding same-sex marriages, is inherently discriminatory, as it relegates a particular group of people to an inferior status beneath that of marriage. What purpose does the decriminalization of homosexuality serve in a nation like India, which places immense importance on marriage, if individuals are still denied the opportunity to marry their chosen partners? Consequently, many LGBT+ couples opt to migrate to countries that recognize and validate their unions, granting them the legal status and full rights enjoyed by heterosexual couples. Regrettably, India's stance on this matter stands no different from that of its counterparts, reflecting a disheartening state of affairs (Khan et al. 2020).

SOME IMPORTANT DEMOGRAPHICS

In the realm of official statistics, the demographics of the LGBT+ population in India remain shrouded in uncertainty. However, in a momentous disclosure, data yielded by the Indian government to the Supreme Court in 2012, asserting the existence of approximately 2.5 million gay individuals within the nation's borders. It is crucial to acknowledge that these figures merely encapsulate those courageous souls who have voluntarily come forward, baring their truth to the Ministry of Health and Family Welfare. The actual statistics might far surpass these numbers, as a significant segment of the LGBTQIA Indians remains concealed within the confines of secrecy, oppressed by the omnipresent spectre of discrimination (BBC News, 2012). Homophobia, regrettably, continues to cast its long, dark shadow across India. Open discussions about sexuality, in any form, remain woefully scarce within our society. Yet, in recent years, a subtle shift in attitudes towards homosexuality has emerged (BBC News, 2005). Globally, an illuminating survey shed light on the broader landscape of human sexuality. It revealed that 80% of individuals identified as heterosexual, with a mere 3% embracing a homosexual identity, while 4% identified as bisexual (World Economic Forum, 2021). Additional categories such as pansexual, asexual, and others each comprised a modest 1%. However, peering through the prism of the Indian context, a distinct revelation emerges. A remarkable report disclosed that 3% of the Indian populace courageously identifies as homosexual, encompassing both gay and lesbian individuals. Furthermore, 9% boldly embrace a bisexual identity, while 1% identify as pansexual. The tapestry of human diversity extends further as 2% proudly declare themselves as asexual. Notably, a staggering 59% of respondents acknowledge a departure from the heterosexual norm, powerfully affirming their identities (excluding those who chose "do not know" or "prefer not to answer"). These numbers bespeak the resilience and undeniable presence of a vibrant community that refuses to be silenced (IPSOS, 2021). In the midst of the labyrinthine journey to uncover the true demographics of the Indian LGBTQIA community, it is imperative to recognize that the strength of numbers alone cannot encapsulate the depth of human experience, love, and resilience that thrives within each individual.

UNVEILING THE HIDDEN TAPESTRY: HOMOSEXUALITY'S HISTORICAL FOOTPRINTS

The narrative of homosexuality in India stretches across the annals of time, from antiquity to the modern era. Hindu scriptures, embodying a diverse array of perspectives, have explored the realms of homosexual characters and themes. One such remarkable testament lies within the antique Indian text, *the Kamasutra*, penned by the visionary sage *Vātsyāyana*, which devotes an entire chapter to the exploration of erotic homosexual behaviour. Historical literary records illuminate the prevalence of homosexuality throughout the Indian subcontinent, etching its indomitable presence into the very fabric of history (Vanita & Kidwai, 2008). Remarkably, Hinduism, the spiritual tapestry that weaves the cultural ethos of India, has never explicitly condemned or forbidden homosexuality. The legalization of homosexuality, however, has sparked a division among Hindu nationalists, revealing the complexity of societal attitudes towards this alternative way of life. Astonishingly, the ornate corridors of many Hindu temples bear witness to the presence of sculptures depicting both men and women engaging in same-sex acts. Furthermore, the vast pantheon of Hindu deities includes embodiments of gender fluidity and the LGBTQIA+ spectrum. Through rituals, legal documents, religious and mythical narratives, commentaries, paintings, and sculptures, Hinduism has consistently embraced and celebrated same-sex partnerships and gender diversity from the ancient Vedic era to the present. Yet, it would be unwise to halt our exploration at the threshold of mythological tales, for they merely scratch the surface of a profound truth. The concept of sin, central to Hindu ethics and morality, serves as a mechanism to facilitate order, uphold Dharma, and guide evolution through a process of correction and retribution. Within the realm of Vedic literature, the deities Mitra and Varuna emerge as symbols of masculine devotion and intimate connection, their names signifying "fellow" or "companion" in Sanskrit. These two celestial beings, associated with the waxing and waning phases of the moon, are intertwined with the tapestry of same-sex relationships within ancient Brahmana texts. "Mitra and Varuna, like two half-moons, meet during the night of the new moon, sharing contentment in the offering of a cake while they are together." Another captivating tale recounts the pregnancy of Vishnu, assuming the form of Mohini, by Shiva, birthing the legendary hero Ayyappa, whom Mohini, burdened by shame, ultimately abandons. Ayyappa, known as "ayoni jata" or "born of a non-vagina," evolves into the cherished son of Vishnu and Shiva, a testament to the infinite possibilities of existence and the embrace of diverse identities (Lahangir, 2022). It is also said that, the fire God (Agni), is married to both Svaha (female Goddess) as well as Soma (the male moon), where God Agni has an amenable role in their relationship (Kane, 2020). Within the rich tapestry of ancient Indian wisdom, the *Sabda-kalpa-druma*, a Sanskrit dictionary, enumerates 20 distinct sexualities, echoed by the *Kamatantra*, a manual of love, and the *Smriti-ratnavali*, a

summary of Vedic laws compiled by Vacaspati. The Narada Smriti further expands this spectrum, listing 14 different sexual orientations, including trans individuals also known as sandha, intersex individuals also known as nisarga, and three distinct categories of homosexual men, called as mukhebhaga, kumbhika, and asekyā, reflecting their diverse orientations as determined at the time of their conception. Madhavi Menon, a renowned scholar at Ashoka University and director of the Centre for Studies in Gender and Sexuality, eloquently expresses the celebration of desire's multiplicity embedded within Indian mythology. She highlights the absence of historical records that deem these diverse depictions as shocking or blasphemous, noting the intricate sculptures adorning the Khajuraho temple, where men embrace men, women embrace women, and more, forming an intricate mosaic of human connection and passion (Khan, 2023). While delving into the international landscape on this subject, we find profound significance in the research conducted by Hagen & Goldmann, underscoring the critical link amongst greater communal acceptance of sexual subgroups and the health and welfare of the LGBTQ+ community (Hagen & Goldmann, 2020). A spectrum of same-sex marriages, extending from informal and unofficial unions to deeply ritualized ceremonies, has persisted across the globe (Herdt, 1993). Ancient civilizations such as Mesopotamia embraced and recognized practices and sacraments for same-sex unifications, surpassing the acknowledgement found in ancient Egypt (Martial, 1897). Notably, in ancient Assyria, love between men was considered a natural expression of human desire, devoid of condemnation (Mazzalunga, 1996). Even within the annals of Roman history, we encounter the staggering reality that two of its emperors held same-sex unions, while thirteen of the first fourteen emperors were identified as bisexual or solely homosexual (Hinsch, 1990). These revelations from the archives of time stand as a testament to the intricate tapestry of human existence, transcending the confines of societal norms and expectations. They beckon us to embrace the complexities of desire, to challenge the limitations of identity, and to celebrate the vibrant diversity that forms the very essence of our shared humanity.

GLOBAL STATUS OF HOMOSEXUALITY AND MARRIAGES THERE-IN

In the ever-evolving landscape of human rights, the decriminalization of homosexuality has emerged as a pivotal milestone, stretching its influence across 134 nations as of 2023. Yet, a stark reality remains: only a mere 34 of these nations have taken the courageous leap to legalize same-sex marriages, with the small principality of Andorra being the latest to join this

transformative journey. Cast your gaze back to a time before the dawn of the 21st century, and you will witness Denmark etching its name in the annals of history as the foremost nation in the world to extend official acknowledgement to same-sex couples. This momentous stride materialized through the establishment of registered partnerships, providing a semblance of rights akin to those enjoyed by their heterosexual counterparts. However, the designation fell short of bestowing the sacred mantle of 'marriage' upon these unions, denying them the full spectrum of benefits, including the right to adopt or obtain shared custody of a child. On that fateful day, October 2, 1989, six courageous gay couples embarked on a legal journey, their unions serving as a beacon of hope in a world grappling with acceptance and equality (Mayengbam, 2023). Across the vast expanse of the United States, the seeds of progress were sown as early as 1971, when a local jurisdiction issued the first same-sex marriage license. This monumental act, a testament to the relentless pursuit of justice, heralded a new era of recognition for the LGBTQ+ community. The intricate tapestry of change continued to unfurl across the globe, with Taiwan emerging as the first Asian country to grant legal recognition to same-sex marriages. The resounding message echoed through the corridors of time, reverberating with the resilience and courage of individuals determined to reshape societal norms. In the heart of the Netherlands, a transformative chapter in history was penned as Queen Beatrix affixed her signature to the first-ever same-sex marriage bill. With the stroke of a pen, the Netherlands thrust itself into the vanguard of progress, becoming the first European nation to embrace the sacred bond of marriage for same-sex couples (The Associated Press, 2000). On that momentous day, April 1, 2001, the world witnessed the birth of a new era, one marked by inclusivity and the recognition of love in all its forms. Yet, as we bask in the glow of these triumphs, we must confront the harsh realities endured by many. In nations like Saudi Arabia, Somalia, and the UAE, the ominous spectre of capital punishment looms over consensual same-sex acts, a cruel reminder of the struggles that persist in the face of progress. In the shadowy corners of Afghanistan and Iran, the unthinkable becomes reality as these two countries dare to impose the death penalty on individuals merely seeking to express their innate desires and affections (Singh, 2023).

PROTECTION UNDER INTERNATIONAL INSTRUMENTS

Universal Declaration of Human Rights (UDHR), implemented by the UN General Assembly in 1948, proclaims the equal and inalienable rights of all individuals without distinction, which

can be interpreted to include LGBTQIA rights. Article 26 of the International Covenant on Civil and Political Rights (ICCPR) emphasizes that all individuals are equal before the law and should receive equal protection without any discrimination. The law should explicitly prohibit discrimination and ensure effective shield against discrimination based on various grounds such as language, race, colour, religion, sex, political or other views, national or social basis, birth, property, or other status. Here, sexual orientation of an individual may be categorised under the head, 'other status'. When interpreting Article 26, it is important to consider Article 23, which recognizes the family as the natural and central unit of civilization. It acknowledges the right of men-women of eligible age to marry and establish a family. The Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW) have expanded upon the notion of discrimination based on sexual orientation and gender identity. They have provided specific recommendations to States Parties on how to combat such discrimination. For instance, CEDAW's General Recommendation in 2013 acknowledged that same-sex affairs may not be accepted customarily, lawfully or communally in many countries. However, in cases where these relationships are accepted, whether as de facto unions, registered partnerships, or marriages, the State must confirm the monetary rights of womenfolk in these relations. In 2011, the CRC recognized that certain groups of children, including those who identify as lesbian, gay, transgender, or transsexual, are particularly vulnerable to violence (Gerber & Gory, 2014). Moreover, the Human Rights Committee and other international human rights figures have expressed the view that the concepts of "marriage" and "family" are evolving and diverse across cultures. Consequently, they should be interpreted in a broad manner (Saiz, 2004).

ARGUMENTS FOR AND AGAINST HOMOSEXUALITY IN INDIA

In this segment of the study, grounded on the existing understanding of various countries, arguments by legal counsels, given in support as well as contrary of legalisation of homosexuality and same-sex marriages are compiled for a better and clear understanding of LGBTQIA rights.

Fig. 1

Issue	Petitioners	Respondents
Is there a fundamental right to marry?	Yes. the right to marry is an extension of the fundamental rights to 'privacy', 'cohabit' and 'choose one's partner' under Arts. 19 and 21 of the Constitution.	No. marriage is a social institution. It flows from tradition, personal law and religion and needs social acceptability. Only heterosexual marriages have such acceptability.
Does the non-recognition of queer marriages by law violate LGBTQIA+ persons' fundamental right to equality (Art. 14)?	Yes. after the decriminalisation of homosexuality in 2018, LGBTQIA+ persons have the right to be treated at par with heterosexual persons in every facet including marital status and marital rights.	No. LGBTQIA+ couples have the right to cohabit. This does not include the right to marry. The State cannot be compelled to recognise LGBTQIA+ marriages.
Can LGBTQIA+ marriages be recognised under the Special Marriage Act, 1954 (SMA)?	Yes. the intent of the SMA was to recognise freedom of choice and non-conventional marriages. Replacing the words 'husband' and 'wife' with the word 'spouse' for instance, would help recognise marriage rights to LGBTQIA+ couples under the SMA.	No. the SMA was drafted to recognise inter-faith and inter-religious marriages between heterosexual couples. Recognising non-heterosexual marriages under this Act, defeats the intent of lawmakers. Altering the SMA will have a ripple effect on over 160 other statutes. Only Parliament can affect this kind of change.
Can the SC make a declaration recognising the right to marry for LGBTQIA+ persons?	Yes. Fundamental rights of non-heterosexual persons are being violated, so the SC can make a declaration recognising LGBTQIA+ marriages. This may be a placeholder till Parliament makes the necessary legislative changes.	No. legal recognition of LGBTQIA+ marriages requires the creation of a new law. This is exclusively a legislative action. A declaration by the SC will breach the separation of powers doctrine.
Can ancillary rights such as adoption and the right to have joint bank accounts be granted to LGBTQIA+ couples without recognising their marriage?	No. marriage is not only a gateway to ancillary rights but also social recognition, security and protection from discrimination. Mere ancillary rights without marriage are not sufficient to ensure substantive equality for LGBTQIA+ persons.	Yes. certain 'administrative tweaks' which are 'legally permissible' can be made to ensure ancillary rights are granted. Recognising the right to marry is not needed for this.
Would legally recognising LGBTQIA+ marriages adversely impact child welfare?	No. LGBTQIA+ couples can adopt and provide a child with love, care and affection just as a heterosexual couple would.	Yes. A family of a biologically heterosexual man and woman as parents is the norm and the best for child welfare. anything else is an exception.

Source: (Supreme Court Observer, 2023)

In support of permitting same-sex marriage, it is often argued that such a decision would subsidize to a wider understanding of the right to privacy in modern society. The European Court of Human Rights, in its ruling on a case (Baey, 2017), stated that Russia's law prohibiting the advancement of non-traditional sexual relations among children violated the freedom of expression and prevention of discrimination as outlined in the Convention. Adversaries of same-sex marriage argue that its validation prioritizes private interests over public interests, conflicting the rights of sexual minorities with the rights of followers of traditional family values. They also contend that same-sex marriages fail to fulfil the primary function of reproduction, which is an inherent biological aspect of heterosexual relationships. However, the opponents do not propose any measures to address opposite-sex couples who are unable or choose not to have children. Interestingly, sociological data suggests that same-sex partnerships are often more willing to adopt and raise children with special needs, including those with disabilities or HIV infections. Moreover, studies indicate that children raised in same-sex families do not become homosexual at higher rates than those raised in opposite-sex families. Although same-sex marriages are recognized in some countries, their scope of rights is often

limited compared to those enjoyed by members of traditional families. Restrictions may include the prohibition of reproductive assistance technologies or limitations on adoption and media promotion. The current state of affairs regarding "non-standard marriages" is marked by their lack of recognition, deemed deviations from state policies governing family relations. The approach taken by the state towards these unions will vary, and in the case of same-sex nuptials, the prevailing non-recognition and undesirable attitude from legislators and Indian society will persist until there is a transformative shift in attitudes towards sexual minorities and their socio-political rights. However, it is imperative that the bans on "propaganda of homosexuality" be reversed without delay. This emerging trend necessitates a legislative paradigm shift concerning the institution of marriage. It demands a thorough examination of the contemporary threats and challenges faced by outmoded marriage. A comprehensive study is indispensable to determine whether the emergence of "non-standard marriages" is indicative of a moral decline or a natural evolution in response to evolving community life and moral beliefs. Based on the answer to this crucial question, society and the state will inevitably need to define their stance on these new forms of unions, ranging from outright prohibition to full recognition and support. The verdicts made in different jurisdictions around the world will be influenced by a combination of national ethnicities, customs, moral values, and legal standards. In this pivotal moment, it is essential to recognize the imperative for change and engage in an open, honest dialogue to shape the future of marriage. Only by embracing these challenges head-on can we navigate the diverse landscape of "non-standard marriages" and form a society that respects and supports the rights and aspirations of all individuals, unrelatedly to their chosen path of love and commitment (Anisimov et al., 2023).

NOTABLE JUDICIAL PRONOUNCEMENTS

In 1994, the NGO ABVA challenged Section 377, the law criminalizing homosexuality, in the Delhi High Court. The petition aimed to distribute condoms among male inmates in Tihar Jail after witnessing homosexuality there. However, the superintendent of Tihar Jail at that time, Kiran Bedi, expressed her disapproval, believing that such an action would potentially promote homosexuality. The petition was later dismissed in 2001(Lahana). In 2009, the Naz Foundation, a sexual health NGO, filed a PIL in the Delhi High Court, proving that Section 377 violated fundamental rights enumerated under the Indian Constitution. The court dismissed the case, but it was later reinstated by the Supreme Court due to its public interest nature.

Subsequently, a coalition of NGOs called Voices Against 377 joined the petition, while India's Ministry of Home Affairs opposed decriminalization. In the historic judgment, the Delhi High Court struck down Section 377, citing violations of fundamental rights (Naz Foundation, 2009). However, the Supreme Court later overturned this decision in another case (Suresh Kumar Koushal, 2013). After several curative petitions were filed against it, the Supreme Court decided to reconsider the judgment in 2017. In a prominent case, the Supreme Court recognized the rights of transgender personalities and affirmed their right to self-identification and legal recognition of their gender identity. The court held that transgenders should be recognized as a "third gender" and be eligible for the same rights and shields as any other gender (NALSA, 2014). Commonly known as the "Right to Privacy" case, documented the right to privacy as a fundamental right under the grundnorm. The judgment laid the foundation for subsequent cases, including the Navtej Singh Johar case, which relied on the right to privacy to decriminalize homosexuality (Puttaswamy, 2017). The next landmark judgment by the Indian Supreme Court invalidated Section 377 of the Indian Penal Code, thereby removing the criminalization of consenting homosexual acts among major individuals. The court determined that Section 377 contravened the Indian Constitution by infringing upon the rights to privacy, dignity & equality (Navtej Singh Johar, 2018). After that, A Beacon of Hope Emerged from the Ground breaking Judgment of the Madras High Court. It declared unequivocally that the term "bride," as enshrined in the Hindu Marriage Act, encompasses not only those assigned female at birth but also embraces individuals who identify as transsexuals. This watershed moment has played a pivotal role in melding the legal terrain surrounding LGBTQ+ rights in India, leaving an indelible mark of progress and inclusivity (Arun Kumar & Sreeja, 2019). In the words of Law Minister Kiren Rijju, "the government does not "disturb" the personal freedom and activities of individuals but the issue related to the institution of marriage was a matter of policy. The government is not interfering in the personal life, personal activities of anybody. So, there should be no confusion. When it comes to an issue related to the institution of marriage, then it is a matter of policy." On the other hand, in recent months, a minimum of 15 pleas, including those from gay duos, have been submitted to the court, urging for the legal validation of same-sex marriages. Responding to these pleas, the Supreme Court has issued a directive to consolidate the petitions concerning the legal acknowledgment of same-sex wedding and assign them to a constitution bench. Comprising five esteemed judges, namely the Chief Justice of India, Dhananjaya Y Chandrachud, along with justices Sanjay Kishan Kaul, Hima Kohli, S Ravindra Bhat & PS Narasimha, this constitutional bench commenced the hearings on April 18, 2023. Notably, the Supreme Court has further mandated that the

proceedings be live-streamed on its website and YouTube channel. (The Economic Times, 2023).

SAME-SEX MARRIAGES UNDER THE SPECIAL MARRIAGE ACT, 1954- A WAY OUT!

Dr. DaShanne Stokes, a proficient sociologist and globally recognized public intellectual and social justice activist once said, *“Same-sex marriage has not created problems for religious institutions; religious institutions have created problems for same-sex marriage.”* One possible avenue to accommodate same-sex marriages in India is through the amendment of the Special Marriage Act, 1954. This secular regulation allows matrimony between individuals of different faiths or those who wish to opt out of personal laws. In its contemporary form, the Act relates to heterosexual pairs only. The best legislative action proposed is, by revising the Act to explicitly authorise same-sex marriages (Section 4(c)), so that it provides, *“a party, if male, should have attained the age of twenty-one years and if female, should have attained the age of eighteen years”*. It is the matrimonial bond that bestows rights as well as responsibilities on two people, as a consequence of validation of homosexual weddings, it would provide a legal framework to bestow rights and responsibilities on LGBTQIA individuals. To name a few, these rights include adoption, inheritance, and insurance policies. Marriage, a fundamental right in a nation like India where immense significance is placed upon this institution, remains elusive for the LGBT+ community. Despite the decriminalization of homosexuality, what purpose does it serve if LGBTQIA individuals are still not capable of marrying the partners of their choice? Even though the Transgender Persons' (Protection of Rights) Bill was passed by the Lok Sabha in August 2019, it falls short in truly benefiting the LGBT+ community and exhibits various shortcomings. Researchers strongly advocate for the need to fortify the transgender bill and introduce modifications that are in interest of the LGBT+ community. It is the urgent want of the moment to legalize same-sex nuptial and eradicate this dark stain from Indian history. Homosexuality will persist as a stigmatized aspect of society as long as it is disregarded and pushed aside. The government bears the responsibility of educating the public and raising awareness about sexual minorities (Khan et al., 2020).

CONCLUSION

Marriage transcends mere exclusion and inclusion; it represents a profound societal institution deeply ingrained in legal and social norms. It stands as the cornerstone of conjugal relationships and serves as a vital pillar within the national framework. If we see around us, a significant number of couples are diverging from this traditional institution. Denying a specific community, the right to partake in this institution fosters societal imbalances rife with prejudice and dissent. The acknowledgement of same-sex marriage, on the other hand, establishes legal bonds that strengthen the emotional and material ties already present. Encompassing this fortified interpersonal solidarity to marginalized groups previously omitted from marriage may have been prompted by welfare state cultures. These societies, however, now face limitations due to dwindling resources subsequent from structural unemployment, population aging, and escalating healthcare costs. Yet, despite these challenges, it remains imperative to confront the disparities and imbalances that arise from denying equal marriage rights. Striving for a more inclusive society demands breaking free from antiquated prejudices and embracing the transformative power of legal recognition. By doing so, we can forge a path toward a society that upholds solidarity, justice, and equality for all its members. Even in the face of constrained resources, the welfare state must rise to the occasion, championing the rights of marginalized communities and reaffirming its commitment to fairness and social progress (Festy & Rogers, 2006). Let us embark on a transformative journey of understanding and acceptance, forging a future that transcends the constraints of prejudice and opens the floodgates to true equality and liberation.

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CHAPTER 6

**A STUDY OF EVOLVING
NOTIONS OF 'MARRIAGE'
AS AN INSTITUTION IN
THE MASS MEDIA**

A STUDY OF EVOLVING NOTIONS OF ‘MARRIAGE’ AS AN INSTITUTION IN THE MASS MEDIA

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ABSTRACT

If “the medium is the message”¹ (McLuhan, 2001), then the mass media has been showing the institution of marriage as constantly evolving notion; from the ‘personal’ to the ‘societal’. In contemporary society, the institution of marriage has permeated beyond the notions of the religious sanction to that of societal sanction. Evolution of the institution is especially seen when one notices that earlier, the act of the ‘social’ witnessing was done through the presence of the clergy (of any religion) and then the wedding witnesses. However, in the contemporary world the ‘image’ has become more important than that of actual witnessing. Plastic Realism has gained predominance through post globalization use of technology, especially in the form of social media like Instagram, Facebook, Twitter etc.

This paper intends to study the implication of this phenomenon with special reference to mass media productions as seen through OTT platforms and the evolution of Indian marriage systems through cinema and television advertisements. While mass media has always been used a way of subjectivizing the populace with the ideologies of the State, it cannot be denied that in the post globalized world, marriage has become an institution of much concern to the

¹. McLuhan, M., Fiore, Q., & Agel, J. (2001). *The medium is the message*. Gingko Press.

State and the nation, as it has a direct and fundamental relation to the human resources, demography and capital of a country through child bearing and parenting as an addendum. This paper will thus also look at the socio- political importance and implications of marriage as shown in the mass media.

Keywords: Mass media, marriage, visual representation.

INTRODUCTION

In a rational world where evidence and testimony form the basis of all narratives and their implications, marriage as an institution has evolved from a primal need for mating for a species to that of a complex societal institution of kinship and economical needs. While earlier marriage ensured a sense of security through the existence and the expectation of an increase in population of the community through mating. This primal need has now turned into a complex system of socio- religious, socio-political and socio-economic² institutions for Man.

Durkheim (1969)³ pointed out how marriage could be seen as an institution which benefited both the parties and the offspring. In contemporary society marriage has become intricately connected to the State and Religion. In the western world, marriage became a part of a socio-religious identity, as it was seen as a natural way to increase the number of followers in any religion. In that context we can see that marriage becomes an institution of the people which is then ratified by God through the Clergy. A sterling example of the same can be in the story of the Genesis⁴ in the Bible, where Adam and Eve are ‘married’. What needs to be noted is that there is an implicate intent of marriage being sanctioned by God. With time, the State got involved not only in the context of marriage, but also in that of Divorce⁵. It is to be noted that divorce is often seen as a social failure, even today as one can assume that the demands of a national human resource is lost amongst divorced couples. This paper will look at the notion of marriage as a purely utilitarian concept, where the law, State and religion can be seen to

² Gupta, G. R. (1972). RELIGIOSITY, ECONOMY AND PATTERNS OF HINDU MARRIAGE IN INDIA. *International Journal of Sociology of the Family*, 2(1), 43–53. <http://www.jstor.org/stable/23027837>

³ Bynder, H. (1969). Émile Durkheim and the Sociology of the Family. *Journal of Marriage and Family*, 31(3), 527–533. <https://doi.org/10.2307/349776>

⁴ Genesis 1:28 - And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth. *The King James Bible*, Online Version Stable Url: <https://www.kingjamesbibleonline.org/Genesis-1-28/>

⁵ The Divorce Act 1869, Stable URL:

https://www.indiacode.nic.in/handle/123456789/2280?sam_handle=123456789/1362

emphasize marriage as an inordinate duty of Man. What is to be noted is that marriage is seen as instrument not only of social cohesion, but also as required for regeneration of human resources. However, the duty of the state and religion is to ensure that this regeneration is not indiscriminate, nor detrimental to the quality of the evolved and civilized man. This is often accomplished by the State and Religion through the use of the mass media.

RELIGION, MASS MEDIA AND MARRIAGE PERCEPTIONS

All religions in the world proclaim that marriage is a compulsory and compulsive act of Man. It is both procreative in its intent, as well as utilitarian. While it satisfies biological urges of Man and Woman through a socially sanctioned act, what cannot be denied, is that there is an innate need in all religions to have as many marriages within their ambits as possible. If sanctioned in front of the Clergy of any religion, it is a direct method of keeping track of the numbers of marriages and the probability of offsprings and their induction into the religions systems through certain ritualistic norms. This can be seen in baptisms, *annaprasans*, *mundans*, etc. This is forwarded through ritualistic initiations at almost every part of the individuals life. What is to be noted that in most religions it is the male who has visible roles to play in the religious ritualistic endeavours, in patriarchal societies. Matriarchal societies have a predominance of female-centric rituals. But since patriarchal societies predominate social structures, one is aware of those practices. The woman's role is magnified only at the time of marriage, where rituals become part of the wedding rituals. These have been typified in the mass media as well as through ritualistic perceptions as only 'symbolic' of the stages of mating and acceptance of thereon. In the earliest form of the mass media, this would be manifested through the reading of the *Banns* in the Church, or the announcement of a *sagai* through clergy. This act then gets ratified in religious records and the announcements through a wedding card may be seen as away of making use of print media to disseminate information to the masses. The practices of writing, announcing and witnessing the act of marriage⁶ can be seen as an essential part of moulding public opinion through the mass media. This has evolved over time, where instead of oral and aural narratives, marriages began to be announced in the Newspapers in the 'Personal Advertisement' sections. Today, it is ubiquitous in Facebook, Twitter and Instagram announcements. At the same time, professionals are brought in to design such

⁶ SRINIVASAN, K., & JAMES, K. S. (2015). The Golden Cage: Stability of the Institution of Marriage in India. *Economic and Political Weekly*, 50(13), 38–45. <http://www.jstor.org/stable/24481745>

announcements in such a way, so as to create an engagement of the intended spectator/ receiver, to become attuned to the veracity of the act, without being directly informed of the same, as they are getting their information from a source 'twice removed'. In contemporary times, the use of the mass media has been taken over by a more personalized form of 'social media', where such announcements are often interspersed with a more subjective form of interpretations of ritualistic nuances. There is a bombardment of images, which pertain more to the perceived notion of marriage and wedding rituals, rather than to an adherence of existing and simplified ideas of marriage shown in the religious texts. Thus, there has been a steady association of the nomenclature of 'marriage' and 'wedding' as being synonymous. The divide of the former being a part of a religious sanction and the second as a socio-religious perception, has been devolving over time. The mass media has been playing a major role in this occurrence. In the contemporary society marriage is a socio-economic identity marker where the spectator becomes at one with the existing visual ritualization of marriage. This is done with the help of cultural artifacts (like marriage songs and religious rituals) along with visible symbolization of marriage in the form of a marriage ring, veil, *mangalsutra*, *sindoor*, etc.

MARRIAGE AND ITS EVOLUTION IN POPULAR NARRATIVES

The earliest form of propagation of marriage can be seen in most religious texts. These in turn were a part of oral narrative traditions which had an impact on the masses. Thus, we see the Bible talking about the 'marriage' of Adam and Eve. In mythology, marriage is not only a reason for celebration, but also a cause of strife amongst societies. Starting with the *Iliad*, we can see how Helen's abduction by Paris, created not only a war between different races, but also ensured that the tale spread far and wide through narratives. Those would not only be commoners narrating tales but also religious and state sponsored troubadours. Ironically, women have always been noted as a part of movable asset in marriages when seen through the perceptions of contemporary times. In pagan religions of the Greco- Roman era, power of marriage (and in turn, chastity) was within the ambit of a woman's power. However, war came to be seen as a 'masculine' endeavour. Chastity in marriage was not only a biological requirement but a socio-political requirement, as it ensured that power of the family stayed within the family. A disjunction would result in disaster for the power structures. These notions were popularized by drama of the times, which would use the trope of marriage to portray

power and hierarchy in society. This could be seen in plays like Sophocles' *Oedipus Rex* or Aeschylus' *Medea*.

In the Indian context, we can see how marriage became the core of conflict in popular mythological lore of the *Ramayan*⁷ and *Mahabharata*⁸. These narratives were oral and aural in tradition and have had a widespread perception, not only within the Indian sub-continent but also in other parts of Asia. Again, the spread of the narratives were part of oral traditions. However, with time modern mass media, including television and the internet, have been instrumental in sustaining these tales. What is to be noted, however, is that there have been changing perceptions of the same narrative, in earlier existing print media (book and their interpretations) and that of the visual media. While earlier polygamy, monogamy and androgyny had all been part of the narrative structures. They were not aberrations to be singled out in one's perceptions of narratives and ideology. They were solely dependant on the socio-economic status of the participants. On the other hand, popular rendition of the tales in today's mass media, veer towards monogamy as being an essential part of the characterization of the characters. This in turn, could be a result of post colonial notions of monogamy as part of the world order. Today, monogamy is an essential part of society and the presence of more than one spouse would be legally acknowledged as bigamy.

However, what is to be noted is that, unlike the narratives of earlier mythology, agency of the woman depended not on the spouse, but rather on the hierarchy of the female participant in the relationship. Thus, one see that despite the Satyawati belonging to a lower socio-economic strata, Raja Shantanu was forced to concede to her demands in the *Mahabharata*. Most women in the texts can be seen wielding their own power. On the other hand, in the *Iliad* and the *Odyssey*, women are seen as the vessels of power, but not the one with the agency to wield the power. Contemporary mass media is more inclined towards a westernized perception of power as residing with the male despite any existing hierarchical system. This depiction is also supported by the Marriage Acts of the Church where the words "To Obey" have been added in the marriage service pertaining to women.

PERCEPTION OF MARRIAGE IN THE MASS MEDIA

⁷ Basu, Rajshekhar, (1959) *Balmiki Ramayan*, West Bengal: Patra Bharati.

⁸ Rajagopalachari, C. (1950). *Mahabharata*. New Delhi : Hindustan Times

Ironically marriage is seen as a visual spectacle rather than a religious output in the mass media. While on the one hand, popular Bollywood and Hollywood renditions see marriage as socio-cultural denominator (*Runaway Bride, Vivah*, etc); its effect is economic, especially on the lower and the middle classes. The aspirational aspect of marriage can be identified by what Guy De Bord calls the “society of the spectacle”. In this case, it is generating revenue, not on the basis of any core manufacturing industry, but rather on the aspirational content of the mass media, which in turn is creating a ‘desire’ rather than a ‘need’. All forms of the social media, including Facebook and Instagram are significant promoters of the idea. With time, the mass media has taken away the notions of adherence to rituals and institutions of marriage and its geo-spatial realities. A-historicity has now become a part of marriage ‘rituals’ as human migration and the evolution of the mass media has become part of the demographic reality. There is a deep sense of interculturalism without the realization of its existence. It is both with territories as well as pertaining to different religions.

An evidence can be seen in the marriage acts of Indians and other Asians, where the wedding and the engagement ceremonies are non-religious, non-ritualistic economic endeavours. An example can be seen in the existence of the wedding cake and the pre-wedding pictures, which have no connection to the any form of ritualistic traditions of marriage.

MARRIAGE AND THE STATE

At the same time, there is often no mention of the influence of the State upon that of marriage. While in earlier times, marriage was sanctioned by the king or the emperor, contemporary India and the West, marriage is a State Act sanctioned by laws of governance and citizenship. This can especially be seen when migration between countries take place and there is a category of “spousal visa”. In the mass media, especially in the news media, this form of migration is often seen with derision and derogatory in context, as there is an ‘otherization’ of the spouse, which in turn would have a deep impact on the psychological well being of the spouse. The State would give political recognition to the spouse with the marriage Acts. In case of India there are the Hindu and the Muslim Marriage Act along with the Special Marriage Act. The fact that the marriage Acts in India are based on religions, is a clear indication that the onus of marriage is the responsibility of both the State and religion. Ironically they both have the same ends in sight, as both the State and religious communities look at marriage as a demographic tool.

However, the deeply romanticized idea of marriage depicted in the mass media is a result of marriage being seen not as a demographic tool, but rather a socio-economic need. In India they have been ably aided by advertisement of matrimonial sites⁹ like shaadi.com and Bharat matrimony. com. In the post globalized world, with the development of technology, sites like Tinder, Bumble, Line etc form an atmosphere of mating whereby the dictates of the economic market are also met, as they get revenues through advertisement and other forms of promotions.

MASS MEDIA AND THE CREATED PERCEPTIONS OF MARRIAGE

The mass media in India and the rest of the world have used marriage as a trope for expressing aspirational needs. What is to be noted is that geo- spatial realities of the mass media change in perceptions with the geo-politics of the area. An example would be inter- racial and inter-religious marriages¹⁰ in certain countries like India and other European and American countries. However, in countries of the middle east and Israel, it is frowned upon as they go against State and religious policies. Therefore, mass media also changes with the change in the geopolitics of the region.

CONCLUSION

In conclusion it ought to be noted that the Mass Media is both a tool for deciding the aspirational factors of marriage, as well as a recipient of the state policies regarding marriage. It acts a socio-political influencer of the citizens of the country, enabling the State and religious communities to mould and subjectivize the opinion of the people based on advertorials and visual depictions of marriage. At the same time, popular notions of marriage are often debated upon through the mass media, especially about marginality and LGBTQAI+ views of marriage and partnership. This in turn would lead to a socio-political recognition by the state and the religious communities of the marginals and the LGBTQAI+ community. The mass media essentializes the act to marriage through plastic realism or the polyphonic ideas of symbolism.

⁹ Gist, N. P. (1953). Mate Selection and Mass Communication in India. *The Public Opinion Quarterly*, 17(4), 481–495. <http://www.jstor.org/stable/2746039>

¹⁰ Prince, A. J. (1962). A Study of 194 Cross-Religion Marriages. *The Family Life Coordinator*, 11(1), 3–7. <https://doi.org/10.2307/581450>

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CHAPTER 7

**A STUDY UNCOVERS THE
ROOT CAUSES OF
MARITAL DISCORD AND
THE EFFECTIVENESS OF
MEDIATION IN
RESOLVING SUCH
CONFLICTS**

A STUDY UNCOVERS THE ROOT CAUSES OF MARITAL DISCORD AND THE EFFECTIVENESS OF MEDIATION IN RESOLVING SUCH CONFLICTS

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ABSTRACT

In India, the institution of marriage is undergoing a paradigm shift and is afflicted with prevalence of domestic discord. Domestic dispute is no longer just an occurrence; it has become an ongoing epidemic. There is a paradigm shift towards making marital decisions based on temporary liking or initial attraction without giving serious considerations to personal, financial or social compatibility, This often results in situations where the couples do not get family guidance or mediation facilitated by elders or society. Even in arranged marriages also the disputing couples do not tend to appreciate the importance of mediation by family or social groups in resolving conflicts and resort to dissolution of marriage. Thus divorce is growing more common in both love marriages and arranged marriages. This study report seeks to identify the primary causes of divorce among Indian couples.

As a result of this paradigm shift, the conventional model of adjudication has given way to a more inclusive, interdisciplinary, and forward-thinking family dispute resolution regime. It has

also influenced the approach to family law and how litigating families interact with the legal system. This research study discusses the features of this paradigm shift in family dispute resolution, as well as the potential problems it presents for families, children, and the legal system. This research paper is discussing different mediation approaches in family dispute resolution. This study is based on interviews with 50 disagreeing couples. Conclusion and recommendations may be valuable for other mediation centers, executive and legislative authorities, and other stakeholders in the sector. In India, innovation in dispute resolution approaches can tangibly boost resolution rates and access to justice.

Keywords: Marital Discord, Disputes, Mediation, Divorce

INTRODUCTION

Despite India's longstanding tradition of successful marriages, the rapid urbanization and increased awareness of individual rights have contributed to a rise in divorce rates. The phenomenon of women's empowerment has led to the dissolution of marriage in urban regions because social status has been changed but mental status is still the same patriarchal mindset. This is due to the fact that women who are financially more independent and now taking decision own their own. Now a days the couples are more inclined to terminate their marriage instead of enduring long-term abuse in silence. The current gender equality campaigns have led to instances of interpersonal conflict between spouses, particularly in cases where the wife is the primary earner in the household.

According to a survey, the divorce rate in Delhi, the capital city of India, has nearly doubled over the course of the past four years. It is estimated that the number of divorces in Delhi will reach 12,000 in the year 2008. In 2006, Bangalore, which is widely recognized as the IT hub of India, witnessed the filing of 1,246 divorce cases exclusively pertaining to the IT sector in the court. According to the data, the city has recorded an average of 22 divorce petitions per day during the period of 2011-2020. Based on the data gathered from the family court, it was observed that in 2011, a cumulative of 7,515 divorce petitions were submitted. The figure has exhibited a degree of stability over the subsequent nine-year period. The family court received 7,727 divorce petitions in the year 2019. During the period spanning from 2011 to 2019, there were fluctuations observed in the numerical values, which ranged between 7,500 and 8,300. In the previous year, the number of petitions decreased to 5,059 due to the closure of the family court from March to August as a result of the Covid-19 lockdown. It is noteworthy that even

cities renowned for their cultural and social significance, such as Kolkata and Chennai, experienced a similar decline. In recent years, states with a strong agricultural sector such as Punjab and Haryana have experienced a significant rise in divorce rates, with an increase of approximately 150% over the past decade. The state of Kerala, renowned for its high literacy rates, has observed a surge in divorce rates by 350% over the past decade.

Matrimonial relationships are going to a paradigm shift so as the dissolution tends. To keep the pace with society, Law has to change its methods, rules and regulations. Mediation is a very familiar term in matrimonial dispute resolution mechanism. The resolution of family disputes has gone through a sea change, primarily owing to amendments and landmark judgements in family laws in last five decades. For ex. Transformation in divorce law, including grounds for divorce, marital property, child custody, alimony and child support rules.

The development of “alternative” dispute resolution methods has been a continuing improvement process to craft ever-more effective and efficient ways to handle conflict. In this ongoing process, past innovations sometimes became institutionalized as a new status quo, only to be challenged by even newer tech. Parties are increasingly prefer mediation, arbitration, Negotiation, conciliation, and private judging. Importance of mediation has been highlighted by Hon’ble supreme court of India time to time and measures like court refereed mediation has become mandatory in family disputes. Lawyers play an important role in the adversarial system and that’s why bar council of India has taken an appreciable initiative by inducing Mediation as a mandatory subject for the law students, so that they can be imparted training to develop skills as a mediator and can utilize mediation techniques proactively.

Mediation is one of the concepts which is very deeply rooted in our Indian culture of dispute resolution. The roots of mediation can be traced way back to the ancient Indian legal systems, for example, the concept of “Shantidoot” before any war or battle was very much prevalent in ancient India. If we talk about recent past then, the system known as the “Gram Panchayats” and “Nyaya Panchayats” is popular and widely practiced in ancient rural India. Mediation is a dynamically structured voluntary dispute resolution process where a neutral third party helps the disputing parties in resolving the conflict between them by using specialized communication and negotiation techniques. These techniques are in turn designed in a manner that facilitates the process of mediation and dispute resolution to reach an amicable solution. Undoubtedly, Innovation in family law dispute resolution approach can tangibly improve

justice dispense system in India. This article establishes this claim by drawing on empirical data about Indian family disputes and resolution approach.

FACTORS CONTRIBUTING TO MARITAL DISCORD CONTRIBUTING ELEMENTS TO MARITAL DISCORD

The case details from the matters forwarded to FDRC in last 6 months, consisted of various reasons for their conflicts. These factors were analyzed and classified into following categories:

Financial expectations: It's a tendency in India to exaggerate the profile of both bride as well as groom in discussions prior to marriage. Such gold plating leads to unrealistic expectations of both parties which drives the resultant discontent which piles up to take the form of conflicting personalities and relationship rolls down the slope. The financial aspect cannot be denied as a key influencer though it seldom is the only factor leading to dispute. The existence of the practice of dowry in conventional sense at the time of marriage cannot be denied though significantly less prevalent than the previous decades. The financial status and background like high earnings, assets, Govt. job, etc, or other family member like father or brother enjoying social repute, still adds to the qualification of both boy as well as girl. Any misrepresentation, lie or coverup sows the seeds of dispute right at the eve of marriage. It's a ubiquitous fact that both husband as well as wife have an important role to perform in successful life and the add value for a successful endeavor. Traditionally a husband is expected to play his role by providing resources for financial security, physical safety (house) and other assets whereas wife is expected to optimize expenses, provide care to elders in the house and raise kids. But in last few decades the roles have gone through a radical change and gender specific distinction has been blurred where both realize their potential to perform the above said roles responsibilities. Like women doing job/business, earning money and husband share domestic responsibilities, though reluctantly. In such cases too financial issues likely to cause friction due to reasons like individual contribution towards expenses or savings.

Extra- Marital Relationships: With the westernization of culture and traditions, cases of extramarital affair are increasing in Indian society and becoming one of the major reasons of dispute between husband and wife. Strong desire of getting into second marriage can be seen in all strata of life. In 40% of cases, it was found that one of the spouse is alleging that other spouse is in a illicit relationship with somebody else that become a reason for regular fight and

distrust among husband and wife. Earlier mostly males were alleged to have committed extra marital affair but now it's alleged on females as well.

Misrepresentation and Lies: Case is of fraud and cheating in marriages are very common. Based on the allegation made on complaints 60% of complainant's alleges that their marriage was instituted on false claim of job profile, salary, property, and other materialistic things. This tends to get more strengthened with the advancement of technology. This is very common because the kind of setup is there in Indian marriages specially with arranged marriages where bride and groom hardly know each other and simply given in marriage by the appearance based on their social profiles or virtual profile. Other than that social media website and matrimonial websites have become an epicenter for all these frauds and cheating cases, where parties attract each other on a virtual platform and get into marriage based on false claims and make fake profiles. NRI marriages are one of the biggest examples for these types of cases.

Compatibility: In Indian society husband, wife and in-laws together make a family in arranged marriages. Generally, compatibility is the issue between husband and wife because both of them have different expectations and desires which they are not able to disclose with their parents and later on the face of lack of love, compassion, trust for each other, whereas in love marriages love, compassion and trust is there but there is a lack of compatibility between the bride and the other family members which become a main reason for dispute. This is important that the family should understand the Girl and Boy's expectations and should also accept their choices because ultimately they have to spend their life together.

Alcoholism: Consuming alcohol at a private place is not a crime for an adult but this path mostly leads to ruin. Alcoholic is a term used for a person having compulsive dependence on alcohol and ceases to perform his basic duties without consuming alcohol. Alcohol is often taken as a recourse to unwind from the stress, domestic or professional challenges, problems etc. Gradually this preferred escape takes the form of dependency where the person is unable to resist the craving for alcohol and makes it an essential part of his life and eventually it becomes addiction.

It's a ubiquitous fact which is evident from ages that Alcoholism remains one of the main reasons for domestic discord and failed marriages. It ruins family relations. FDRC data also confirms that 50% of the cases could be attributed to alcoholism. The impact of alcoholism on marital relationship is devastating as alcohol eats into the finances, evaporates love and affection

and respect, deteriorates health whether its physical mental or emotional wellbeing. It leaves the person inept to handle family responsibilities and gives a fatal blow to marital bond.

Over Involvement of families: We have a very complex social structure with respect to family. In more than 70% inquiries it was found that over involvement all family members from husband and wife both the sides is one of the major reason all family dispute. It was observed during the counseling sessions dad husband and wife have no such issue between them personally, but it is because of either mother-in-law, father-in-law or sister-in-law there are lots of misunderstanding confusion ego clashes end dispute. On the other hand, it was also seen dead sometime without any active participation, even when couples are residing alone unnecessary false allegations are unnecessary legal actions requested against in laws. One of such allegations for example: is against father-in-law that he keeps bad Intention or try to outrage the modesty or attempted rape over his daughter in law. Another commonly reported reason, which is generally reported by husbands is, over telephonic communication on routine basis and over involvement off mother-in-law in their family matters. In search type of cases this is very important to counsel parents also sometime that can help in savings families.

EFFECTIVENESS OF MEDIATION IN DISPUTE RESOLUTION

Mediation is a process which was even adopted in Vedic period it is considered to be one of the low-cost methods where the matters are generally related to family matters including husband, wife and mediator. The agreement between the husband wife is not binding on the parties rather they agree mutually to follow the conditions of the agreement so that the dispute does not arise again in future. The mediation is considered as one of the peaceful methods of resolving the disputes. This process gives effective solution without distorting the image of the parties in the society. Where there are family matters so the involvement of the relatives is also active but, in the mediation, process no such involvement is practised and only the disputed party and the mediator is present in the whole process.

Even the judiciary in order to reduce the burdening of the courts refer the matter for ADR before actually framing the issues and proceeding for the trial. Section 89 of code of civil procedure, 1908 and order X of code of civil procedure 1908 also mentions about the settlement of disputes through the ADR process. Alternate dispute resolution is relatively a new trend that has been adopted in India and it is not a new procedure that we are adopting rather it is an age-

old process that was even prevalent since the Vedic period. This method is beneficial for both the sides which makes the process smoother and hassle-free.

The difference between taking a matter to litigation and taking it for mediation process, is that in litigation, there is a blame game and the blames are to be proved, depending that the Court shall give a solution; and in Indian mediation, the matter gets resolved through negotiation, where the solution is sought with the consent of the parties after considering the demands of both the sides. The alternate dispute resolution India consists of following types of ADR in India - arbitration, conciliation, negotiation and mediation. Mediation in India is the most popular method among all the three processes.

NEW AGE MEDIATION APPROACHES

- Facilitative Mediation
- Evaluative mediation
- Transformative mediation
- Investigative mediation

Facilitative Mediation

This type of Mediation approach is based on facilitating communication between two parties. In this mediation process, mediators play a facilitative role of listing parties and encouraging parties to reach to mutually beneficial amicable solutions. Facilitative mediation can be in active or passive form. Traditionally, facilitative mediation considered as passive mediation but present time mediation demands that mediator's role should evolve further to include mediation tactics like: probing questions to validate statements, identify key issues, understands background, facilitate peaceful communication between main parties & stake holders and suggest creative solutions which can lead parties to reach up to an amicable solution. In facilitative mediation generally, no recommendations are made by the mediators but they can suggest workable solution to parties.

Key features of Facilitative Mediation:

- The mediator's principal purpose is to "clarify and strengthen communications between the parties in order to aid them in making choices."

- Facilitative mediation is more useful where both the parties are equally interested in resolve dispute out of the court and have solution centric approach. mediator must be a neutral person in the opinion of both the parties.
- The parties understand their own interests (better than the mediator, and possibly better than their lawyers, if they are represented). So that the parties can come to an agreeable agreement that is not influenced by other attorneys' stakeholder interests.
- In facilitative mediation, Volunteer mediators were not required to have any substantive expertise in the field of mediation, and mediators could come from any field of specialisation, such as law, psychology, clinical psychiatry, social science, or an elderly people of the family.
- Facilitative mediation evolved significantly during the era of volunteer conflict resolution services, where volunteer mediators were not required to have any substantive expertise in the field of mediation.
- Facilitative mediation is a sort of mediation that is used to aid in the resolution of conflicts.

Evaluative Mediation

Evaluative mediation is a type of mediation which is designed on judicial parameters of the dispute and resolution. Though mediator is not expected to be a judge but he must possess judicial mind frame of approaching dispute. In evaluative mediation the mediator helps the parties reach an agreement by assessing the legal aspects of their arguments and tenability of their individual narratives as per applicable laws. An evaluative mediator may give formal or informal recommendations to the parties regarding the issues' resolution. Rather than their wants and interests, in this approach mediators are more concerned with the parties' legal rights, duties and liabilities and they assess the individual disposition of parties using legal principles of fairness and justice under prevailing laws. Evaluative mediators frequently meet with the parties and their attorneys in separate meetings, a practise known as "shuttle diplomacy." They assist parties and attorneys in weighing the costs and benefits of pursuing a legal resolution rather than settling through mediation. The evaluative mediator guides the process and has a direct impact on the mediation's conclusion. This form of mediation is best suited in cases like: Mutual divorce, consumer reliefs, contractual obligations etc.

Evaluative mediation can be better performed by lawyers, para-legal persons, judges, and person aware of legal aspects. Evaluative approach is more prevalent in court-mandated or court-referred mediation. Attorneys are usually involved in the selection of the mediator with the court and are active participants in the mediation. In most mediation, the parties are present; however the mediator may meet with the attorneys alone as well as the parties and their attorneys. In evaluative mediation, it is assumed that the mediator has substantive or legal expertise in the substantive area of the dispute. Most evaluative mediators are attorneys because of the connection between evaluative mediation and the courts, as well as their familiarity with settlement conferences.

Key features of Evaluative Mediation:

- Evaluative mediation assesses facts, verify statement, understand party's legal position, and then evaluate remedies n reliefs available to the parties with respect to time, money and efforts.
- Evaluative mediation is more prevalent when parties already entered in to legal battles.
- Evaluative approach is used in most of the court referred mediations and proven to be very effective.
- In Evaluative approach the role played by mediation is more pragmatic and factual in nature.
- Involvement of legal experts, lawyers, judges or subject expert is the main characteristics of evaluative

Transformative Mediation

The concept of transformative mediation is one of the newest approaches, which was coined by 'Folger and Bush' in their book "*The Promise Of Mediation*" in 1994. Transformative mediation is founded on the ideals of "Alternative solution" and "Empowerment" of each of the parties to the greatest extent feasible, as well as "recognition" of the other parties' needs, interests, values, and points of view by each of the parties. Transformative mediation has the capacity to transform any or all parties or their relationships during the mediation process. Transformative mediators bring parties together since they are the only ones who can give each other "recognition." Transformative mediation involves psychological assessment and

counselling of the disputants, where mediator understand parties underline issue and undefined sub-issues . This form of mediation is more effective in the initial stage of dispute.

In its goal in empowering parties and transformation, transformative mediation's values are similar to those of early facilitative mediation. Early facilitative mediators expected these pro-peace approaches to completely revolutionise society. That is exactly what they did. Modern transformative mediators strive to keep that process going by allowing and assisting the parties in mediation to choose their own path.

Key features of Transformative mediation:

- In the transformative mediation, mediator plays primarily a role of counsellor. Mediator assesses issues, underlying conflicts, sub-issues, emotional behaviour and personality traits to find the real bone of contention.
- This mediation approach is more effective when dispute is an outcome or projection of ego or alter ego of parties thus resulting in emotional conflict.
- This approach can be better use if parties are known to each other like: husband-wife, family members, neighbours, partners, friends or peer group.
- Main skills set which is required in transformative mediation approach are: psychologist, behavioural scientists, clinical psychiatrist, mental health workers or counsellors.

Investigative Mediation

Investigative mediation is the newest mediation approach which is primarily used by the law enforcement agencies, police, lawyers, judges. This form of mediation can be used in a situation, where disputants have allegation and counter allegation against each other or has allegations of criminal charges (in petty offences) or misconduct or severe injustice in breach of any person's basic rights. In such conflicts either or both parties present their version of truth which is usually too opinionated, exaggerated or amplified to assert their claims and justify their position regarding the conflict. The more outrageous, acute or extreme are the accusations or claims, keener should be the mediator to probe and analyse every statement of their individual claims. In such mediation the veracity of claims by the parties is assessed to unearth the unbridled bare facts and it is obligatory on the claimant to provide proof, witness

or evidence to support their respective allegations. This form of mediation can be very well used in family disputes, marital disputes, partnership disputes or contractual disputes or any other form of disputes where there are changes of fabrication of facts or manipulation of the situation or parties know each other too well. Investigative agencies now a day before lodging FIR or registering formal complaints check prima-facia evidences and documents.

Based on the facts found or discrepancies identified a mediator can use the tactics like show them the mirror and confront the parties with their real position as per the law in order. Use and misuse are two sides of the same coin. Today due to misleading advises, misuse of gender centric laws, malicious objectives, people try to abuse the remedies and provisions mandated by the law.

Key features of Investigative mediation:

- In investigative mediation, mediators adopt an interrogative approach to find out the facts and understand legal position of the disputant. Some time it is seen that disputant's files multiple complaint or cross complaint to take advances over the opponent, this form of mediation is more useful in such scenarios.
- To hold investigative mediation, mediator should possess specific qualifications like: Subject knowledge, Specific laws, procedure and concept of evidentiary value.
- Nature of Investigative mediation is quasi-judicial/semi-judicial so generally preferred by law professionals or police personals or administrative bodies or legal authorities.
- In this form of mediation mediator play a very active role and frequently ask questions, validate statements and asses prima-facia position of parties.

THE BENEFITS OF FAMILY MEDIATION

- The issues are resolved amicably without endangering the people's relationships.
- Provides quick justice, reducing the pressure on the courts.
- It is adaptable and allows the parties to choose whether to accept or reject the conclusion of the trial.
- It protects the family relationship and the children from emotional problems that may arise as a result of the lengthy judicial proceedings. It is also an excellent idea in

circumstances where the parents need to communicate even after their divorce because of their child.

- It maintains privacy and secrecy, allowing parties to be honest about the choices they wish to look over, which does not occur in court hearings. High-profile clients can use this strategy to keep the details of their concerns out of the public view.
- It also saves the parties money because they have far more influence over the process than in court cases.
- When it comes to family matters, court hearings become more acrimonious, but in mediation, the parties can negotiate and reach an agreement for resolution. As a result, they are more convinced of the decision taken.
- In mediation, the decision can be made based on what is best for the family, which may not be the case in court.

THE ADVANTAGES OF FAMILY MEDIATION FOR LAWYERS

Family mediation provides certain advantages to the lawyer. They are as follows:

- Lawyers who are already overburdened with trials are relieved when the matter is assigned for mediation since it saves them time.
- If the client is satisfied, the lawyer's job is complete and the case is successfully resolved.
- If the client is satisfied with the lawyer, he may suggest him to others, increasing the lawyer's chances of getting future cases.
- If the mediation judgment is in favor of the client, the lawyer is generously compensated.

CONCLUSION

In a family law dispute, mediation is a safe, informal method that also protects the parties' confidentiality. Mediation in family law conflicts is becoming increasingly common. The

parties not only get the option to try to resolve their conflict through dialogue, but they also gain the opinion of a mediator who is more familiar with such cases. It also ensures that parties are satisfied when mediators listen to their perspectives and try to reach a solution that is acceptable to both of them. Their lawyer can provide them with a second opinion. Furthermore, if the parties are dissatisfied with the outcome of mediation, they can always appeal to the Court. COVID-19 has become a challenge not only for the health system but also for judicial system. as per the statement given by Dr. Rekha Sharma chairperson National Commission for women and police personals number of family disputes have increase exponentially during this pandemic. it has almost collapsed the overburden judiciary. Whenever any dispute arises in a family it not only strikes or destroy the family but also burdened, executive bodies judicial system society at large. Mediation is the most preferred type of alternative dispute resolution now a days and it is quintessential that for successful resolution of disputes, the mediator should be equipped with evolving types of mediation. The effectiveness of mediation is linked with the settlement of the dispute and to settle the dispute mediator needs to analyses the facts of the case to devise its strategy based on the different mediation types. Marital disputes are very delicate in nature, it should be handle with all due care and diligence. Matrimonial discords can be harmonized by applying right mediation approach.

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CHAPTER 8

REASON FOR DIVORCE

REASON FOR DIVORCE

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ABSTRACT

The process of ending a marriage or partnership is called divorce (sometimes referred to as separation of wedding). The statutory obligations and duties of wedding can usually abolished or rearranged as a consequence of a divorce, that breaks the relationship of marriages among both spouses under the legislation of the particular nation or area. One may describe it as the official annulment of a couple's relationship by a court or another authority. It is the procedure used in law to dissolve a marriage.

Too Much Conflict, Incessant Arguing

Way a married couple tackles dispute is one of the most crucial determinant for how long their relationship will last, according to Doctor Howard Markman is a psychotherapist, nobody

imagines a happy marriage as one where there is constant conflict, heated arguments, and often sleepless nights.

Lack of Commitment

Both spouses must be committed for the relationship to be healthy and prosperous. However, the only thing it requires for a relationship to break down is for one of the spouses to be uncommitted to the relationship. The marriage will ultimately fall apart if neither party is fully committed to the other.

Infidelity / Extramarital Affairs

A betrayal by a loved one who promised to be devoted to one another forever is an uphill battle to endure, and the majority think this is an offence that cannot be forgiven. Even though it doesn't always result in divorce, dishonesty affects the way that people view your relationship with your spouse.

Lack of Emotional and / or Physical Intimacy

A number of the most severe issues include poor communication, animosity, animosity, sadness, isolation, dishonesty, and significantly lower self-esteem. If these problems are not dealt with, they may irreversibly damage the relationship and create the path for divorce. The sexual life you lead will probably be affected as well when emotional connection is poor or nonexistent.

Domestic Violence

It includes any apparent or indirect act of violence, such as oral, bodily, sexual, sentimental, and/or financial abuse. In such an arrangement, one partner assaults their spouse frequently to obtain or keep control over them.

Keyword: Divorce, Commitment, Violence

INTRODUCTION

Having separated breaks a legally enforceable relationship and often enable both spouses to become wedded again. Divorce might prove difficult and irregular in locations wherein

traditional religious authority generally dominates, especially during which, similar to what happens for the Roman Catholic Church and Hindus, the religious tradition takes into account marital as irrevocably tie. But in some nations, tradition may make divorce a straightforward process. In several Pueblo Indian tribes, a woman might get a separation by putting their spouse's boots outside the door. Separation has become progressively more common in advanced economies as a result of the concepts of individual choice and consent.

Because both marriage and separation are interpreted differently in premodern communities, it makes it difficult to estimate the prevalence of stable marriages across these cultures. It seems to be usually accurate that wherever divorce is not allowed by legislation, wedding is an explicit event that is managed with extreme solemnity. Despite to the general opinion, lavish celebrations of marriage as well as elevated percentages of divorce are not contradictory. In familial populations, as opposed to ancestral in origin ones, whereby the newlywed's procreative and sexual privileges can often be traditionally handed to the groom with an offering of bride-price, dissolution is generally more acceptable, according to many anthropologists.

REASON OF DIVORCE

India views wedding as an auspicious union among two separate individuals, which explains why that there's an extended procedure required to become engaged, and there are also rigorous religious regulations and beliefs that must be obeyed. It used to be thought that marriage and maintaining a marriage during one's lifetime was intended by God considering how special and essential the connection was. As the world evolves, so do people's philosophies about things. As consequently, marriage has additionally evolved a different concept in comparison to what it was always thought to be.

On an annual basis, on an average, between 3000 and 5000 marriage lawsuits are brought up with every District/Family court, particularly among urban areas. Through this information, a person can examine how a concept of wedding has changed over time. Critically searching at the circumstance, we have identified a few explanations for the increase in instances of divorce in India in addition to any other aspect of parenting. But the sacredness's basic has disappeared.

1. Forcing partnerships

Forced engagement right now has a poor likelihood of surviving for a prolonged period, compared the past when both parties were compelled into wedding which they made adjustments and survived. In days gone by, parental figures made every decision, and their children just obeyed their leads and did that which they were being told. With the plain reason that modern society has started to think otherwise regarding the concepts of one life, liberation, and freedom of speech, the concept of following the assessments of grandparents.

2. Change in mentality and approach of living

The method in which someone displays his views regarding another has experienced an enormous shift as an outcome of the modernization of society. Because of the simple reason of a relationship mixes united two people from distinct communities, they could find themselves able to adapt to things. If the two of them have an essential distinction between the way they perceive life and issues, individuals might be hesitant to negotiate and can choose to end their relationship willingly instead of with the other person's permission. This has become recognized as a couple of the primary factors of a separation, primarily divorced by agreement of both parties.

3. Economic Independence

Separation may take place for motives associated with finances and monetary autonomy. Because the majority of marriages in modern society are employed and supporting oneself, there exists less of an identical level of monetary reliance that there existed in previous generations. If it comes to a turning point within a wedding, both spouses can handle their own affairs regardless of how separated apart, thereby ensuring that they have no difficulty deciding to continue living on with no feeling liable to their spouses.

4. Affection handled wrong—no a connection

As a result of excessive workload, lack of opportunity to spend time shared, children an overflowing tiny residence, etc., newlyweds frequently miss their intimacy which can be thought of as the flavor in their relationships. But as a consequence, both of them begin to

develop less fascination with their relationship, that eventually results in an argument amongst themselves. One or both partners lose devotion to their spouse as a consequence of diminishing proximity and occasional acts of excitement. According from what was mentioned earlier, enduring the exact same monotonous method of closeness may frequently lead spouses to lose fascination with their relationship. It is more emotional than factual as to why individuals become separated.

5. Separation has become less of an embarrassment anymore

The stigma accompanying breakup appeared to be considered one of the primary factors within India pushing to reduced rates of separation. Although separation was historically stigmatized in the community, a majority preferred to refrain from commence the divorce process because they wanted to avoid social embarrassment. The younger demographic no longer views it as unacceptable, so if a relationship has not worked out for them, they aren't reluctant to file for divorce. In the same way that divorce is no longer stigmatized, modern society also views marriage to a divorcee or divorcees as acceptable, in contrast to earlier times

6. Inauthentic unions

In the past, weddings consisted of an extended process encompassing family from each side, & frequent travels to the respective residences of both bride and groom excluded any opportunity of false information. Nowadays relationship has transformed into something of a brief relationship. I have been involved with many scenarios wherein two individuals decided to be wedding following encountering on social networking sites or a dating website simply to find out afterwards that whatever details they had been given online had not been completely correct. These partners want to petition for separation after understanding of the fraudulent scheme and have no desire to remain wedded. Several of the main reasons of marriage is deception since both partners are unable to continue relationship.

7. Simpleness of ending the marriage

Due to ignorance and the cultural stigma surrounding separation, numerous consumers used to put off filing for divorce. Today, data has been easily accessible in a number of locations,

thereby making it quicker for anyone who is considering ending a relationship and arrive at an informed choice. It is less difficult for both partners to fully comprehend the positive and negative aspects of dissolution with the assistance of a client-friendly practitioner. Even the six-month cooling-off clause was recently abolished for MCD, which streamlines up the legal separation proceeding.

8. Racism and Violence

A partnership that has been stained by misconduct and violence is more successful ending. Either men and women possess the capacity to execute acts of brutality, whether can be mental or bodily. When one of the partners beats and disregards the other spouse, the relationship, which was intended to be an expression of affection and reverence, lacks its value. This provides an appropriate legal foundation for divorced as well as to providing an argument for dissolution.

9. Operating at one's residence

Despite the fact it might seem amusing the job working through residence approach after the COVID-19 outbreak may have contributed to the rising divorced incidences in India. Couples' willingness to break up with their spouses has deteriorated as an outcome of their lengthy domestic commitments. The middle decades' emergencies a problem couples formerly avoided since they were going to reconcile after a nine to twelve-hour interval each day, developed worst when the two of them spent all 24 hours together for an extended length of time. It is interesting that the worldwide outbreak has resulted in a spike in divorce proceedings. While it might appear considered a strange rationale for separation, it is now being recognized.

10. Physical and Mental Assault

The deliberate act of physically assaulting a partner entails employing power which might end in damage to the body. Furthermore, any physical damage needs to be significant enough to put at risk the other person's health or be uncomfortable. Every member of the spouse's immediate family could additionally be convicted responsible of the identical crime

All kinds of harassment that negatively impacts a woman's psychological well-being, such as harassment for alimony. Any kind of behavior which renders it challenging for either of the partners to maintain a relationship with their spouse's relationship—outside of physical and psychological abuse—is brutality.

11. Faith and Promiscuity

Whenever being young kids, people were repeatedly informed that the fundamental component of any type of connection is trustworthiness. Whenever a cord of faith is disconnected, nothing neither ordinary nor conventional reappear. Unfaithfulness gets worse at a rapid pace in India. Many losing motivations either physically or emotionally when they're young and the reason is due to the fact that they having not completely dedicated to others. Individuals perform that because they want to achieve their post temporary wants, shifting between person to person.

12. Involvement of relatives or buddies

In today's society, most men and women are unable to conform to traditional approaches to understanding or behavior. They still have to acknowledge how we remain functioning in an atmosphere whereby wedding needs to take its place in certain ways due to the fact it serves as a realistic tradition. whereby families are supposed to be conscious regarding their stated boundaries. However, women remain not authorized to speak up about their points of view. We recognize of the fact that this is a major trouble, and we possess quite a distance to travel until we can overcome it.

COPING STRATEGY FOR DIVORCE

Thoughts and likes of a couple are whatever constitute a couple's relationship. Nevertheless, a married couple's "mere happily ever after" isn't guaranteed a tendency to remain that way. For both of the partners, a relationship may occasionally dissolve into a place of confinement. Separation then seems the only possible alternative. However, even following separation, couples frequently encounter challenges. They feel sorrow, distress, depression, and other uncomfortable feelings.

1. Accept the feeling

Accept The Emotions: Dealing experience a separation or separation may bring about many different emotions, including sadness, comfort agony, fury, etc. rather than suppressing all of these feelings, it's critical that you deal with them. It may be severely to recognize and express these emotions, but doing so is also essential. Avoiding these emotions will simply make the healing process go lengthier.

2. Speak On Personal sentiments

Discussing the way, you feel is hard however it is also important. Some of you can more effectively control your sentiments through sharing emotions with people who are near and dear to them. Therefore, experiencing more connected will be assisted by persons close to person who have knowledge of your emotions. As an alternative, you might be starting keeping a notebook in which you can write down what you're feeling.

3. Give Self a Break

It may prove quite challenging to pick up where you left off at work or in your everyday activities after a divorce. Therefore, it's crucial to give yourself the rest and recovery time you require. It is impossible for everyone to perform at their peak capacity all the time. Therefore, if you are unable to work as hard as you once did, try not to be too hard on yourself.

4. The intention needs to be to keep going on

The goal is ought to be to move on, and discussing regarding and examining what you're feeling is an enormous step in that approach. However, it's just as important for preventing languishing in such feelings for an excessive amount of time. Consequently, it's important that one keep in consideration that the final objective is to carry on instead of becoming caught up in these emotions.

MANAGEMENT AND COUNSELING FOR DIVORCE

Divorce counseling is a relatively new type of treatment. Premarital and relationship counseling may be more widely known, but divorce counseling may not be as well-known. Divorce counselling is a type of psychotherapy that aids couples in recognizing, resolving, and investigating issues in an effort to ascertain whether one spouse wants a divorce and how to proceed after one. It is a type of talk therapy that offers partners a quiet, secure setting in which to discuss issues pertaining to their relationship and one another.

BENEFITS OF DIVORCE COUNSELING

- Techniques for resolving disputes and managing negative emotions (especially crucial if your co-parent children).
- Helping people through various separation and divorce stages that may result in acceptance of each person's choice.
- A chance to address any unresolved problems before parting ways, giving you both closure and giving you a solid basis on which to begin the next chapter of your lives.
- The chance to learn more about what went wrong in the relationship and how to apply what was learned to improve future relationships.
- Advice on adapting to your new life after divorce, as well as assistance in realizing that life, as well as assistance in realizing that life goes on after divorce.

NEED FOR DIVORCE COUNSELING

1. Indian women tend to be emotional by nature and look for solace in any way they can. They frequently remember events from their perspective and fail to consider the other viewpoint. Counseling provides a third perspective on the situation, allowing you to recognize your mistakes and forgive your spouse while also learning to accept the truth.
2. Counseling signifies weakness on the part of Indian men's emotions. However, it simply indicates that you lack the clarity necessary to understand the reasoning behind the decisions and act logically. Over time, they grow inflexible because they frequently bury their feelings. They are assisted by counseling in finding healthy ways to express and release their feelings.
3. It is important for both parties to recognize the importance of family as a pillar of support. Indian families frequently wholeheartedly support their children while blaming

the other parent for everything. Counseling for divorce enables individuals to properly understand their contribution to the failed marriage so they won't make the same mistakes again.

THEORY TYPES FOR DIVORCE

Individual therapy: Divorce may exacerbate some mental health issues. These may include anxiety, despair, or other ailments. Divorce is viewed by some as a personal failure. With the help of therapy, people can move through these feelings and understand the divorce. People may have a new perspective as a result of it. Divorcees may get insight into their preferences and needs in romantic relationships. They might learn more about themselves.

Couples therapy: Couples going through divorce have access to therapy as well. A successful and positive divorce may be aided by this kind of counseling. Sort of a mediator, a divorce therapist can be. To ensure that the divorce has a minimally unfavorable effect, they can establish rules. Therapists can assist in addressing important difficulties. Living arrangements, financial commitments, and parenthood are a few examples.

Family therapy: Children whose parents are divorcing may benefit from therapy. Parents going through a divorce may frequently be preoccupied with their own emotions. They could fail to consider their kids' emotional needs. Children who experience divorce may experience uncertainty, remorse, loss, pain, or abandonment. A child could feel even more terrified if their parents are combative with one another. When children hear their parents arguing over custody, they may begin to feel unwanted. They can be concerned that they are to blame for the breakup. All members of the family can express their feelings regarding the divorce in family counseling. Everyone can process their feelings and acclimatize to the changes with the aid of this.

ISSUES REFERRED TO IN DIVORCE COUNSELING

1. Coping skills

The counselor for divorce will first address the raw emotions that can follow a divorce. They support patients' physical health preservation as well as mental recovery and pain

management. Exercises to relieve stress, anger management techniques, life-balance strategies, and asking for help are all examples of coping mechanisms.

2. Communication skills

Divorce can undermine a person's confidence, particularly for Indian women. During divorce counseling, they receive instruction in communication skills that aid in helping them reclaim their confidence in expressing their needs and wants. Additionally, it enables them to read texts accurately regardless of their emotions. This makes it easier to handle family pressures and occasionally comments from the public.

3. Relationship coaching

The worries about being able to maintain a relationship are also answered by divorce counseling. Due to nervousness and diminished confidence, Indians frequently fear rekindling a friendship. Despite the ease with which men marry again, sometimes under pressure from their families, they never learn the mechanics of partnerships. However, by bringing about your body language and expressions, the counselor restores your faith in yourself and aids in adjusting to a new relationship.

4. Personal coaching

It assists you in determining what you require from your new existence and aids in the accomplishment of your objectives. People who are starting new lives in a new city or setting up new homes will find this form of divorce counseling to be of great assistance. Understanding the new field of employment is really beneficial for Indian women who are not working.

METHODS FOR OVERCOMING DIVORCE

- Divorce proceedings can be time-consuming and demanding. It could be essential to develop new coping mechanisms for stress. Among the techniques for coping with divorce are:

- **Meditation or instruction on breathing techniques.** Meditation and breathing exercises can both aid you become more conscious. Being mindful means paying attention to your surroundings' present-moment physical experiences. It may help to reduce stress.
- **Conferring with a reliable buddy.** Choose another adult while seeking a person to chat. Children may not be able to withstand the difficulties associated with divorce.
- **Trying a new perspective.** Considerations that reduce and enlarge the divorce should be used.
- **Self-care.** Go for a run, a bubble bath, or watch your preferred movie. Your body and mind can be renewed by self-care. Your capacity to manage stress during trying times may also improve.

CONCLUSION

A divorce is a formal ending of a marriage. It's more permanent than a separation and involves a legal process. It can be said to be a legal dissolution of a marriage by a court or other competent body. It is the legal process of ending a marriage. A total of 944,000 divorces and annulments took place in 2000. In that year, the estimated crude divorce rate was 4.00 per 1,000 people. It had decreased to 2.5 per 1,000 people by 2021, with just 689,308 divorces occurring in that year. Overall, 64% of men and 52% of women remarry after their first marriage dissolves. Divorce counseling is a relatively new type of treatment. Premarital and relationship counseling may be more widely known, but divorce counseling may not be as well-known. Divorce counselling is a type of psychotherapy that aids couples in recognizing, resolving, and exploring issues in an effort to establish whether one spouse wants a divorce and how to go forward after one. It's a form of talk therapy that provides couples with a private, safe space to talk about challenges affecting their bond.

2023 DIVORCE STATISTICS

Most of us are aware that divorce occurs in 50% of all marriages. That piece of popular wisdom, however, is no longer entirely true. There are currently 40 to 50 percent of American marriages that end in divorce. According to the data, this nation's divorce rate may be declining.

Added divorce patterns?

These ten divorce-related facts might surprise you. (Jeffers,2022)

- Although experts had expected approximately 715,000 divorces for that year, it is estimated that 630,505 spouses received divorces in the U.S. in 2020. The COVID-19 pandemic, which forced courthouses to close for several months, was probably the main cause of the drop. Divorce occurs frequently. In the first three months of the year, more Americans file for divorce than at any other time. Researchers believe that the stress of the holidays might exacerbate already strained marriages to the point where one or both partners decide to call it quits. Divorce rates vary greatly from state to state. Massachusetts and Louisiana have the lowest rates at 1.0 and 1.4 divorces per 1,000 residents. Wyoming has the highest divorce rate at 3.8. In 2019, Washington's divorce rate was 2.8 per 1,000 people.
- Since 1990, the proportion of people divorcing after the age of 50 has almost doubled. The divorce rate has increased thrice for people 65 and older. Meanwhile, younger generations—those born between 1981 and 1996—are currently less likely to divorce than millennials. This may be partially due to the fact that young people are more likely to cohabitate than get married. Even though they were together for years, it is evident that an unmarried couple who separates does not require a divorce.
- Having a friend who recently divorced increases one's likelihood of doing so by 75%. Divorce risk increases by 33% for people who know a divorced buddy of a friend.
- The majority of legal separations end in divorce, however there are variations based on race and ethnicity. For instance, just 67% of black women and 77% of Hispanic women divorce after three years, compared to 91% of separated white women.
- A woman's likelihood of divorcing is lower the more educated she is. 78 percent of college-educated women who were married between 2006 and 2010 may anticipate being so for at least 20 years. Only roughly half of women who dropped out of college, in comparison, will be married for that long. After 20 years, just 40% of women with a high school graduation or who dropped out are likely to still be married to the same partner.
- The divorce rate for same-sex couples has roughly reached parity with that of different-sex couples since same-sex marriage became legal in the United States. The Supreme Court just nationwide legalized same-sex marriage in 2013, hence there is currently a dearth of statistics on this subject.

- Second (or third, fourth, etc.) marriages are more likely than first marriages to terminate in divorce.

These numbers and information could be intriguing. However, if you're contemplating divorce or your spouse has already informed you that it's over, what matters most is how divorce will impact both you and your children. Your best chance at a long-term financial agreement and a child custody arrangement that upholds your parental rights is to use a clever and properly crafted legal plan.

The major problem of divorce affects a lot of people all over the world. Divorce is an essential subject to examine because it has become more prevalent in India in recent years. Understanding the divorce rates in India might provide us insight into how well family life and relationships are doing in the nation. Divorce is a personal matter with significant societal repercussions.

STATISTICS OF THE DIVORCE RATE IN INDIA

Regional statistics

India has an annual increase in divorce rates that is steady. Over the past two decades, the number of divorces is thought to have increased by more than a factor of two.

India is a nation with a great deal of cultural diversity, and each of its states has something special to offer. The rate of divorce in India, which differs from state to state, is one of the most frequently discussed subjects.

Urban areas like Delhi, Mumbai, and Bengaluru have divorce rates that are higher than 30%. Divorce applications have increased significantly in recent years, nearly tripling in cities like Delhi, Bengaluru, Mumbai, Kolkata, and Lucknow.

There are very few divorces and separations in northern states with patriarchal societies like UP, Bihar, Haryana, and Rajasthan. The northeastern regions have a higher than average divorce rate.

In India, the divorce rate has increased, especially in small cities.

Top 10 States from December 27 to December 27 of the following year -

- 1. ■ Maharashtra

- 2. ■ Karnataka

- 3. ■ Uttar Pradesh

- 4. ■ West Bengal

- 5. ■ Delhi

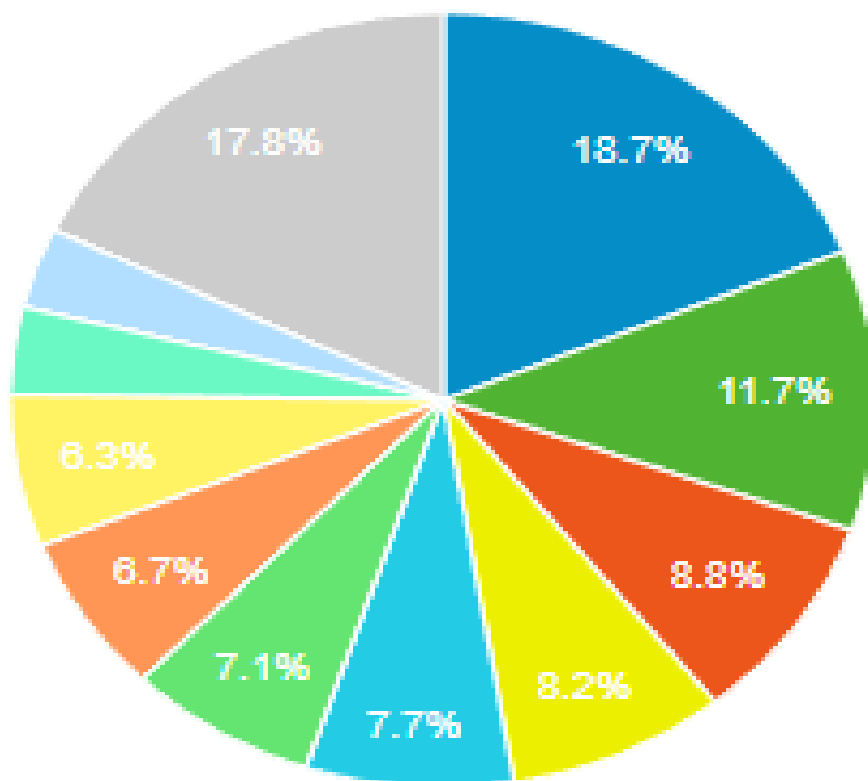
- 6. ■ Tamil Nadu

- 7. ■ Telangana

- 8. ■ Kerala

- 9. ■ Bihar

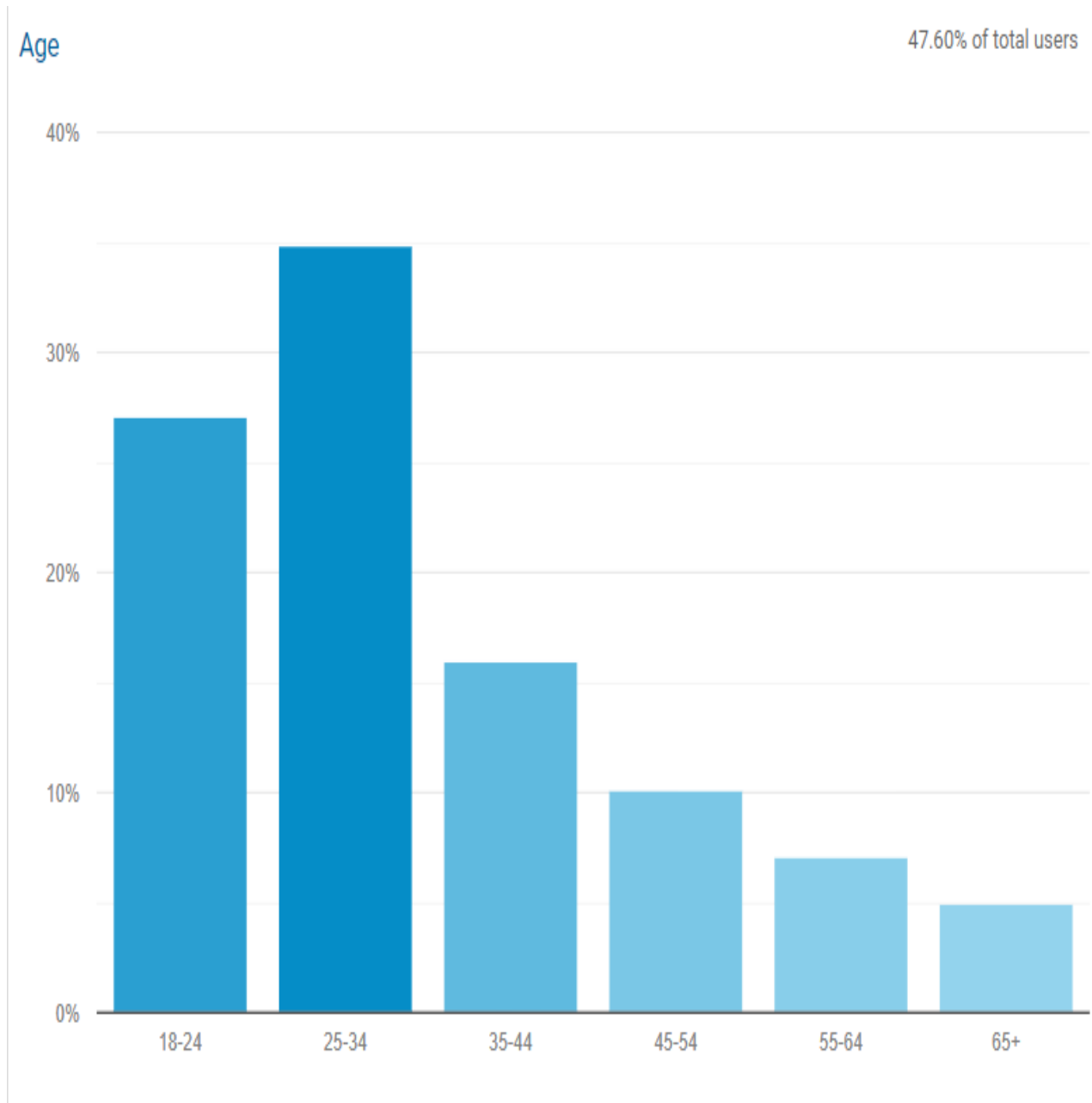
- 10. ■ Madhya Pradesh

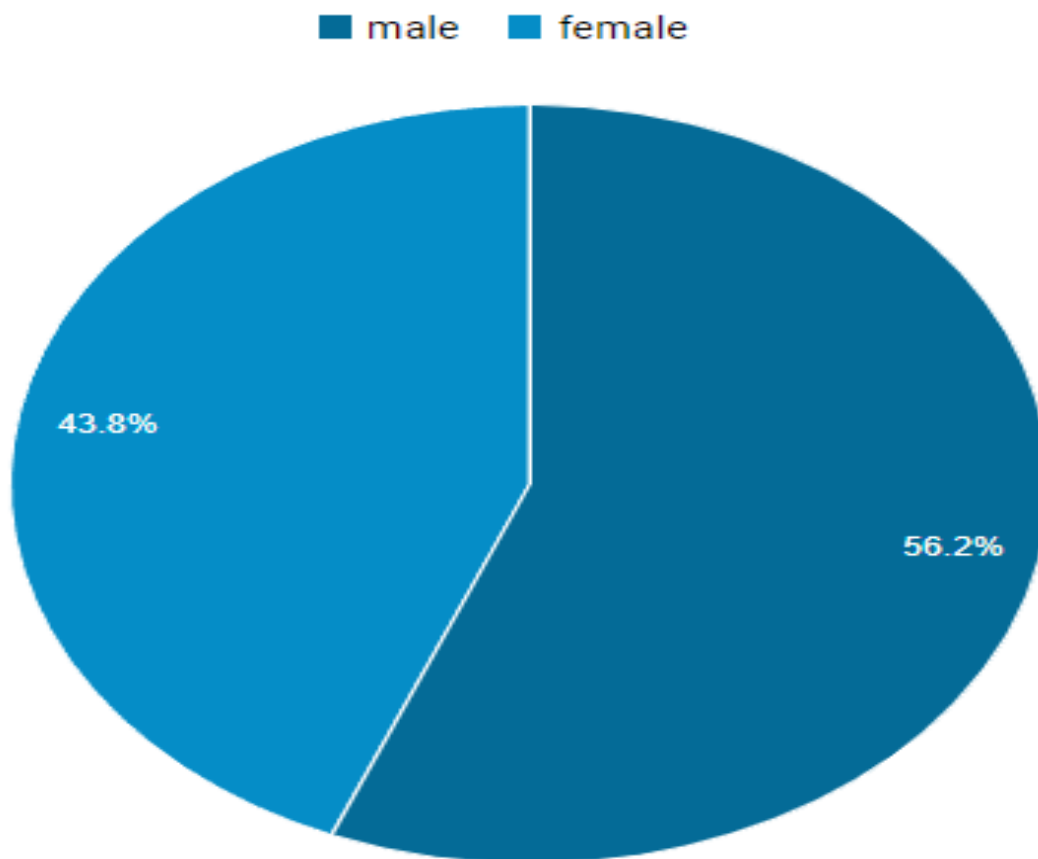


*Information gleaned from Adjuva Legal's * Google Analytics (NE and J & K states excluded)*

Age and gender statistics

The most divorce seekers are between the ages of 20 and 35. Age and gender data are shown in the graph below from 27.12.2021 to 27.12.2022 (1 year).





Data Based on Google Analytics data for Adjuva Legal

In India, men seek divorces at a higher rate than women do. The percentage of each gender from December 2021 to December 2022 is depicted in the graph above.

CAUSES OF INCREASING DIVORCE RATE IN INDIA

1. Insufficient communication
2. Family financial issues
3. An emotional breakdown in relationships
4. A lack of trust
5. Differing values
6. Insecurity
7. Desire for independence
8. An irregular work schedule

9. Alcohol and tobacco use.

According to recent study, the main causes of this increase include adultery, ineffective communication between couples, unstable finances, and incompatibility.

There is a breakdown in what was supposed to be a solid marital tie, regardless of the individual causes, which can differ from person to person. Once they hit a deadlock or can no longer stand to spend every day together, many couples simply don't know how to go.

Depression as a cause of divorce

Numerous variables, such as heredity, painful experiences in the past, stress, or even a person's lifestyle choices, can contribute to depression. Sadly, depression can also be a significant factor in divorce in India.

According to studies, couples who experience depression are much more likely to divorce than couples who do not. Couples that are depressed may have trouble communicating with one another, which can result in misunderstandings and arguments that may ultimately result in divorce.

Furthermore, a spouse's lack of support due to depression may result in emotions of abandonment or resentment, which furthers the friction in the marriage. When a depressed partner is dealing with their own mental health challenges, they may occasionally even turn violent or abusive towards their spouse.

How schooling boosted India's divorce rate

Women are becoming more independent than ever before as they pursue higher education. With increased self-assurance, ladies want more respect from their husbands and partners—something that many men aren't accustomed to or aren't ready to accept fully.

They experience significant disagreements as a result, which frequently concludes in divorce. However, educated men also demand the same level of deference from their spouses, and when that expectation isn't met, it can lead to conflict and even divorce.

Higher educated couples have a tendency to be more independent-minded and less sensitive to conventional beliefs, which adds to marital strife and raises the divorce rate among well-educated couples.

A positive development is India's rising divorce rate!

Divorce rates are rising in India. At first look, this would appear to be a bad thing, but it's actually a positive indicator. An increasing number of couples are feeling empowered to take charge of their lives and the discontent in their relationships, as seen by the rising divorce rate.

Even when they were unhappy with one another or experiencing problems in their marriage, many couples in the past chose to remain together. This resulted from pressure from family members who believed divorce to be shameful or unacceptable, as well as from cultural expectations.

But today's women have greater access to education and better employment prospects than ever before, enabling them to support themselves financially if they want to end a failing marriage.

CONCLUSION

More couples are boldly deciding to file for separation as the long-standing stigma of divorce steadily fades. This is due to a shift in mindset, particularly among younger generations, towards marriage and family life.

Nowadays, getting a divorce is not perceived as a failure or something to be ashamed of, but rather as a chance to recover one's independence and begin again. Aside from that, when women take more authority over their own life, they don't hesitate to end bad marriages when they believe there is no chance of a reconciliation.

CHAPTER 9

TRADITIONAL PERSPECTIVE ON MARRIAGE AND CURRENT TRENDS IN INDIAN SOCIETY

TRADITIONAL PERSPECTIVE ON MARRIAGE AND CURRENT TRENDS IN INDIAN SOCIETY

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ABSTRACT

One of the most profound and intricate human partnerships is marriage. It is a society's foundation. It entails a societal sanction, typically in the form of a religious and social ceremony, approving a sexual relationship between two people of different sexes. According to Dr. Radhakrishnan, former president of India, marriage is an underlying requirement of human civilization rather than merely a custom. The Hindu philosophy of marriage, sociological perspectives on marriage, different kinds of marriage, and Hindu forms of marriage are all covered in this study, along with the benefits and drawbacks of each. The discussion covered Indian views on marriage as well as Hindu marriage as a sacrament. Marriage between Muslims, Christians, and diverse Indian tribes were also documented, in addition to weddings between Hindus. As we examined many kinds of marriage, we learnt about inter-caste and inter-religious marriages as well as monogamy, polygamy,

polyandry, endogamy, exogamy, gotra exogamy, and sapinda relationships. This research paper is analysing the recent trends of marriage in Indian society.

Keywords: Marriage, Types of Marriages, Society

INTRODUCTION

The primary relationship in marriage has two crucial purposes: one is to satisfy individual and collective needs, and the other pro-creation of children. It satisfies the requirements of individuals in terms of their biology (physical satisfaction), psychology (hormonal satisfaction-affection and belongingness), and economics & Social (home, food, clothing, and shelter, family), and it also serves as a major source of morals and ethics. One feels morally obligated to look out for the other or to listen to the other when they see their spouse doing things for them.

In terms of the nature of the roles, marriage is a dividing line between the family of orientation and the family of procreation, according to sociologist Koos. “In the family of orientation, roles change during childhood and adolescence and are free from duties and obligations. However, there are different expectations and duties associated with the roles one plays in the family of procreation after marriage as a husband or wife, a father or mother, a wage earner, a grandparent or grandparent, a retired person, etc.” Thus, marriage is a small-scale social structure that must be maintained in equilibrium to prevent dissolution. Adjustments are necessary for equilibrium, which in turn necessitate compromise or some form of sacrifice from both the husband and the wife. In order to maintain homeostasis, certain chores must be carried out by someone, such as cooking, cleaning, earning a living, looking after children, and so forth.

NOTIONS OF MARRIAGE

Men and women are allowed to family life through marriage, to live in a close personal connection, principally for the goal of having and raising children. Marriage is a social institution that ensures the socialisation and procreation of offspring within a specific society. From a personal perspective, it helps in childbearing and childrearing and regulates how

affection is received and given. Another perspective holds that marriage is a socially acceptable sexual union that is announced to the public and entered into with some kind of contract that outlines the rights and responsibilities of the parties involved, including any future children.

The bride's father or another appropriate relative has traditionally viewed marriage as a ceremonial gift to the bridegroom so that the couple might jointly discharge their obligations, which are essential to human survival. "Dharma, Artha, and Kama" are these obligations. **Dharma** is a religious obligation founded on moral principles, with the goal of doing good and obtaining **Moksha**, or salvation. **Kama** is the physical or sexual responsibilities to the spouse and to have children in order to continue the race, whereas **Artha** is the economic component of life. Marriage is not for pleasure, but rather to preserve the race. This is how marriage is viewed in India. It is a responsibility to one's family and community. According to Indian holy traditions, marriage is a sacrament that entails a complex of moral and religious duties as well as social and financial responsibilities.

Hinduism views marriage as a *sanskara* (custom) and a sacred ceremony, not as a legal agreement. It is not just a marriage of two bodies; it is a sacred connection of the two souls. It is an unbreakable link that can only be severed by death.

However, according to Islam, "marriage is an institution created to safeguard society and allow people to shield themselves from immorality and unchastity. Marriage is a civil contract, not a sacrament, with the goals of promoting traditional family life and making children legally recognised."

Christianity has traditionally defined marriage as "a voluntary union for life between one man and one woman, to the exclusion of others. The marriage in question is monogamous. Summarising the aforementioned points, you may have learned that marriage is a union of two people of different sexes to lifelong reciprocal possession of their sexual qualities." This union aims to promote each partner's biological, emotional, social, and spiritual growth, which cannot occur in isolation.

Hindu Sacrament of Marriage

Hinduism sees marriage as a means of achieving dharma and satisfying one's desire for pleasure (Kama). It is regarded as a sacred act. Hindus view marriage as a sacrament for a number of reasons.

- 1) Dharma (fulfilling religious obligations) is the primary goal of marriage.
- 2) Execution of religious rituals, such as some rites based on sacred formulae, such as kanyadan, panigrahana, saptapadi, etc.
- 3) A Brahmin performs the rituals in front of Agni, the most revered deity, by reciting mantras (passages) from the Vedas.
- 4) The marriage is seen as unbreakable and unrevocable, and the husband and wife are committed to one another even after their deaths.
- 5) While a man can partake in a number of sacraments throughout his lifetime, a woman can only partake in one, namely marriage, hence it is of utmost importance to her.
- 6) The emphasis is on a man's loyalty and a woman's purity.
- 7) There are no concepts of personal motivation and aspiration; marriage is seen as a "social duty" to the family and community.

TYPES OF MATRIMONIAL RELATIONSHIPS

You have already read about the idea, significance, and various viewpoints of marriage. You will now discover the various types of marriage. Regarding the first kind of marriage, there have been a variety of viewpoints. Some scholars contend that group marriage was the norm for prehistoric man. The practise of group marriage, in which male members of a group or tribe had unrestricted access to all female members of the group and the offspring of this union were regarded as belonging to the whole community. Other social scientists hold the view that monogamy was the original form of the relationship. Whatever the initial form of marriage may have been, monogamy is currently the most common. However, sororate, levirate, and polyandry forms are also seen.

Monogamy: Monogamy is the most practice form of marriage in most of the countries of the world. In this form of marriage, a man can marry only to one woman, raises their children together, and participates in all rituals together. The practise of monogamy has a lengthy history. The most desirable type of marriage, in the eyes of the ancient Hindus, was monogamy.

Polygamy: Polygamy, often known as the "plurality of wives," is the union of one man with multiple women. Polygamous unions can be unconditional, constrained, or conditional. Polygamy with conditions was prevalent in early Hindu civilization. The Dharmashastra states that if a man's wife is barren, he can remarry after ten years, or after thirteen or fourteen years

if he only had daughters from his previous wife and desired a son. According to Manu, “a man can wed a second time after his first marriage if his wife is infertile, after ten years if any of the children she bears die, after eleven years if she bears only daughters, and right away if she is argumentative, rebellious, or harsh. According to the Mahabharata, a man who marries twice without good reason commits a sin for which there is no atonement.”

Polygamy is currently against the law. In addition to the legal restrictions, people do not practise polygamy because: 1) It is impossible to maintain higher living standards with more than one wife in the house; 2) Having many wives causes conflict in the family; and 3) Women who have achieved economic independence do not accept male dominance over them.

Polyandry: Polyandry is the term used to describe a woman who marries many men. This was found in the Nilgiri Mountains of South India's Todas and Kotas. There are primarily two types of polyandry in India. They're both fraternal and not. On the father's side, all of the fraternal's spouses are either siblings or possibly distant relatives. They are not related in a fraternal sense like the Nairs of Kerala. In Kerala, a sect of Hindus known as the Nairs practised polyandry in the nineteenth century. Westernmarck asserts that polyandrous marital relationships among the Nairs, however, rarely qualify as marriages because the male partners never shared a residence with the woman and utterly disregarded parental obligations. Nair was stabilised by the Malabar Marital Act, which was passed in 1896.

Levirate: A levirate marriage is one in which “a woman is taken in as the younger brother's wife of the deceased spouse or even during the elder brother's lifetime, and the younger brother has sexual rights over the elder brother's wife. The form is prevalent among some Jats, Gujars, and other castes in Uttar Pradesh as well as among the Ahirs of Haryana.”

Sorrorate: In sorrorities, “a man's wives are almost always his sisters. The Latin word "Sorror," which means "sister," is the source of the English term "sorrorate." It is common among the Nagas, Gonds, and Baigas of India who pay a high bride price to witness multiple sisters marrying the same man at the same time or potentially.” It has been noted that the loss of the wife or her infertility is made up for by the provision of a new spouse, who is typically the deceased woman's younger sister.

TYPES OF UNIONS

There are four different types of marriages recorded in the Mahabharata. Brahma, Gandharava, Asura, and Rakshasa are their names.

Eight different types of marriage are mentioned by two of the early law-givers of the Hindus, Gautama and Asvalayana. Asura, Gandharva, Rakshasa, Paisacha, Asura, Daiva, Arsha, Prajapatya, Gandharva, and Asura are also among them. Four of them were deemed proper and desirable (dharmya), and the father and family approved of them. The father did not approve of the other four, which were considered undesirable (adharmya).

The "Smritis" identified Brahma, Daiva, Arsha, and Prajapatya as appropriate marriages, whereas Asura, Gandharva, Rakshasa, and Paisacha were the four unfavourable unions.

In the Arsha style of marriage, the young man would offer the father of the bride a pair of oxen or two cows in return for his daughter. This system of barter replaced the dowry requirement for marriage.

The Prajapatya form of marriage entails the bridegroom being properly worshipped, then being blessed and married to the bride with the proverbial "go both of you and fulfil the duties of a householder" afterward. The bridegroom gives the bride's father the bride-price in the Asura type of marriage. A form of economic contract exists here. The sum granted has no upper limit.

A willing girl and a guy were wed in private while they were each in love under the Gandharva system of marriage. Only the parties to the marriage's will were given consideration. This marriage is thought to have originated out of desire and served primarily to satisfy sex needs. This form of marriage is considered as unapproved form of marriage.

Rakshasas practised marriage through capture, in which the man kidnapped the woman. If she shouted out for assistance and her kinsmen responded, they would have been slaughtered. This is a unconsented form of marriage. In Bihar one such type of marriage use to practice known as "Pakadwa Vivah" but in Pakadwa Vivah man was kidnapped by the women's family and forcefully get them married.

The Paisacha form of marriage involved the female being sexually assaulted while she was dozing off, drunk or unconscious, or when she was unable to defend herself.

The Brahma marriage, where a lady marries a deserving boy from the same caste or a caste of equal standing, is regarded as the best of these eight types of unions. Also known as Swayamvara. for example, Arjun and Nala married Draupadi and Damayanti, respectively.

During the time of the Smritis and the Puranas, it was customary to marry within the same caste. The caste system and its associated regulations severely restricted marriage.

The Anuloma and Pratiloma: In reality, anuloma marriage—marriage between a man of a higher caste and a woman of a lower caste—is possible. However, it was not permitted for a lady of a high caste to wed a man of a lower caste, a practise known as pratiloma marriage. The law of consanguinity, which refers to a close tie via blood that spans generations, was another norm pertaining to marriage. There are three levels of relationship: sapinda, gotra, and pravara. They are designed to forbid marriage between particular kins and gotras. Hindus currently follow the tradition of avoiding marriages within the same gotra.

Endogamy: Endogamy is a social practise that mandates that a person choose their partner from among particular social groupings. Varna, caste, and subcaste are clearly mentioned as these endogamous categories. As a result, a male from one caste marries a lady from another caste. Caste endogamy provided a purpose in early societies since it made marriage adaptations simpler, protected the caste's trade secrets, fostered caste solidarity, and prevented castes from becoming weaker or losing members. Tribe, race, religion, and socioeconomic class are what typically enforce endogram regulations. Hindu law requires that prospective spouses come from the same caste and subcaste. Sub-castes are castes that have been further divided into endogamous groups that, in all actuality, stand alone as separate castes. Caste endogamy has several drawbacks, including: (1) inter-caste strife that has a negative impact on the political structure of the nation; (2) a problem with marital adjustment because the pool of potential partners is still small; and (3) issues with child marriage and the dowry system.

Exogamy The incest taboo, which is universally forbidden, effectively covers the phrase "exogamy." Similarly, brother-and-sister marriage is prohibited everywhere. The Incas of Peru, the royal families of Hawaii, and ancient Egypt all experienced an intriguing exception to the latter rule. The motivation to preserve a royal line of lineage in civilizations without a system of intermarriage with foreign rulers can be used to explain this. Marriage is normally prohibited for all people in all eras and places if there is a close blood link. First cousins frequently don't get married. Exogamous standards have been extended to encompass alliance of affinity in addition to blood kinship. Marriage between members of the same village or other territorial group is discouraged or even forbidden among some groups.

Exogamy Gotra: A group known as Gotra is thought to have shared mythical ancestors among its members. There were only eight Gotras at first, but they eventually numbered thousands.

Marriages between people from the same gotra are forbidden under the Gotra exogamy. Exogamy Sapinda Sapinda is a term that refers to someone who bears the same body's particles. Relationships between sapinda members result from sharing ancestor-related particles. It is forbidden to marry such people. Since there is no restriction on those who are connected by blood, "there is a set number of generations on the father's and mother's sides that specific people should be avoided getting married to. Five generations from the father's side and three generations from the mother's side are generally avoided, as required by law." Although gotra exogamy was seen as a horrible offence, breaking of sapinda exogamy was never punished.

Cousin Marriage: There are four different kinds of cousins: "chachera (the son or daughter of the father's brother), mamera (the son or daughter of the mother's brother), phuphera (the son or daughter of the father's sister), and mausera (the son or daughter of the mother's sister). Chachera and mausera relatives, where the child's two sibling parents are of the same sex, are referred to as parallel cousins, while mamera and phuphera cousins, where the child's two sibling parents are of the opposite sex, are referred to as cross cousins. Cross cousin marriage was the more common of these two types of cousin relationships in prehistoric Hindu society. Cross-cousin unions are still common among Muslims and Hindus nowadays."

Biological, sociological, psychological, and cultural considerations are the primary grounds for and against cousin marriages. Arguments against cousin marriages include the following: (1) it will cause biological degeneration of the family because parental defects will be passed on to the children, (2) it will foster secret relationships between close relatives and thus promote immorality, and (3) it will go against our religious beliefs. Arguments in favour of cousin marriage include the following: (1) One's property will stay in one's own family; (2) It will strengthen the links of sibling love; and (3) As joint families break up, cousins no longer live together in the same home.

Intercaste Marriage: Inter-caste marriage is the union of a man and a woman from various castes. In India, inter-caste marriage is typically believed to refer to unions between two different castes. However, these unions are not between members of high and low castes but rather between members of different sub-castes within a larger caste (such as the Brahmin sub-caste). "Inter-caste weddings should be tolerated by the people/society, according to many modern-minded and liberal Indians nowadays (such marriages are legally permissible). Additionally, they think that intercaste unions would aid in the dissolution of the traditional caste system." Additionally, it will aid in eliminating untouchability and caste prejudice.

Inter-religious: In India, inter-religious marriage is often considered to refer to unions between adherents of several religions.

CONTEMPORARY TYPES OF MARRIAGE

With the changing time one can see change in the marriage patterns as well, discussing further some of the modern types of marriages in today's society.

Same-sex union: The western frame of view has strongly influenced reproductive expectations on sexuality after colonial development. Such Victorian values and practises have gradually been transferred into the clarification of imperial sexual behaviour, which is discernible in reactions to any sort of 'unnatural' sexual behaviour. India acknowledged that the Western understanding of "moral and psychological" sexuality is "pathological" rather than the natural displays of desire that were once a part of Indian society. Over the past century, the definition of homosexuality has undergone tremendous change. After 1974, homosexuality was no longer considered an irregular behaviour and was therefore not included in the classifications of psychiatric illnesses. Many countries throughout the world have also enacted legislation and steps to safeguard the freedom of gays and lesbians against discrimination without fair chances. This was also decriminalised in 2018 in other nations, including India. A particular law is also extended to Australia, Germany, Luxemburg, the Netherlands, Switzerland, Iceland, Denmark, Sweden, and New Zealand in 1994, making South Africa the first country to do so. In 1996, the U.S. Supreme Court ruled that no state should pass laws discriminating against gays out of prejudice. After decriminalising section 377 of the IPC V. Union of India, the Indians recognised homosexuality in the Navtej Singh case in 2018.

In the late 1990s and early 2000s, "restrictions on and laws prohibiting homosexual marriage sparked controversy all around the world. Same-sex marriage is currently recognised as legal in 25 nations, including the Netherlands, Belgium, Canada, Brazil, South Africa, and Germany. With this, roughly 155 million people, or 2.5% of the world's population, reside in regions where homosexual marriage is legal. The majority of civil partnerships and other formal forms of same-sex partners-granting, though not any privileges of civil marriage, are practised in Australia, Denmark, Finland, France, Switzerland, Greenland, Israel, New Zealand, Norway, Portugal, Slovenia, Sweden, and the United Kingdom." Regions of Australia and several American territory grant civil unions certain privileges and obligations.

Despite being a heinous crime in more “than 70 countries, homosexuality is also punishable by death in Afghanistan, Mauritania, Iran, Nigeria, Pakistan, Saudi Arabia, Sudan, the United Arab Emirates, and Yemen, as well as by life in prison in Burma, Bhutan, Georgia, Indonesia, Maldives, Singapore, the United Kingdom of Great Britain and Northern Ireland, and Yemen.” The legal status of homosexuals varies significantly from nation to nation. For instance, unless the participants are 21 years old and the marriage is private, homosexual sodomy weddings between adults with consent are not prohibited in England.

Either of the following approaches can be utilised to get same-sex weddings recognised under Hindu personal law: Interpreting the law as it stands to formally recognise same-gender partnership unions. Establishing LGBT culture as a distinct subculture with practises that encourage friendship between people of the same gender.

The Hindu Marriage Act of 1956 was examined in order to make same-gender marriages legal on the grounds that it was in some way unconstitutional. modifying the law to permit same-sex unions.

UNDER THE SPECIAL MARRIAGES ACT, SAME-SEX MARRIAGE

Attempting to amend the Special Marriage Act of 1954 to permit same-sex marriages is another strategy to avoid raising moral objections. The SMA is a lay law that facilitates marriage between individuals of many religions or who do not want their own laws to be constrained. Instead of a religious ceremony, the marriage official registers the engagement. The SMA now stipulates that the men must be 21 years old and the women must be 18 years old, which appears to exclusively apply to heterosexual couples.

However, it is not impossible for the SMA system to allow same-sex unions. Only the age limit in Section 4(c) should be amended to 18 for females and 21, respectively, to specifically state that same-sex marriage is legal. Section 4(c) must only be changed, though. Even if personal laws were altered to recognise same-sex weddings, the SMA should be changed in each situation to grant equal sanction to partnerships between people of different faiths.

Influence of Laws on Hindu Marriage Over time, many of the ideas, goals, and values associated with Hindu marriage have lost their original significance and intent. “People began to raise concerns about some sinister practises, such as child marriage, the sati system, limitations on widow remarriage, etc. As a result, throughout British administration and even

after independence, numerous laws were passed. The Hindu Widow Remarriage Act of 1856, The Civil Marriage Act of 1872, The Prevention of Sati Act of 1829, The Child Marriage Restraint Act of 1929 and its Amendment of 1978, The Hindu Marriage Act of 1955” and The Dowry Prohibition Act of 1961 and its Amendment of 1986 are a few among them.

The laws described above have had a big impact on the Hindu marriage system. Legislation has had significant effects on the Hindu marriage system, including the following:

- i) Divorce is now accepted both legally and socially. As a result, a marriage can no longer be broken.
- ii) The idea of the "pativrata" has been impacted by the allowance for widow remarriage and divorce.
- iii) Marriage is no longer undertaken as a religious duty but rather as a lifelong commitment to a partner.

CONCLUSION

Change is the only constant in society, including marriage. Technology, the economy, educational trends, and lifestyle changes affect its evolution. Over time, marriage age, partner selection, marital goals, divorce rates, and marriage finances have changed. Increasing marriage age lowers birth rates, hence changing marriage patterns have considerable effects. Social, economic, psychological, technological, and legal factors shape marriage. Due to consumerism's false expectations and liberalization's increased independence, the gap between desires and contentment has grown. Consumption has also normalized "getting rich quick in any way possible" as a goal. The family's unequal power arrangements are used to accumulate wealth rapidly and at any cost. This institution's tradition-modernity mix is also causing tensions. In other regions, gay marriage, cohabitation, and other new marriage forms are developing, which could have bigger repercussions.

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CHAPTER 10

THE AVERAGE SPAN OF MARRIAGE IN INDIA AND ITS PRESENT CHANGING SCENARIO

THE AVERAGE SPAN OF MARRIAGE IN INDIA AND ITS PRESENT CHANGING SCENARIO

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INTRODUCTION

Marriage is a social institution where the purpose and forms are different in different cultures but it happens everywhere. Marriage can be stated as an universal institution created for the procreation of the future generation. Marriage exists in our society since a prolonged period of time and its ultimate goal is to have a life-long partnership; a bond that has been made in heaven and cannot be broken. However, the concept of marriage has changed now. The young generation does not believe in old religious concept on marriage, they seek a compatible companionship. The concept of unbreakable bond of married couples has changed as well; divorce is allowed now both socially and legally. In ancient India, marriage was considered sacred and people used to marry at an early age and in case of any marital dispute, divorce was never the solution so their span of marriage were long but now the present scenario is changing.

Although, it is hard to explain the exact span of marriage but it can be said that the divorce rate of India is very less in comparison to other countries for various reasons that will be explained in detail.

CONCEPT OF MARRIAGE THROUGH THE AGES

Earlier it was believed that marriage is a union of two different people, brought together by celestial intervention, who becomes one soul after marriage. The purpose of marriage in ancient India was to procreate children in order to continue their generation. The concept of separation and divorce was not allowed. For example, according to old Hinduism, marriage is a sacrament that cannot be broken even after death; it is a union between a husband and wife tied for seven lifetimes. Normally those marriages were arranged by the families, even now arranged marriages happens in India. Divorce was an alien concept for Hindus, no matter how hard it was to adjust in a marriage; they were not allowed to leave. The age of marriage was not important at that time; child marriage was a common practice amongst Hindus. Absence of limitation of age and a concept of unbreakable marriage could be an important factor behind long-lasting marriage. In ancient times, remarriage of women were not allowed after the death of their husband, because they believed that the bond between a husband and wife continues even after their death and remarriage were a taboo, which is why *Sati* system was common at that time. However, things have changed now, sati system was abolished by enacting the Bengal Sati Regulation 1829 and a man or woman has to attain a particular age to marry, simultaneously, Hindu law also provides provisions for divorce now. While, Muslim marriage is different from other culture. Marriage, according to Muslim law, is a civil contract between a husband and wife. Unlike Hinduism, Muslim marriage is dissoluble. Although, in Muslim marriage there is no exact age limitation, even now. If a girl or boy hits puberty, they are eligible for marriage, which is a significant reason behind long span of marriage. The traditional Muslim law did not allow a woman to give divorce, it was a man's power to give *Talaq* to his wife, which is another reason for a durable marriage as women suffered silently without protesting but this situation has changed now, women are allowed to give divorce.

RECENT CHANGING PATTERN AND HOW IT AFFECTS THE DURATION OF MARRIAGE IN INDIA

In order to cope up with new advanced social changes, the concept of marriage has changed as well. Traditional personal laws have provided lots of restrictions and conditions on marriage but gradually the situation is changing. Indian laws have evolved a lot to stay relevant in the present modern society. Nowadays, young generation do not get married to perform and fulfill religious duties like old times but to seek a lifelong good companionship. The concept of marriage has changed over the time. Previously, pre-marital relationships were not allowed in our society and it still does not accept it full heartedly. From ancient times, the concept of arranged marriage is considered as the best form of marriage. In a survey done in 2018 on more than 160000 homes, it was found that 93% married couples stated that their marriage was arranged by their families, while only 3% did love marriage. However, in another survey done in 2023 states that 44% new marriages were arranged compared to 2020 which was 68%, so it can be said that the traditional trend of arranged marriage is slowly changing. Many couples are selecting partners themselves from different matrimony sites or doing love marriage, a marriage which is filled with love and respect are expected to last longer. Our society is still very much conservative and does not believe in personal preference of a boy or girl in case of marriage. Hence, society indirectly interferes in one's life and their personal choices, which is why many married couples compromises and adjusts with incompatible or abusive marriage and does not go for divorce because it is looked down upon by the society. Divorce is very common in the west but in India very few people opts for divorce. In a survey it was found that out of 100 marriages in India, hardly one ends with divorce. India is reported to have the lowest divorce rate in the world; in 2020 it was only 1.1%. Due to low divorce rates, it can be assumed that the average span of marriage rate increases as well. However, recent studies has shown that divorce rate is gradually increasing in Kolkata, Delhi, Mumbai and other urban areas as compared to U.P, Bihar, Rajasthan, Gujrat and Punjab.

The legal age of marriage for women was 18 and for men was 21 but the government has decided to increase the legal marriage age for women till 21 years as well. But in many places of India, child marriage is still in practice. In a survey, it was found that 14.7% women in urban areas and 27% in rural area, who are presently in the age group of 20-24 years, were married off before they even turned 18. Therefore, marrying at such a young age can increase the duration of marriage as most of these women are not educated and employed, they depend on their husband's income. Due to lack of financial independence, women are incapable to live on their own and are forced to stay in a broken marriage. In the present world, getting education is no more a choice but compulsory for everyone, especially a woman, as highly educated man

or woman will not marry at an early age. The longer their education is, lesser will be the duration of marriage rate and it will help them to become independent financially. Different surveys showed that enrollment of girls in urban areas in schools and colleges are increasing but the situation of girls in rural areas is different. In rural areas, most girls and some boys, who are in their adolescent age, does not get higher education. In case of girls, their families arranges marriage for them and boys gets involved in jobs in order to earn bread for their family and eventually ends up marrying at a young age. Lack of education increases the rates of marriage at a young age. However, the present literacy scenario of Indian women is increasing, with 93% of literacy rate; Kerala is leading in India right now accompanied by Lakshadweep with 92.28% and Mizoram with 91.58%. Bihar, Rajasthan and Arunachal Pradesh have the lowest rate of women literacy in India. The more women get educated, the more they gets empowered and earn bread for themselves and refuse to stay in broken marriages.

Education and employment is correspondent to each other and contributes a lot in the average span of marriage. Without a good education it is hard to get a good job. In a survey it is found that unemployment percentage of women from urban areas was 21.1 in 2020. According to the Center for Monitoring the Indian Economy (CMIE), 10% women of working age group were employed or searching for employment in 2022 which means only 39 million women are working in comparison with 361 million men. In our society, women are considered to be home-makers, whose primary duty is to cook, raise children and look after the home. It is sad that some people shames women for working outside their home and earn. Even after getting education, many families do not allow married women to work and as a result a woman becomes financially dependent on her husband which makes them voiceless and helpless. It is seen that the divorce rates in Uttar Pradesh, Haryana, Rajasthan and Bihar are much low because of unemployment of women. They stay in abusive marriage because they cannot maintain themselves financially if they decide to walk out of marriage. Our legal system is slow and too some extent costly for an unemployed woman, so they cannot opt for divorce and their family members also does not support them mentally and financially, so they unwillingly stays in a broken marriage.

Life expectancy of a human life is also a significant factor in the average span of a marriage. Over the years, life expectancy has increased due to medical development and people are opting for healthier life style. The more life expectancy increases the more longer and successful marriages will be seen. As per recent survey, the life expectancy in India has increased to 70 years compared to 2022 in which women's life expectancy is 2.7 years longer.

CONCLUSION

It is expected that a marriage which is filled with care, love and mutual respect will last long. But many marriages do not end because of backdated mindset of our society, or religious views or financial dependencies of women due to unemployment. Span of marriages increasing because of helplessness should never be encouraged. It is hard to state the exact average span of marriage in India but the above-mentioned facts are enough to prove that due to extreme conservative mindset of our society and unemployment, many people are still forced to stay in broken marriages.

CHAPTER 11

LIVE-IN RELATIONSHIPS: IMPACT ON MARRIAGE INSTITUTION IN INDIA

LIVE-IN RELATIONSHIPS: IMPACT ON MARRIAGE INSTITUTION IN INDIA

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ABSTRACT

In India, where marriage is seen as a sacramental institution, a man and woman must join themselves together through the institution of marriage in order to coexist. However, a brand-new idea known as "live in relationship" has evolved in the twenty-first century. Living together without getting married is referred to as a "live in relationship." Although relatively new in India, this idea is catching on quickly. The idea of a live-in relationship has been established and legalised in several Supreme Court decisions. It should be noted that the Hindu Marriage Act of 1955 does not include living together, hence some people view this as an illegal relationship. Legality of live-in relationships is very debatable, particularly in India, where traditions are highly valued and breaking them is regarded as sinful. A live-in relationship is one that does not confer the same privileges and obligations as a legally recognised marriage does. Women are not under any obligation to support the guy, and men are not under any obligation to the women. You may describe it as a walk-in/walk-out relationship. Not because they are married but because they desire to live together, the two people cohabit with each other's agreement. Is this form of relationship recognised? is the

key question. The answer is yes, despite the fact that no statute or other piece of government legislation recognises a live-in partnership. However, the Supreme Court of India has given a live-in relationship legal support through a number of rulings.

Keywords: Live –In Relationship, Marriage, Institution, Society, India, Legality

INTRODUCTION

An arrangement where a heterosexual couple lives together without getting into a legal relationship called marriage is known as a live-in relationship. It is also frequently referred to as "cohabitation." It does not have to be sexual in nature. In most locations, it is a purely informal arrangement, while some nations do allow such couples to register. People typically engage in these relationships to determine their compatibility before getting hitched, if they are unable to legally wed, or just because it spares them the headaches of a traditional wedding and drawn-out divorce proceedings should they decide to call it quits. It's also possible that they don't recognise the importance or benefits of marriage as an institution, or that their financial condition currently prevents them from getting married. Whatever the cause, it is evident that more and more couples are choosing live-in relationships over marriage, sometimes even as a permanent arrangement, even in traditional India, where the institution of marriage is "sacred". Numerous legal and societal difficulties have emerged and still do so in such situations. People may enter into a live-in relationship "by choice" or "by circumstance". Living together is a sign of a relationship that the couples have chosen. It might even exist when one or both partners are already legally married to another person but choose to continue having this type of relationship out of personal desire. These kinds of relationships are completely optional. The decision to live as live-in partners is made voluntarily by some live-in partners. They are content to continue living together as partners and do not desire to get legally married. It is quite difficult for bachelors and singletons who work for multinational organisations or corporate houses in major cities like Mumbai and Delhi to find accommodations. Because they believe it will be safer for them, property owners want to exclusively rent or lease their homes to married couples. In order to get lodging, young people in such circumstances agree with the opposing sex. Although they do not have an intimate relationship of any kind and their relationship is not real or false in the eyes of the law, they begin to feel affection for one another over time.

On the other hand, relationships "by circumstance" happen when one or both partners believe incorrectly that a lawful marriage exists between them, when parties believe they have a valid divorce from a married person, or when parties believe they cannot afford to get married again for financial reasons. They may happen in situations where the guy or woman was misled into thinking the man was single, widowed, or divorced when she wed him. The marriage will not be recognised by the law if the man and woman performed all the wedding rites but were already married to someone else at the time who they hadn't yet divorced. Involvement in such a live-in relationship is so unintentional. It is crucial to know that courts and legislators work to defend partners' socioeconomic and legal interests, particularly those of women who are caught up in alleged live-in relationships. However, this frequently results in parties in chosen relationships abusing these regulations.

It is crucial to first distinguish between live-in partnerships and other forms of similar cohabitation. A man's long-term female sexual partner and companion, with whom he engages in intimate intercourse while married to another woman, is referred to as his "mistress" (paramour or lover). The connection is largely private and semi-permanent. The man might provide the woman an allowance or cover some of her living costs. They do not, however, live together as in a live-in relationship. However, there is considerable ambiguity in the area of rights distinction because courts can accord a mistress the same rights as a live-in partner. The term "concubine" describes a woman who lives with a guy in addition to being his legal wife. Many tyrannical leaders throughout Asia, the Middle East, and Europe kept concubines. They have less rights because their status is lower than that of the official wife. It is seen as a sort of "sexual slavery" because it was an unfree, subservient act. These ladies were referred to as "Avarudha Stris" in Hindu law. These are obviously different from women who live with their partners, who typically do so voluntarily. Like with concubines, live-in relationships do not need only exist for sex. The term "cohabitants" refers to live-in partners.

LIVE-IN RELATIONSHIPS IN INDIA

Men and women living together without being married has been a tradition for millennia. Since ancient times, the nawabs, rulers, and affluent men in India had a number of live-in women living in their zenanas in addition to their numerous marriages. Having a live-in relationship with a woman who is not their spouse was not at all viewed as "immoral" by men. The man kept two concubines (avarudh stris) for his amusement and comfort. After gaining

independence, bigamy was made illegal and women's awareness of their rights increased as society developed. Thus, this practise was abandoned.

However, in the last several decades, a new type of "live-ins" has emerged in which men and women cohabit without getting married. However, for a number of reasons, the traditional Indian society was against such "living in" arrangements. First of all, marriage was a highly regarded institution in society. Indian women were expected to maintain their virginity until they got married, but a live-in relationship went against this custom. Second, because women frequently depended on males for financial support, the volatility of such live-in relationships gave the woman a position of subordination. Such partnerships were subject to harsh social judgement and stigma, which made them primarily covert. Such connections were not supported by laws or the courts. When a man remarried, even if his second "wife" was uninformed of his first marriage, she did not have a right to maintenance under Section 125 of the Cr.P.C., the SC said in *Yamunabai v. Anant Rao* in 1988. Even though their marriage was null and void, the SC refused to acknowledge that they had lived together. Despite defrauding the woman by hiding his previous marriage, the man was permitted to take advantage of this. The SC would deny the woman in such a live-in relationship any rights, regardless of the circumstances. Even as recently as 2000, the Allahabad High Court ruled in *Malti v. State of Uttar Pradesh* that a woman cohabiting with a man could not be considered to be his wife. In this instance, the lady lived with the man and had an intimate relationship with him while working as his cook. The Court, however, declined to expand the definition of "wife" under Section 125 of the Criminal Procedure Code to include a live-in partner's support rights. However, there are a few instances when courts have acknowledged such relationships.

In re Dinohamy WL "Where a man and a woman are proved to have lived together as a man and wife, the law will presume, that they were living together in consequence of a valid marriage, unless the contrary can be proven," the PC held in *Blahamy*. The Supreme Court (SC) reaffirmed the same approach in *Gokal Chand v. Pravin Kumari* but emphasised that the couple would not get legitimacy if the proof of their cohabitation was contestable. These rulings, however, only served to validate marriages that were questioned because a long-term live-in relationship existed. They failed to acknowledge the independence of live-in relationships from the institution of marriage. However, the rise in live-in partnerships, particularly those that are "by circumstance," made it clear that revisions were required. The Malimath Committee Report on Reforms in the Criminal Justice System from 2003 advised changing the word "wife" in Section 125 of the Criminal Procedure Code to include a woman who has been residing with a

man for a "reasonable period." The Maharashtra government accepted such a change to the Cr.P.C. last year, but the Central Government still needs to approve it. To defend these women's rights, the National Commission for Women recently issued a similar suggestion. Importantly, the Protection of Women from Domestic Violence Act of 2005 was the first law to treat cohabiting partners equally with married partners. Although the situation of live-in relationships in the Indian context is not entirely apparent, the recent landmark decisions rendered by the Honourable Supreme Court offer some guidance when we briefly discuss the subject and assess its legal breadth in India.

Since live-in relationships are not governed by any unique laws, couples bound by them find some support in other civil laws. The status is deteriorating since the legislation is neither clear nor firm about a particular stance. There are no legal restrictions on this relationship, and it does not establish a legal bond between the partners, according to Dhingra J. Since live-in relationships occur frequently between married men and unmarried women, or vice versa, those who choose to have them cannot accuse them of being dishonest or immoral. The Honourable Allahabad High Court also declared that a live-in relationship is not forbidden. A man and a woman can live together even if they choose not to get married, according to Katju J. and Mishra J. Although society may view this as immoral, it is not against the law. There is a distinction between morality and the law. The Honourable Supreme Court upheld the idea that a long-term, live-in relationship is akin to a legal marriage under the law. The Supreme Court ruled that there is no statute that specifically prohibits live-in relationships, so they cannot be viewed as crimes. The Supreme Court issued a significant decision in the widely publicised case of *S. Khushboo v. Kanniammal*, holding that there is no statute that forbids live-in relationships or premarital sex. The Supreme Court went on to say that only major, unmarried people who are heterosexual in sex are eligible for live-in relationships. In a different case, the Supreme Court ruled that there will be a presumption under section 114 of the Evidence Act that a man and woman are living as husband and wife and that any children they have are legitimately theirs if they have been cohabiting under the same roof for a significant amount of time. Therefore, in a number of decisions delivered up until recently, the High Courts and the Honourable Supreme Court showed positive signs of recognising the legitimacy of live-in relationships and also indicated a desire for legislation to be enacted with the objective of protecting the rights of couples in a live-in relationship.

POSITION OF LIVE-IN RELATIONSHIPS ABROAD

It is vital to examine the legal rights and obligations for live-in couples around the world in light of the Supreme Court's ruling that the ability to cohabit is a component of the right to life. While heterosexual couples living together in a relationship are referred to as "co-same-sex relationships" and are referred to in law as "civil partners." But because the law governing cohabitation rights is still quite new, many participants are still not aware of their obligations and rights to one another.

SCOTLAND - Family Law (Scotland) Act, 2006, for the first time recognised live-in partnerships between more than 150,000 cohabiting couples in the nation and by default legalised them. According to Section 25(2) of the Act, a court of law may determine whether a person is a cohabitant of another by evaluating three factors: the length of the time they shared a residence, the nature of their relationship at the time, and the scope of any financial arrangements.

FRANCE - The Civil Solidarity Pact, also known as the PaCS and adopted by the French National Assembly in October 1999, regulates live-in partnerships in France. A "de facto stable and continuous relationship" between two people of different sexes or of the same sex living together as a couple is referred to as cohabitation. The agreement designates the couples as "contractants" and the relationship as a contract. The contract must be made by "two adults of different sexes or of the same sex, in order to organise their common life," and the parties "may not be bound" by any other agreements, including those made "by marriage, siblings, or lineage."

UNITED KINGDOMS - The Civil Partnership Act of 2004 in the United Kingdom mostly regulates live-in partnerships. Although the term "common law spouses" is frequently used to describe a man and woman who are in a committed relationship, it is not entirely accurate under English and Welsh law. According to the government, live-in partners should owe one another more in order to merit the name. Unmarried couples do not have any guarantees about ownership of each other's property in the event of a relationship breakup, according to a 2010 letter from the Home Affairs Section to the House of Commons. The courts cannot overrule the tight legal ownership of property in a cohabitation separation and distribute it as they might in a divorce. Unmarried couples do not automatically inherit their deceased partner's assets. For taxation purposes, cohabiting couples are regarded as separate persons.

CANADA - In Canada, cohabitation is acknowledged as "common law marriage" under the law. Under many circumstances, the country's federal law accords common law partners the same rights as married couples. If a couple has been together for at least a year, or if they have a child together through birth or adoption, or if one of them has custody of the child and the child is entirely dependent on them for support, their common law relationship is given legal sanctity.

IRELAND - Despite the fact that cohabitation is accepted by the law in Ireland, news reports claim that the public is outraged by new legislation that would grant "separated" cohabiting spouses the ability to demand support or property sharing from their dependant partners. The programme will be available to unmarried couples of either sexes who have been living together for three years or for two years if they have children and are cohabiting. In the case of a death or relationship breakdown, the government hopes that new legislation would offer vulnerable and financially dependent cohabitants legal and financial protection.

AUSTRALIA - According to the Family Law Act of Australia, a "de facto relationship" can exist between two individuals of either the same sex or a different sex, and a person can be in a de-facto relationship even if they are legally married to someone else or in a de-facto relationship with someone else.

UNITED STATES - Prior to 1970, cohabitation was against the law in the United States, but it later became common law, provided certain conditions were met. There were various consensual sex laws at the time, which helped to establish living together agreements and its relatives, "prenuptial agreements," in American legal history. In a move reminiscent of Sweden and Denmark, the nation later institutionalised cohabitation by granting cohabiters basically the same rights and obligations as married couples. Those who cohabit are not considered to be parents by the law.

PROS AND CONS OF LIVE-IN RELATIONSHIPS

Live-in relationships and premarital sex were both approved by the Supreme Court, which sparked heated discussion across the nation. Many orthodox groups were outraged by the historical finding because they thought it would undermine the sacredness of marriage. A portion of society, including well-known social activists and notable dignitaries, has stepped up to express their insightful opinions on this. Social scientists have already identified serious

social issues like teen pregnancy, drug misuse, violence, and juvenile delinquency, and many people believed that after the difficult decision, previously impermissible social behaviours had been made lawful. The next generation will be more spoiled as a result. They will favour live-in relationships over parent-arranged weddings. There is no assurance that the man in such a relationship will end up being a faithful partner over time or won't abandon the woman with her problems and run away without warning. According to BJP spokesman Shaina, there is no provision for a second wife among Hindus under the Hindu Marriage Act of 1955. Therefore, it is against the Act and Hindu norms to grant the mistress the status of a lawfully wedded wife in all respects, such as share in property, inheritance, and maintenance.

When the Maharashtra Government approved a proposal suggesting that a woman involved in a live-in relationship for a "reasonable period" should receive the status of a wife, Shaina claimed that the Government was simultaneously encouraging illicit relationships by banning dance bars and destroying the social atmosphere by doing so. Senior BJP figure Jaywantiben Mehta disagreed with the proposal as well. It will negatively impact our ideals. The amendment will end up costing women more than it will benefit them, she said. On the other hand, the group supporting the right to choose a live-in relationship praised the decision as being practical. They believe that the new remarks should be appreciated because they place a strong emphasis on individual freedom. It provides doors to a deeper understanding of their partner's personality traits. Walking out of a live-in relationship would be far simpler than walking out of a marriage because there are no legal obstacles in such a partnership. This kind of setup is also supported by metro life, which opens floodgates of difficulties. Individuals should be allowed to live as they see fit, with the only restriction being that their actions and decisions must not damage other people. It is an extremely radical viewpoint. Women should be free to pick their life mates, according to some, and should not be pressured into getting married if they are not ready. As anticipated, women from all walks of life have embraced recent developments regarding in-home relationships. India has transformed, according to author Jaishree Mishra, who is based in New Delhi. If people believe that youth are losing their morals, I would counter that they are becoming more realistic. It is better for kids to understand what they are going into in today's world.

Live-in relationships have been the subject of controversies and arguments before. Whether a man and a woman who live together without getting married can be legally recognised as a couple has long been a source of debate. In most places, living together as a couple is legal due to societal changes that have entered society. These days, even in a nation like India that is

constrained by countless cultural customs and rites, the law finds no legal problem with live-in relationships. However, this does not imply that the law encourages such relationships. Legal precedent has historically been biased in favour of marriage. To protect and promote the institution of marriage, it grants several rights and privileges to those who are married. Such positions, in particular cases of live-in relationships, seem to be predicated on the presumption that they are not between equals and that women must be protected by the law from the patriarchal dominance that defines marriage and encompasses these relationships as well.

RIGHTS OF WOMEN IN LIVE-IN RELATIONSHIPS IN INDIA

Except for a few indications of support provided by the Protection of Women from Domestic Violence Act, which includes "relationships similar to marriage" or live-in relationships in its ambit, the Rights of Women in such relationships do not have much sympathy. When two people are related by consanguinity, marriage, or through a relationship resembling marriage, adoption, or when they are family members living together as a joint family, they are said to be in a "domestic relationship" if they currently live together or have at any point in the past. As a result, the phrase "in the nature of marriage" is self-explanatory and includes the social concept of living together.

Additionally, in the interest of women who are most harmed by these partnerships, the suggestions made by numerous committees and NGO's in recent years have reawakened the spirits of justice. In addition to this, the Honourable Supreme Court has rendered important rulings that make plain its position on the matter. For example, in the illustrious case of *D. Veluswami v. D. Patchaimmal*, The Supreme Court had noted that simply spending weekends together or one night together would not constitute a domestic connection, and it was determined that a woman in a live-in relationship is not entitled to maintenance unless she fulfils specific conditions.

The key four requirements for receiving maintenance are as follows: 2 a) The couple must present themselves to society as being akin to spouses; b) they must be of legal marrying age; and c) they must otherwise be qualified to engage into a legal marriage. d) They must have lived together freely and presented themselves to others for an extended length of time as being close to spouses. The Protection of Women from Domestic Violence Act of 2005 only applies to relationships that are in the form of marriage, the Supreme Court said, so not all live-in couples will qualify.

It wouldn't be a relationship in the sense of marriage if a man had a "keep" that he maintains financially and used only for sexual purposes and/or as a servant. The National Centre for Women recommended to the Ministry of Women and Child Development that female live-in partners be covered by section 125 of the Criminal Procedure Code in order establishing their rights and establishing their entitlement to maintenance. The Maharashtra Government showed a positive sign by accepting the Malimath Committee Report and the Law Commission Report and holding that if a live-in relationship continues for a very long time, she is entitled to enjoy the rights of a wife. However, it was recently ruled out that a wife under section 125 of the Cr.PC is a divorced wife and that the above principle was supported by the Hon. Court in the case of *Abhijit Auti v. State of Maharashtra*. Since there is no marriage and therefore no concept of divorce in a live-in relationship. As a result, a female partner in a live-in relationship should not be regarded as a wife for purposes of section 125 of the Criminal Procedure Code. The Honourable Court's ruling is morally correct since enabling any woman who cohabited with a man would lead to abuse of the legal protections under section 125, which would be unfair to the male partner as well. A lady who has been cohabiting with the guy in a manner akin to his wife for a significant amount of time should be included in the definition of "wife" in section 125 of the Code. It is not necessary at this time to attempt to bring live-in relationships under the purview of any existing law, but rather to enact a new, distinct law that would examine the issue of live-ins separately and would grant rights and obligations on the part of the couples, reducing instances of misuse of existing laws as well as cases of atrocities faced by the female partners in such relationships.

Rights of Children Born of Live-In Relationships - According to the Hindu Marriage Act, a child born in a live-in relationship has the same rights to succession and inheritance as a child born to a married couple. No matter whether a marriage is declared null and void pursuant to Section 11 of the Marriage Laws (Amendment) Act, 1976 (68 of 1976)*, whether a decree of nullity is issued in respect of that marriage under this Act, or whether the marriage is determined to be void in any other manner than on a petition under this Act, any child of that marriage who would have been legitimate if the marriage had been valid, shall be legitimate. Thus, the Hindu Marriage Act has awarded legitimacy to children born via invalid marriages in order to uphold the spirit of law in a just path and to quell social problems wherever illegitimate children were denied their rights. Therefore, this definition includes live-in relationships and the offspring produced by them. The status of children in terms of their legal standing is deteriorating because other laws do not guarantee them this legality, which leads to

widespread abuse of the provisions while escaping punishment. As a result, it is necessary to establish a child's legality in other laws beyond a shadow of a doubt. Furthermore, the future of the child is thrown into doubt if the live-in partners decide to divorce. Therefore, it is necessary to alter the laws governing guardianship so that they cover the guardianship of children born out of such partnerships.

Succession Rights - In the case of an undivided joint Hindu family, the Supreme Court ruled that a child born from a live-in relationship is only entitled to a share of the parents' self-acquired property and is not eligible to claim inheritance in Hindu ancestral coparcenary property. The Madras High Court's decision that children born out of live-in partnerships were entitled to a share in ancestors' property since there was a presumption of marriage due to the length of the connection was overturned by the Bench. The Hindu Marriage Act of 1955's Section 16 (legitimacy of children of void and voidable marriages) contains legal fiction that, in practise, requires treating illegitimate children as legitimate for all purposes, including succession to their parents' property, according to a Vacation Bench of Justices B.S. Chauhan and Swatanter Kumar. The application of this rule, which is restricted to parent properties, prevents them from succeeding to the properties of any other connection.

In the event of illegitimacy, a child may only assert a claim against a person's self-acquired property. It might also be read to mean that a kid could make a claim on their parents' part of whatever ancestral property they may own because Section 16 allows for a stake in the parents' assets. Therefore, it might be claimed that the person has a right to both self-acquired property and a portion of the property that belonged to their ancestors. The Apex Court further ruled that a spouse cannot claim a live-in relationship with another person while the marriage is still in effect and then ask for the children's inheritance from that person's assets. There is no relationship with someone else when the husband is still alive. Supreme Court says live-in relationships are fine but don't expect ancestral property, while the husband is not living in relationship," but "adultery." Furthermore, it is said that "live in relationships" are acceptable between heterosexuals who are not married (if one of the aforementioned individuals is married, the male may be guilty of adultery and it would constitute a crime under Section 497 of the Indian Penal Code).

EFFECT ON SOCIETY

All of the society's youth have been impacted by this live-in relationship trend for a variety of reasons. Nothing is free from flaws without leaving them. Such a relationship undoubtedly affords two people the greatest chance to exercise their rights to liberty, privacy, and life. But it's also important to realise the downside. I've listed a few factors that contribute to this association below.

1. The institution of marriage is broken-Marriage is a kinship-establishing social bond or legal contract between two persons. Depending on the society or subculture in which it is located, it is an institution in which interpersonal interactions, which are typically intimate and sexual, are acknowledged in a variety of ways. Matrimony is another name for this kind of connection, which is frequently made official through a wedding ceremony. Therefore, it would be simple to state that a live-in relationship simply serves to diminish the value of marriage, which is acknowledged as a social union in contrast to a live-in relationship where there are just two people involved. Children's security is ensured by the bonding that occurs between a man and woman during marriage. Let's also warn the main characters in live-in relationships that breaking up for any reason will leave them with severe emotional scars from being abused and rejected. Such partnerships will produce offspring who are social misfits as well.
2. A one-sided connection- The phrase "walk in and walk out" is another simple way to define the term "live in," as it involves no commitment from either party. "It (a live-in relationship) is a contract for cohabitation that is renewed by the parties every day and that one party may end without the approval of the other. Therefore, those who choose to live together cannot accuse their partner of being unfaithful or immoral. Therefore, we can only refer to it as employee satisfaction.
3. Anti-Hindu sentiment and a living together-The Bharatiya Janata Party (BJP) views the movement to legalise cohabitation as being anti-Hindu.The party asserts that there is no provision for a second wife among Hindus under the Hindu Marriage Act of 1955. Therefore, it is against the Act and Hindu norms to grant the mistress the status of a lawfully wedded wife in all respects, such as share in property, inheritance, and support
4. Negative self-concept- Everyone has a moral obligation to uphold moral standards that improve life in order to help future generations feel proud of their ancestry, cultural heritage, and national identity. Why should kids have to suffer because of their parents' distorted behaviour? Responsible parents will avoid passing on to their children any vicarious obligations in favour of a beneficial legacy. Even when parents nurture their

children in a typical manner, numerous safety precautions must be taken to protect them from the negative consequences of unrecognised social deviations and the perilous projections of modernity. India cannot afford to ignore the tried-and-true benefits of its custom.

5. Deteriorates social ties-There is always the expectation of strained ties between the parents of the spouse family because such relationships are decisions made by two people who want to start their own family against the wishes of their parents. Therefore, it goes without saying that there will always be conflicts of ideas and opinions inside the family, which will ultimately undermine the bonds between family members. Overall, the impact on society is more detrimental than positive.

CONCLUSION

The decisions made by the Indian Court are interesting because in some cases the Courts have ruled that there should be no bondage between the couples in a live-in relationship because the only requirement for entering into such agreements is that the couples have no obligations to uphold them. However, in other cases, the Court has taken an opposing stance, ruling that if a relationship or cohabitation lasts for a sufficient amount of time, the couples may be considered to have a sufficient and reasonable amount of time to do so. The idea of a live-in relationship seems unusual if it is included in the provisions of Section 125 of the Cr.PC, which requires the husband to pay maintenance and succession because the purpose of entering a live-in relationship is to avoid any obligations resulting from marital connections. A conflict between the interests of the wife and the live-in partner would result if the rights of a wife and a live-in partner were made equal. However, when we look at the masses that characterise India, there is no correlation between live-in relationships and their acceptance by Indian culture. Apart from missing legal legitimacy, the social existence of such relationships is only limited to the metropolises. It receives no legal support, and the society also evicts such relationships at the same time. Instead of attempting to include live-ins within the scope of the current legislation, the Parliament should aim to pass a separate branch because such a fruitless approach would further complicate the court system.

SUGGESTIONS

1. To address the ongoing issues with live-ins, the Indian legal system needs to develop new tactics.
2. After a certain amount of time, the live-in partnerships should be taken for granted as lasting. Furthermore, the rights to inheritance, succession, etc. should be guaranteed to children born from such partnerships, regardless of the parents' religion.
3. The burden of proof placed on the female partner in such a relationship should be lessened.
4. People should be found guilty of bigamy if they live with a spouse who is still alive. Only the female partners who are harmed by such relationships should be eligible for aid under a separate piece of legislation.

Finally, the sooner our culture welcomes live-in relationships, the better opportunity the Indian judiciary will have of making decisions that are in accordance with the moral principles of the law and the interests of justice, equity, and good conscience.

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CHAPTER 12

EFFECT OF SINGLE PARENTING

EFFECT OF SINGLE PARENTING

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INTRODUCTION

A single-parent family is one in which both biological parents work full-time jobs outside the home and provide financially for the child or children. Divorce, separation, the loss of a spouse, or the choice to raise a kid alone are just some of the situations that might lead to this.

Single parenting can present unique challenges for both the parent and the child, including financial strain, limited time and resources, social isolation, and emotional stress. However, many single parents successfully navigate these challenges and provide loving, supportive homes for their children.

Single parenting has become increasingly common in many parts of the world, with a growing number of families headed by single mothers or fathers. It is important to recognise the contributions and sacrifices of single parents and to provide them with the support and resources they need to thrive.

DEFINITION

When one parent is responsible for the care and upbringing of a kid or children without the help of a spouse or partner, such situation is known as single parenting. Separation, divorce, the loss of a spouse, or the choice to have a kid on one's own are just few of the situations that might lead to this. Single parenting can present unique challenges for the parent, as they may have to balance parenting responsibilities with work and other commitments, and provide emotional, financial, and social support for their children on their own. However, single parenting can also be a rewarding experience, as it allows the parent to form a strong bond with their child and take pride in their parenting accomplishments.

HISTORY

Single parenting has a long history dating back to ancient times. However, the social and cultural attitudes towards single parenting have varied across time and place.

In many traditional societies, single parenting was relatively common due to factors such as war, disease, and childbirth-related deaths. For example, in ancient Greece, widows were often left to raise children on their own, and in medieval Europe, single mothers were a common sight.

In more recent history, single parenting has become more prevalent due to factors such as divorce, abandonment, and non-marital childbearing. In the United States, for example, the percentage of single-parent households has increased steadily since the 1960s, and in 2021, approximately 23% of children lived in single-parent households.

Single parenting has been associated with various challenges, including financial difficulties, social isolation, and higher levels of stress. However, single parents have also been shown to be resilient and capable of providing a loving and supportive home environment for their children.

PURPOSE OF CHAPTER

The purpose of a chapter on single parenting is to provide information and insights about the challenges, experiences, and issues faced by individuals who are raising children on their own. The chapter may explore the reasons why someone may become a single parent, such as divorce, death of a spouse, or choosing to have a child without a partner.

The chapter may also provide guidance and advice on how to navigate the unique challenges of being a single parent, such as managing finances, balancing work and childcare responsibilities, and providing emotional support for children who may be missing a parent. Additionally, the chapter may explore the impact of single parenting on children and ways to promote positive outcomes for children in single-parent families.

Overall, the purpose of a chapter on single parenting is to provide a comprehensive understanding of the issues and challenges that single parents face and to offer practical advice and guidance for those who are raising children on their own

CAUSES OF SINGLE PARENTING

1. Divorce or separation

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2. Death of a spouse

The death of a spouse can be an incredibly challenging experience, both emotionally and practically. For single parents, the loss of a partner can be especially difficult as they are now

solely responsible for their children's upbringing and well-being.

Single parenting after the death of a spouse requires a significant amount of adjustment and adaptation. The surviving parent may need to take on new roles and responsibilities, such as managing finances and household tasks, in addition to caring for their children's emotional needs. They may also need to make major life changes, such as moving to a new home or changing jobs, to ensure they can provide for their family.

Grief and bereavement can also be a major factor in single parenting after the death of a spouse. It's important for the surviving parent to take care of their own emotional health, while also supporting their children as they process their own feelings of loss and grief.

Overall, the death of a spouse can be a significant and challenging transition for single parents, but with time, support, and self-care, it's possible to navigate this difficult time and build a fulfilling life for themselves and their children

3. Unplanned pregnancy

Unplanned pregnancy refers to a pregnancy that is unexpected or unintended, meaning that it was not actively planned or desired by the individuals involved. Single parenting refers to the situation where one person, usually the mother, is responsible for raising a child without the help or support of a partner.

Unplanned pregnancy can lead to single parenting if the other parent is not involved in raising the child or if there is no other parent present. Single parenting can be a challenging and stressful situation, as the parent must assume all of the responsibilities of raising a child, including financial, emotional, and practical support.

Single parenting can have a significant impact on the parent's life, as well as on the child's development. It can be challenging to balance work, parenting, and personal life, and single parents may experience higher levels of stress, financial strain, and social isolation.

However, with the right support and resources, single parenting can also be a fulfilling and rewarding experience. It is essential for single parents to seek out support from family, friends,

and community resources to help them manage the challenges of raising a child on their own

4. Adoption

One parent raises a kid or children without the help of a spouse or partner; this kind of family structure is known as "single parenting." There are many paths that lead to a parent raising a child alone, including the loss of a spouse, a breakup or divorce, or a deliberate decision to start a family alone.

Over the past few decades, the adoption of single parenting has become more prevalent in many parts of the world. Single parenthood is no longer seen as a taboo or a stigmatised family structure. Single parents have become more visible in society, and there is an increasing recognition of the challenges and strengths associated with raising a child alone.

However, single parenting also comes with its unique set of challenges, including financial strain, emotional stress, and time management issues. Single parents often have to juggle multiple roles and responsibilities, which can be overwhelming.

Despite the challenges, many single parents have successfully raised happy and healthy children. The adoption of single parenting has also led to the development of support systems and resources specifically designed for single parents, such as counselling services, financial assistance programs, and community groups.

5. Choice of not being married

The choice to not be married or to become a single parent can be influenced by a variety of personal, cultural, and societal factors. Some individuals may prefer not to marry due to their personal beliefs or values, or they may prioritise their career or other life goals over starting a family. Others may have had negative experiences with marriage or relationships and choose to remain single.

Becoming a single parent may be a result of various circumstances, such as divorce, death of a partner, or the choice to have a child without a partner. Single parenting can be challenging, but many individuals may choose this path because they want to have children and feel capable of raising them on their own

THE EFFECT OF SINGLE PARENTING ON CHILDREN

1. Emotional effect

Single parenting can have emotional effects on children, which can vary depending on their age, temperament, and the circumstances of their family situation. Some of the emotional effects that children of single parenting may experience include:

1. **Increased anxiety and stress:** Children may feel more anxious and stressed due to the absence of one parent, which can affect their overall emotional well-being.
2. **Feelings of abandonment and loss:** Children may feel abandoned by the absent parent, which can cause feelings of loss and grief, leading to emotional distress.
3. **Low self-esteem:** Children may experience lower self-esteem, particularly if they perceive themselves as being different from other children who have both parents.
4. **Behavioural problems:** Children may exhibit behavioural problems such as aggression, defiance, or withdrawal, which can be a result of the emotional turmoil they are experiencing.
5. **Difficulty forming relationships:** Children may have difficulty forming and maintaining relationships due to the lack of a role model for healthy relationships and attachment

2. Low self esteem

Low self-esteem is a common issue that can affect children of single parenting. When a child grows up in a single-parent household, they may experience a range of challenges and stressors that can impact their self-esteem.

For example, children of single parenting may feel a sense of abandonment or rejection, which can lead to feelings of insecurity and low self-worth. They may also feel different or isolated from their peers who come from two-parent households. Additionally, the absence of one parent may lead to financial difficulties, which can impact the child's access to resources and opportunities. Furthermore, single parents may also experience stress, depression, or anxiety, which can affect their ability to provide emotional support and create a positive environment for their child. This lack of emotional support can further contribute to a child's low self-esteem.

It's important to note that not all children of single parenting will experience low self-esteem. Many factors, including the child's personality, the quality of the relationship with the remaining parent, and the availability of other support systems, can impact a child's self-esteem. However, it's crucial for parents to be aware of the potential challenges their children may face and to

provide the necessary support and resources to help them develop a positive sense of self-worth

3. Anxiety

Anxiety is a common emotional response that can occur in children of single parenting. Children from single-parent households may experience anxiety due to a variety of reasons, such as:

1. **Fear of abandonment:** Children may worry that their single parent will leave them or that they will lose their other parent if they have already left.
2. **Financial instability:** Single-parent households may struggle with financial challenges, and children may feel anxious about their family's ability to make ends meet.
3. **Social stigma:** Children of single-parent households may feel stigmatised or judged by others, which can contribute to feelings of anxiety or stress.
4. **Parental stress:** Single parents may experience higher levels of stress, which can affect their children's emotional wellbeing.
5. **Change and instability:** Divorce or separation can cause significant changes in a child's life, including moving homes, changing schools, and adjusting to new routines, which can be a source of stress and anxiety

4. Depression

Depression is a mental health condition that can affect individuals of any age, including children who are being raised by a single parent. Single parenting can bring unique challenges that can increase the risk of depression in children.

For children of single parents, the absence of one parent can cause feelings of loss and insecurity. They may also experience financial strain and have fewer opportunities for social and emotional support. These stressors can contribute to feelings of sadness, hopelessness, and low self-esteem, which are common symptoms of depression.

Children of single parents may also experience a sense of responsibility to take care of their parent or siblings, which can lead to additional stress and pressure. This can further contribute to symptoms of depression, such as fatigue, irritability, and difficulty concentrating

5. Behavioural issues

Children of single parenting may experience a range of behavioural issues that can result from

the challenges and stressors associated with their family structure. Some of these issues can include:

1. **Emotional distress:** Children may feel anxious, lonely, and insecure due to the absence of one parent and the changes in their family structure.
2. **Low self-esteem:** Children may experience a sense of rejection or abandonment, which can affect their self-esteem and self-worth.
3. **Aggression:** Children may act out or become aggressive as a way to express their emotions and cope with the stressors in their life.
4. **Academic difficulties:** Children may struggle with academic performance due to the lack of parental support and attention at home.
5. **Social difficulties:** Children may have trouble making friends or developing healthy relationships due to the instability in their family structure.
6. **Risky behaviours:** Children may engage in risky behaviours such as substance abuse, early sexual activity, or delinquency as a way to cope with their emotions or seek attention.

6. Academic effects

Research suggests that children of single parents may experience some academic effects due to their family structure. Here are a few potential factors that may impact their academic performance:

1. **Economic hardship:** Single-parent families are more likely to experience financial hardship, which can lead to a lack of resources for educational support such as tutoring, extracurricular activities, or educational materials.
2. **Less time for academic support:** Single parents may have less time to devote to helping their children with homework, studying for exams, or attending school events due to competing demands on their time.
3. **Emotional stress:** The stress of being a single parent may also affect the emotional well-being of both the parent and the child, which can impact academic performance.
4. **Lack of role models:** Children in single-parent households may lack positive male or female role models, which can make it harder for them to develop skills and habits necessary for academic success.

7. Truancy

Truancy refers to the act of a child missing school without a valid excuse. Children of single

parenting can be more susceptible to truancy due to a range of factors, including lack of supervision, financial difficulties, or family stressors.

Single parents may have to work long hours or multiple jobs to make ends meet, which can make it challenging to monitor their child's attendance at school. In some cases, children may also feel responsible for taking care of younger siblings, leading to a neglect of their own education.

Additionally, children from single-parent households may experience more stress and emotional difficulties, which can lead to disengagement from school and truancy.

8. Dropping out of school

Dropping out of school can have a significant impact on children of single parenting, who may already be facing a number of challenges. Single parents often have to juggle multiple responsibilities, such as working to provide for their family, managing household tasks, and taking care of their children, which can leave them with less time and energy to be fully involved in their child's education.

Without the support and guidance of a parent who is able to prioritise their education, children of single parenting who drop out of school may struggle to find stable and well-paying employment, which can perpetuate the cycle of poverty and hardship. In addition, dropping out of school can limit their opportunities for personal and professional growth, and may leave them feeling unfulfilled and frustrated in their adult lives.

Overall, dropping out of school can have significant negative consequences for children of single parenting, which is why it's important to ensure that they have the necessary resources and support to stay engaged in their education and achieve their full potential.

9. Social effect

Single parenting can have significant social effects on children. Some of these effects may include:

1. **Increased risk of poverty:** Single-parent households are more likely to live in poverty than households with two parents. This can impact a child's access to basic needs such

as food, clothing, and shelter, as well as their access to educational opportunities and extracurricular activities.

2. **Emotional stress:** Children in single-parent households may experience emotional stress due to the absence of one parent or the stress of having to adapt to changes in family structure. They may also experience feelings of abandonment, anger, and anxiety.
3. **Reduced parental supervision:** With only one parent present, children may have less supervision and guidance, which can lead to risky behaviour and delinquency.
4. **Lower academic achievement:** Children in single-parent households may have lower academic achievement due to a lack of parental involvement and support.
5. **Higher risk of behavioural and emotional problems:** Children in single-parent households may be at a higher risk of developing behavioural and emotional problems such as depression, anxiety, and aggression

6. Difficulty in making friends

Children of single parenting may experience difficulty in making friends due to a variety of reasons. Single parents may have less time to socialise with other families or to arrange playdates for their children, which can limit opportunities for socialisation. Additionally, children of single parents may feel different or stigmatised by their family structure, which can lead to social isolation or difficulties in building friendships.

Research has shown that social support and friendships are important for children's social and emotional development, and children who have strong friendships tend to have better outcomes in areas such as academic achievement, mental health, and overall well-being. Therefore, the difficulty in making friends can have negative consequences for children of single parenting

7. Feeling of isolation

The feeling of isolation can have a significant impact on children growing up in single-parent households. These children may feel socially and emotionally isolated due to the absence of one parent, and they may also experience a sense of stigma or shame due to their family structure. Children in single-parent families may feel isolated from their peers, particularly if they live in

neighbourhoods or attend schools where the majority of families have both parents present. They may feel different or excluded from their peers and struggle to find common ground with children who come from two-parent households.

Emotional isolation can also be a factor in single-parent families. Children may feel like they have to shoulder the burden of their parent's emotional needs, which can be overwhelming and isolating. They may also feel like they have to grow up faster than their peers, which can lead to a sense of loneliness and disconnection.

It's important for single parents to be aware of the potential for isolation and take steps to mitigate its effects. This may include seeking out support from family and friends, joining community groups or clubs, or finding a therapist or counsellor who can provide emotional support for both the parent and the child. Additionally, helping the child build a strong sense of identity and self-worth can go a long way in combating feelings of isolation and stigma.

8. *Social withdrawals*

Social withdrawal, or the tendency to avoid social interactions and isolate oneself, can have negative effects on children of single parenting. These effects may include:

1. **Emotional difficulties:** Social withdrawal can lead to feelings of loneliness, anxiety, and depression, which may be more prevalent in children of single parents who may already feel a sense of loss or instability due to their family situation.
2. **Poor social skills:** Children who withdraw socially may miss out on opportunities to develop social skills and build relationships with peers, which can affect their ability to form meaningful relationships in the future.
3. **Academic struggles:** Children who are socially withdrawn may also struggle academically, as they may be less likely to participate in class, ask for help from teachers, or form study groups with classmates.
4. **Risky behaviours:** In some cases, social withdrawal can also lead to risky behaviours such as substance abuse or self-harm, as children may turn to these behaviours to cope with their feelings of isolation and loneliness.

THE EFFECT OF SINGLE PARENTING ON PARENTS

1. Financial strain

Financial strain can have a significant impact on parents who are raising children as a single parent. Single parents are often solely responsible for their children's financial well-being, which can be challenging if they have limited income or resources.

Financial strain can lead to stress, anxiety, and depression for single parents, which can affect their overall health and well-being. They may struggle to provide basic needs such as food, clothing, and shelter for their children, which can lead to feelings of guilt and inadequacy.

Additionally, single parents may have to work long hours or multiple jobs to make ends meet, which can limit the amount of time they have to spend with their children. This can affect their ability to provide emotional support and guidance, which can have a long-term impact on their children's well-being.

Overall, financial strain can be a significant challenge for single parents, and it is essential to provide them with support and resources to help them meet their family's needs.

2. Emotional stress

Emotional stress can have a significant impact on parents who are single parenting. Being the sole provider for their children can be overwhelming, and they may experience a range of emotions such as anxiety, depression, guilt, and loneliness. Single parents often have to balance work, household chores, and parenting duties, which can lead to burnout and exhaustion.

In addition, single parents may also feel the added pressure of trying to be both a mother and a father figure to their children, which can be a daunting task. They may also experience financial stress due to the added expenses of raising a child on their own.

All of these factors can contribute to emotional stress in single parents, which can have a negative impact on their mental health and overall well-being. It's important for single parents to seek support from family, friends, or professionals, and to prioritise self-care activities that help

them manage their stress and improve their resilience

3. Physical exhaustion

Physical exhaustion can have a significant impact on parents who are single parenting. Single parents often have to juggle multiple responsibilities such as working full-time, caring for their children, managing household tasks, and sometimes dealing with financial and emotional stressors. All of these responsibilities can be physically exhausting, especially if a parent does not have a support system or has limited resources.

Physical exhaustion can lead to fatigue, lack of energy, and difficulty concentrating, which can make it challenging for single parents to fulfil their responsibilities effectively. Additionally, physical exhaustion can contribute to feelings of overwhelm, frustration, and even resentment, which can negatively impact a parent's relationship with their children.

Moreover, when a parent is physically exhausted, it can be difficult for them to engage in self-care activities that are essential for maintaining their physical and emotional well-being. This can result in a cycle of exhaustion, which can ultimately lead to burnout and affect their ability to care for themselves and their children.

In summary, physical exhaustion can have a significant impact on the well-being of single parents, and it is essential for them to prioritise self-care and seek support when needed to prevent burnout and maintain their ability to care for their children effectively

4. Social isolation

Social isolation can have a significant impact on parents who are single parenting. Single parents may already feel isolated due to the lack of a partner or co-parent to share the responsibilities and joys of raising a child. Social isolation can exacerbate these feelings and lead to further stress and loneliness.

Without a support system, single parents may find it challenging to manage the day-to-day demands of parenting, such as helping with homework, attending school events, and dealing

with behavioural issues. Social isolation can also make it difficult to find time for self-care, which is essential for maintaining mental and emotional well-being.

Furthermore, social isolation can limit opportunities for single parents to build meaningful relationships and connect with other adults. This can result in a lack of role models for their children and difficulty in providing socialisation opportunities for them.

In summary, social isolation can have a negative impact on the mental and emotional health of single parents and their children, and it's important to address this issue by seeking out support, building connections with others, and practicing self-care

COPING MECHANISMS FOR SINGLE PARENTS

Coping mechanisms are strategies and techniques used to deal with stress and difficult situations. Single parents face unique challenges, such as financial strain, parenting alone, and limited time for self-care. Here are some coping mechanisms that single parents can use:

1. **Support groups:** Joining a support group of other single parents can provide emotional support, practical advice, and a sense of community. Local community centres, religious organisations, and online forums can be good places to find support groups.
2. **Time management:** Managing time effectively can help single parents balance their responsibilities and reduce stress. This can include making a schedule, prioritising tasks, and delegating responsibilities when possible.
3. **Self-care:** Taking care of oneself is important for overall well-being. Single parents can practice self-care by getting enough sleep, exercising regularly, eating well, and engaging in activities they enjoy.
4. **Seeking professional help:** Sometimes, single parents may benefit from professional help, such as counselling or therapy. This can provide a safe space to talk about challenges, develop coping skills, and get support.
5. **Building a support network:** Building a support network of friends, family, and trusted individuals can help single parents manage their responsibilities and reduce stress. This can include asking for help with childcare, running errands, or simply having someone to talk to

POLICIES AND PROGRAMS FOR SINGLE PARENTS

Policies and programs for single parents are initiatives aimed at supporting individuals who are raising a child or children alone. These policies and programs can come from government or non-governmental organisations and aim to provide various forms of assistance to single parents, including financial assistance, emotional support, and access to resources.

Some examples of policies and programs for single parents include:

1. **Child support:** Child support laws mandate that non-custodial parents provide financial assistance to their children. This can be enforced through court orders or government agencies.
2. **Housing assistance:** Some government programs offer housing assistance to single parents who are struggling to make ends meet.
3. **Health insurance:** Government-sponsored health insurance programs, such as Medicaid or CHIP, can provide healthcare coverage for single parents and their children.
4. **Education and job training:** Educational and job training programs can help single parents gain the skills and education necessary to improve their job prospects and increase their earning potential.
5. **Childcare assistance:** Childcare assistance programs provide financial assistance to single parents who need help paying for childcare services while they work or attend school.
6. **Emotional support:** Counselling services or support groups can provide emotional support to single parents who may be feeling overwhelmed or isolated.

Government assistance: One of the most common forms of government assistance for single parents is cash assistance, such as welfare or Temporary Assistance for Needy Families (TANF) in the United States. These programs provide financial assistance to single parents who meet certain income and asset requirements.

Other forms of government assistance for single parents may include child care subsidies to help cover the costs of child care while the parent is working or in training, as well as education and job training programs to help single parents acquire the skills needed to secure well-paying jobs. In addition to government assistance, there are also non-profit organisations and community groups that provide support to single parents, such as counselling services, peer support groups, and assistance with finding affordable housing.

CONCLUSION

Recap of the effects of single parenting on children and parents:-

Conclusion is the final part of a written or spoken work that summarises the main points and brings the discussion to a close. In the context of the effects of single parenting on children and parents, a conclusion would involve briefly summarising the key findings and insights that were discussed in the main body of the work.

In terms of the effects of single parenting, research suggests that children raised by single parents are more likely to experience a range of challenges, including poorer academic performance, higher rates of behavioural problems, and increased risk of mental health issues. Single parents themselves may also face a variety of challenges, such as increased financial strain and difficulty balancing work and family responsibilities.

However, it's important to note that not all single-parent families are the same, and many families thrive despite the absence of one parent. Additionally, there are many supportive resources and services available to single parents and their children that can help mitigate some of these challenges.

Overall, the conclusion of a discussion of the effects of single parenting would highlight both the challenges and the resilience of single-parent families, and underscore the importance of providing resources and support to help these families succeed.

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CHAPTER 13

LEGAL, SOCIAL, AND RELIGIOUS IMPLICATIONS OF SAME- SEX MARRIAGE IN INDIA

LEGAL, SOCIAL, AND RELIGIOUS IMPLICATIONS OF SAME-SEX MARRIAGE IN INDIA

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ABSTRACT

Same-sex marriage is a controversial topic in many parts of the world today. This abstract examines same-sex marriage's legal, social, and religious implications and also existing laws and policies, as well as recent court rulings, and the impact on individuals of different backgrounds. It discusses the ways in which same-sex couples are denied basic rights and the ways in which they are able to access these rights in some countries. The abstract also looks at the debate over marriage equality, and the implications of same-sex marriage for religious organizations. This paper examines the legal and social recognition of same-sex marriage in India. It reviews the current state of the law on same-sex marriage and the legal and social implications of the Supreme Court of India's 2018 decision to decriminalize homosexual behaviour. It also evaluates the potential for same-sex marriage to be legally recognized in India in the near future. Additionally, it looks at the impact of same-sex marriage on Indian society, and how the Indian government is responding to the issue. The future of same-sex

marriage in India is uncertain, but there is hope that it will eventually be legalized. Until then, same-sex couples in India will have to continue to fight for their rights and push for legal recognition of their relationships. Finally, the paper concludes by highlighting the importance of educating the public about the issue of same-sex marriage and the potential for it to benefit India and its citizens.

Keywords: Same-Sex Marriage, Legal, Social, And Religious Implications.

INTRODUCTION

Same-sex marriage, a union between individuals of the same gender, has been a topic of significant legal, social, and religious implications in various countries, including India. In India, the recognition and acceptance of same-sex marriage have evolved over time, leading to ongoing debates and discussions regarding its legality, societal acceptance, and compatibility with religious beliefs. This introduction will provide an overview of same-sex marriage's legal, social, and religious implications in India.

LEGAL IMPLICATIONS OF SAME-SEX MARRIAGE IN INDIA

- i. **Lack of Legal Recognition:** Same-sex marriage is not legally recognized in India. The country's marriage laws define marriage as a union between a man and a woman. Consequently, same-sex couples do not have access to the legal benefits and protections that come with marriage, such as inheritance rights, joint property ownership, and spousal support.
- ii. **Inability to Obtain Marriage Licenses:** Due to the absence of legal recognition, same-sex couples face challenges in obtaining marriage licenses. The existing laws only permit opposite-sex couples to marry, making it difficult for same-sex couples to formalize their relationships through the legal institution of marriage.
- iii. **Limited Parental and Adoption Rights:** Same-sex couples may face limitations in their parental and adoption rights. In India, adoption laws primarily cater to heterosexual couples, and the legal framework does not explicitly address the

adoption rights of same-sex couples. As a result, same-sex couples may encounter obstacles in adopting children and securing legal parental rights for their children.¹

- iv. **Lack of Divorce Laws:** The absence of legal recognition for same-sex marriages also creates complications in terms of divorce. Divorce laws in India are designed for opposite-sex couples, and there is no specific legal provision for the dissolution of same-sex marriages. This lack of legal clarity can lead to difficulties in the division of property, child custody, and other related matters.
- v. **Discrimination and Violence:** While not directly related to marriage, the legal status of same-sex marriage contributes to a broader climate of discrimination and violence against the LGBTQ+ community in India. Without legal recognition and protection, same-sex couples may face social stigma, harassment, and even physical violence. The absence of legal safeguards can exacerbate the vulnerability of LGBTQ+ individuals and couples.
- vi. **Potential for Future Legal Developments:** Despite the current lack of recognition, there is potential for future legal developments regarding same-sex marriage in India. The 2018 Supreme Court judgment that decriminalized consensual same-sex relations opened up possibilities for future discussions on equal rights and marriage equality. Activists, organizations, and legal experts continue to advocate for legal reforms to recognize and protect the rights of same-sex couples.

It is important to note that the legal landscape surrounding same-sex marriage in India is subject to change, influenced by societal attitudes, ongoing legal challenges, and evolving interpretations of constitutional rights.

In India, the legal status of same-sex marriage remains a complex and evolving issue. Currently, same-sex marriage is not recognized under Indian law. The country's legal framework defines marriage as a voluntary union between a man and a woman, and various laws, including the Hindu Marriage Act and the Special Marriage Act, reflect this definition. As a result, same-sex couples face legal barriers to marriage, including the inability to obtain marriage licenses or receive legal recognition from their unions.

¹ Eskridge, W. N. (1993). A History of Same-Sex Marriage. *Virginia Law Review*, 79(7), 1419–1513. <https://doi.org/10.2307/1073379>

However, it is important to note that the legal landscape is gradually changing. In 2018, the Supreme Court of India delivered a landmark judgment in *Navtej Singh Johar v. Union of India*, decriminalizing consensual same-sex relations. The ruling recognized the rights of LGBTQ+ individuals and emphasized the importance of equality and non-discrimination. While the judgment did not specifically address same-sex marriage, it laid the foundation for potential future legal developments and opened up avenues for further discussions.

1. *Naz Foundation v. Government of NCT of Delhi*² (2009):

This case dealt with the decriminalization of consensual same-sex sexual activity. The Delhi High Court held that Section 377 of the Indian Penal Code, which criminalized homosexuality, was unconstitutional to the extent that it applied to consensual acts between adults. Although this case did not directly address same-sex marriage, it played a significant role in establishing the rights of LGBTQ+ individuals in India.

2. *Navtej Singh Johar v. Union of India*³ (2018):

In this case, the Supreme Court of India partially struck down Section 377, decriminalizing consensual same-sex relationships. The court ruled that sexual orientation is a protected characteristic under the Indian Constitution and that the criminalization of homosexuality violated the rights to equality, privacy, and dignity. While this case did not specifically address same-sex marriage, it laid the foundation for further discussions on LGBTQ+ rights in India.

SOCIAL IMPLICATIONS

The topic of same-sex marriage in Indian society is complex and multifaceted. Traditionally, Indian society has been influenced by conservative social norms and cultural values that prioritize heterosexual marriages and family structures. Historically, same-sex relationships and marriages have been largely stigmatized and often considered taboo.

However, in recent years, there has been a gradual shift in societal attitudes and increased visibility of LGBTQ+ individuals in India. The decriminalization of consensual same-sex

² 160 Delhi Law Times 277

³ AIR 2018 SC 4321; W. P. (Crl.) No. 76 of 2016; D. No. 14961/2016

relationships by the Indian courts in 2018 was a significant milestone that helped initiate conversations and promote acceptance of LGBTQ+ rights.⁴

While acceptance and understanding of same-sex marriage are still evolving, there has been a growing movement advocating for equal rights and recognition for same-sex couples in India. LGBTQ+ activists, organizations, and allies are working towards promoting inclusivity, challenging discriminatory attitudes, and pushing for legal reforms to recognize same-sex marriages.

It's important to note that Indian society is diverse and consists of various cultural, religious, and regional communities, each with its own unique perspectives on same-sex marriage. Some progressive individuals and groups within these communities are actively supporting LGBTQ+ rights, while others may hold more conservative views.

Overall, the discourse surrounding same-sex marriage in Indian society is ongoing, and opinions vary significantly. However, there is a gradual positive shift towards greater acceptance and inclusion of the LGBTQ+ community, paving the way for potential changes in societal attitudes and legal recognition in the future.

1. **Changing Attitudes:** Same-sex marriage has sparked a shift in societal attitudes towards LGBTQ+ individuals and relationships in India. As conversations around same-sex marriage gain prominence, more people are exposed to diverse perspectives and personal stories, leading to increased acceptance and understanding.
2. **LGBTQ+ Visibility:** Same-sex marriage provides visibility to the LGBTQ+ community and challenges the prevailing heteronormative narrative. Public discussions and media coverage of same-sex marriages can help debunk stereotypes, break down prejudices, and foster empathy and support for LGBTQ+ individuals.
3. **Reduced Stigma and Discrimination:** Legal recognition of same-sex marriage can contribute to the reduction of stigma and discrimination faced by LGBTQ+ individuals. As marriage is seen as a socially respected and accepted institution, the acknowledgement of same-sex marriages can validate the relationships of LGBTQ+ couples and promote societal acceptance.

⁴ Chamie, J., & Mirkin, B. (2011). Same-Sex Marriage: A New Social Phenomenon. *Population and Development Review*, 37(3), 529–551. <http://www.jstor.org/stable/23036054>

4. **Family Acceptance:** Same-sex marriage has the potential to influence family dynamics and foster acceptance within families. Legal recognition of same-sex marriages may encourage families to acknowledge and support their LGBTQ+ family members, facilitating stronger family bonds and reducing estrangement.
5. **Cultural Shift:** Same-sex marriage challenges traditional cultural norms surrounding marriage and gender roles in Indian society. It can spark conversations about individual autonomy, gender equality, and the rights of LGBTQ+ individuals, promoting a more inclusive and diverse understanding of relationships and family structures.
6. **Resistance and Backlash:** While attitudes are changing, same-sex marriage still faces resistance and backlash from conservative sections of society. Deeply rooted cultural and religious beliefs, as well as misconceptions and lack of understanding, can lead to opposition and societal divisions.
7. **Activism and Advocacy:** The movement for same-sex marriage has brought together LGBTQ+ activists, organizations, and allies, fostering a sense of community and solidarity. Activism surrounding same-sex marriage has the potential to mobilize and empower the LGBTQ+ community, driving broader social change and advocacy for equal rights.
8. **Intersectionality:** The social implications of same-sex marriage intersect with other aspects of identity such as gender, caste, class, and religion. LGBTQ+ individuals from marginalized communities may face compounded discrimination and additional challenges in accessing the rights and benefits associated with same-sex marriage.

As societal attitudes continue to evolve, the social implications of same-sex marriage in India are subject to ongoing change and negotiation. Dialogue, education, and inclusive policies can contribute to a more equitable and accepting society for LGBTQ+ individuals and their relationships.

Same-sex marriage in India carries significant social implications due to the prevailing cultural and societal norms. Traditional values, family structures, and conservative attitudes towards sexuality can pose challenges to the acceptance of same-sex relationships and marriage. Homosexuality and non-heteronormative identities have historically faced stigmatization and marginalization, contributing to social prejudice and discrimination.

However, there has been a gradual shift in societal attitudes in recent years. Advocacy groups, LGBTQ+ activists, and allies have been working towards increasing awareness, promoting inclusivity, and challenging stereotypes. Public discourse on LGBTQ+ rights and same-sex marriage has gained momentum, with more people engaging in discussions on equal rights and individual freedom. Social media platforms and mainstream media have played a crucial role in shaping public opinion and highlighting the struggles and aspirations of the LGBTQ+ community.⁵

RELIGIOUS IMPLICATIONS

1. **Diverse Religious Perspectives:** Different religions in India have varying views on homosexuality and same-sex relationships. Within each religion, there is a spectrum of beliefs, ranging from acceptance and support to condemnation and rejection. These religious perspectives shape individual attitudes and can influence public discourse on same-sex marriage.
2. **Scriptural Interpretation:** Religious implications of same-sex marriage often revolve around the interpretation of religious scriptures. Scholars and religious leaders engage in ongoing debates regarding the relevance and meaning of religious texts in the context of same-sex relationships. Some argue for reinterpretation to accommodate LGBTQ+ individuals, while others adhere to traditional interpretations that oppose same-sex unions.
3. **Religious Freedom and Individual Rights:** Discussions surrounding same-sex marriage raise questions about religious freedom and the rights of individuals. Some argue that religious institutions should have the freedom to determine their own stance on same-sex marriage, while others assert the need to balance religious freedom with the equal rights of LGBTQ+ individuals.
4. **Intersection of Faith and Identity:** For LGBTQ+ individuals who are part of religious communities, the recognition of same-sex marriage can have profound personal and spiritual implications. It can involve reconciling one's sexual orientation or gender

⁵ Hunt, M. E., Ellison, M. M., Townes, E. M., Cheng, P. S., Ackelsberg, M., Plaskow, J., & Bauer-Levesque, A. (2004). Roundtable Discussion: Same-Sex Marriage. *Journal of Feminist Studies in Religion*, 20(2), 83–117. <http://www.jstor.org/stable/25002505>

identity with religious teachings, seeking acceptance within religious communities, and navigating the tension between religious beliefs and LGBTQ+ identities.

5. **Role of Religious Institutions:** Religious institutions often play a significant role in shaping public opinion and influencing legal discussions surrounding same-sex marriage. They may engage in activism, advocacy, or resistance based on their religious teachings and beliefs. The stance taken by religious leaders and institutions can have a profound impact on the acceptance and legal recognition of same-sex marriage.
6. **Interfaith Dialogue:** Same-sex marriage provides opportunities for interfaith dialogue and understanding. It encourages conversations between individuals of different faiths to explore common ground and address differences in beliefs and attitudes towards same-sex relationships. Interfaith dialogue can contribute to increased empathy, respect, and cooperation in navigating the religious implications of same-sex marriage.

It is important to note that religious implications are diverse and can vary within and between religious traditions. Individual believers may interpret their faith's teachings differently and may have differing levels of acceptance towards same-sex marriage. As societal attitudes evolve, religious communities continue to engage in theological discussions and re-evaluations regarding same-sex relationships and marriage.

Religion holds a significant place in the lives of many Indians, and religious beliefs often influence social attitudes and legal frameworks. The religious implications of same-sex marriage in India are multifaceted and varied. Different religions have diverse perspectives on homosexuality and same-sex relationships.

For instance, within Hinduism, which is the majority religion in India, attitudes towards same-sex relationships vary. Some Hindu scholars and organizations have expressed support for LGBTQ+ rights and inclusivity, while others hold more conservative views. Similarly, other major religions in India, such as Islam, Christianity, Sikhism, and Buddhism, have different interpretations of homosexuality and same-sex relationships, ranging from acceptance to condemnation.⁶

⁶ Gates, G. J. (2015). Marriage and Family: LGBT Individuals and Same-Sex Couples. *The Future of Children*, 25(2), 67–87. <http://www.jstor.org/stable/43581973>

Religious institutions, leaders, and followers often play a role in shaping public opinion and influencing the legal discourse surrounding same-sex marriage. Debates on religious freedom, the reinterpretation of scriptures, and the need to reconcile tradition with modern societal values are ongoing.

INTERNATIONAL SCENARIO REGARDING SAME-SEX MARRIAGE

The international scenario regarding same-sex marriage varies from country to country. Here are some notable developments:

1. Netherlands (2001): The Netherlands became the first country to legalize same-sex marriage.⁷
2. Other Countries: Since the legalization in the Netherlands, many other countries have followed suit, including Belgium, Spain, Canada, South Africa, Norway, Sweden, Portugal, Iceland, Argentina, Denmark, Brazil, France, Uruguay, New Zealand, the United Kingdom (excluding Northern Ireland), Luxembourg, Finland, and Austria. These countries have recognized same-sex marriage either through legislative acts or court decisions.
3. United States (2015): The United States legalized same-sex marriage nationwide in 2015 following the landmark case of *Obergefell v. Hodges*, in which the Supreme Court ruled that same-sex marriage bans were unconstitutional.
4. Other Legal Recognition: In several countries, while full marriage equality might not be in place, there are various forms of legal recognition for same-sex couples, such as civil unions or registered partnerships. Examples include Germany, Switzerland, Australia, and several states in Mexico.⁸

⁷ <https://www.baptistpress.com/resource-library/news/netherlands-is-first-nation-with-same-sex-marriage-law/> last seen on 02/05/2023

⁸ BERNSTEIN, M. (2015). SAME-SEX MARRIAGE AND THE FUTURE OF THE LGBT MOVEMENT: SWS Presidential Address. *Gender and Society*, 29(3), 321–337. <http://www.jstor.org/stable/43669974>

5. Same sex marriage has been a contentious issue in the United States for many years. It has been the subject of much debate and legal wrangling, with a variety of opinions and perspectives on both sides of the issue. The debate over same sex marriage has been focused on both civil rights and religious beliefs, and has been a source of political and social controversy in many jurisdictions. Historically, same sex marriage has not been legally recognized in the United States, with the first legal recognition of same sex marriage occurring in Massachusetts in 2004. Since then, a number of other states have passed laws legalizing same sex marriage, and the issue has been the subject of numerous court cases. The U.S. Supreme Court has also weighed in on the issue, ruling in 2015 that same sex couples have the right to marry, and that no state can deny them the right. Despite this ruling, there are still those who oppose same sex marriage, citing religious and moral beliefs. Opponents of same sex marriage have argued that it goes against their religious beliefs and that it undermines the sanctity of traditional marriage between a man and a woman. Others have argued that same sex marriage could lead to a breakdown of the traditional family structure, and that it could have negative social and psychological impacts on children. Proponents of same sex marriage, on the other hand, argue that it is a matter of civil rights and that denying same sex couples the right to marry is a form of discrimination. They also point out that same sex couples have the same rights and responsibilities as heterosexual couples, and should thus be afforded the same legal recognition. Regardless of one's opinion on the issue, it is clear that same sex marriage is a complex and often emotionally charged issue.⁹

The idea of same sex marriage is a relatively new concept, having only recently been legalized in the United States. Prior to 2004, same sex marriage was not legally recognized anywhere in the country. However, this did not mean that same sex couples did not exist, or that they were not forming relationships and families. In fact, same sex couples have been present in the United States since at least the mid-1800s. There were numerous same sex couples who lived together and formed relationships, although these were not legally recognized. The first known same sex marriage in the United States occurred in 1971 when two men in Minnesota exchanged vows in a ceremony that was not legally recognized. In the years since then, the issue of same sex marriage has become increasingly prominent. In 1996, the U.S. Congress passed the Defense of Marriage Act (DOMA), which defined marriage as between one man

⁹ Meezan, W., & Rauch, J. (2005). Gay Marriage, Same-Sex Parenting, and America's Children. *The Future of Children*, 15(2), 97–115. <http://www.jstor.org/stable/3556565>

and one woman and prevented the federal government from recognizing same sex marriages. This law was struck down in 2013 by the U.S. Supreme Court. In 2004, same sex marriage was legalized in Massachusetts, becoming the first state in the United States to do so. Since then, a number of other states have passed laws legalizing same sex marriage, and the issue has been the subject of numerous court cases. In 2015, the U.S. Supreme Court ruled that same sex couples have the right to marry, and that no state can deny them the right.

The debate over same sex marriage is a complex, with various opinions and perspectives on both sides.¹⁰ Proponents of same sex marriage argue that it is a matter of civil rights and that denying same sex couples the right to marry is a form of discrimination. They also point out that same sex couples have the same rights and responsibilities as heterosexual couples, and should thus be afforded the same legal recognition. Opponents of same sex marriage, on the other hand, cite religious and moral beliefs as the basis for their opposition. They argue that same sex marriage goes against their religious beliefs and that it undermines the sanctity of traditional marriage between a man and a woman. Others have argued that same sex marriage could lead to a breakdown of the traditional family structure, and that it could have negative social and psychological impacts on children.

In 2015, the U.S. Supreme Court ruled that same sex couples have the right to marry, and that no state can deny them the right. Since then, same sex marriage has been legally recognized in all 50 states, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Same sex couples can now receive the same federal benefits as heterosexual married couples, including the right to file joint taxes, the right to sponsor a partner for immigration, and the right to visit a partner in the hospital. Despite this ruling, there are still those who oppose same sex marriage. Some states have passed laws that allow businesses and individuals to refuse services to same sex couples, and some religious organizations have argued that same sex marriage is immoral and should not be recognized. It is likely that the debate over same sex marriage will continue for some time as both sides continue to make their case. Conclusion Same sex marriage has been a contentious issue in the United States for many years. Despite the U.S. Supreme Court ruling in 2015 that same sex couples have the right to marry, the debate over same sex marriage is still ongoing. Proponents of same sex marriage argue that it is a matter of civil rights and that denying same sex couples the right to marry is a form of

¹⁰ Grossi, R. (2014). The Foregrounding of Love in the Same-Sex Marriage Debate. In *Looking for Love in the Legal Discourse of Marriage* (pp. 83–106). ANU Press. <http://www.jstor.org/stable/j.ctt13www3x.8>

discrimination. Opponents, on the other hand, cite religious and moral beliefs as the basis for their opposition. Regardless of one's opinion on the issue, it is clear that same sex marriage is a complex and often emotionally charged issue that will likely be the subject of much debate for years to come.

CONCLUSION

The legal, social, and religious implications of same-sex marriage in India reflect a complex and evolving landscape. While the legal framework currently does not recognize same-sex marriage, there are positive developments in terms of LGBTQ+ rights and increasing acceptance within society. Ongoing discussions, advocacy, and societal shifts are contributing to a changing narrative on same-sex marriage, challenging traditional norms, and paving the way for potential legal reforms in the future. The interplay between legal, social, and religious perspectives will continue to shape the path towards recognition and acceptance of same-sex marriage in India.

Looking towards the future, there's a stopgap that India will continue to make progress towards lesser LGBTQ rights. There have been recent positive developments, similar to the addition of gender identity in the country's tale and the decision by several state governments to give transgender individuals job proportions and reservation benefits. The Indian government is also considering legalizing same-coitus marriage in the future, particularly in light of the growing global trend towards marriage equivalency. The recent legalization of same-coitus marriage in neighbouring countries like Nepal and Taiwan could put pressure on India to follow suit. still, it's important to note that there's still resistance to LGBTQ rights in India, particularly from conservative religious groups. Any attempts to push for lesser legal recognition and protection of LGBTQ rights could face opposition from these groups, leading to implicit legal and political battles. Overall, the future of LGBTQ rights in India remains uncertain. While there are positive developments and implicit progress, there are also challenges and obstacles that need to be overcome. It's important for LGBTQ activists and sympathizers to continue championing their rights and pushing for change, while also working to raise mindfulness and promote lesser acceptance and understanding in society as a whole.

CHAPTER 14

EXPLORING THE RECENT TRENDS OF DIVORCE IN INDIA

EXPLORING THE RECENT TRENDS OF DIVORCE IN INDIA

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ABSTRACT

The current socio-legitimate investigation on the advancement of laws on Hindu Marriage Dissolution and the degree of unification is primarily based on exploratory and diagnostic fact discovering, which provides a guide for deciding whether this critical part of individual laws of various religious networks can be made uniform or not. The disintegration of Hindu marriage' in any instance referred to as separate' is the final and legal termination of the marriage. It is seen as one type of tool for dealing with the stresses and problems that come with marriage. The influence of this has a broader dynamic seen from the ultimate goal of the general population. Mental harm, the offspring of a broken family, or a broken marriage experience all contribute to a stable marriage. This was the scenario prior to the Hindu Marriage Act of 1955 when Hindu marriage was insoluble. However, it is now rendered solvent in the Act of 1955 and even made disintegration gradually easier following the 1976 Act amendment'. The disintegration of Hindu marriage," also known as "divorce," refers to the final and legal termination of a marriage. It serves as a mechanism for addressing the challenges and

difficulties that arise within a marriage. The implications of this process have far-reaching consequences for the broader society. Mental distress, the well-being of children from broken families, and the experiences of individuals in failed marriages all contribute to the stability of the institution of marriage. Before the enactment of the Hindu Marriage Act in 1955, Hindu marriages were considered indissoluble. The Act rendered them soluble, and subsequent amendments in 1976 further facilitated the process of dissolution. This change in the legal framework aimed to address the evolving needs and aspirations of Hindu individuals seeking to end their marriages. The exploratory and diagnostic fact-finding approach employed in this investigation serves as a guide for determining whether uniformity can be achieved in the laws governing marriage dissolution across different religious communities. The ultimate goal is to establish a cohesive and equitable legal framework that respects the religious practices and beliefs of Hindus while ensuring a fair and just process for dissolving marriages.

Keywords: Law, Divorce, Unification, Impact

INTRODUCTION

This paper discusses the origin of Hindu Law and its connection to divine teaching. According to the Manu Samhita, the law was given to the Hindu people by Brahmah, who first imparted them to Manu and then to other sages. This divine origin sets Hindu laws apart from other legal systems, such as those found in the Bible and Quran, which are believed by Christians and Muslims to be laws given by God. It also notes that the Greeks saw the law as a revelation and gift from the divine. This suggests that many cultures throughout history have viewed the law as having a connection to the divine.

Overall, it highlights the importance of religion and spirituality in shaping legal systems. It suggests that the belief in a higher power can influence how laws are created and enforced and can provide a sense of meaning and purpose to those who follow them.

DIVORCE AS A PROCEDURE: STAGES OF SEPARATION PROCESS

The divorce procedure typically involves several stages that may vary depending on the laws of the jurisdiction where the divorce is being filed. However, the following are the general stages involved in the separation process:

- 1. Filing of the Petition:** The spouse who wishes to initiate the divorce process files a petition or complaint for divorce in the appropriate court. This document outlines the basis for the divorce, such as irreconcilable differences, abandonment, or adultery.
- 2. Serving the Petition:** The spouse who files the petition must serve it on the other spouse in a manner consistent with the jurisdiction's legal requirements. This is usually done by certified mail or personal service.
- 3. Response:** After receiving the petition, the other spouse must respond within a specified time frame, usually 30 days, by filing an answer or counter-petition. The response may either agree to the divorce or dispute the grounds for it.
- 4. Discovery:** During the discovery stage, both spouses exchange information relevant to the divorce, including financial and property records, through written requests or depositions.
- 5. Negotiation:** After the discovery process, the spouses may attempt to negotiate a settlement agreement regarding property division, child custody, child support, and alimony. If they are unable to reach an agreement, the court may intervene and make decisions on their behalf.
- 6. Trial:** If the spouses are unable to agree on a settlement, the divorce case may proceed to trial, where the court hears evidence and makes a final decision on the disputed issues.
- 7. Judgment:** After the court issues a judgment of divorce, the divorce becomes final, and the parties are free to remarry if they choose.

It is important to note that divorce procedures can be emotionally and financially taxing, and seeking the advice of a qualified attorney is often advisable.

RECENT TREND OF DIVORCE IN INDIA

Divorce rates in India have been increasing in recent years, reflecting a shift in societal attitudes towards marriage and the role of women in society. In the past, divorce was a taboo subject in India, and couples were expected to stay together for the sake of their families and communities. However, as more women become educated and financially independent, they are less willing to tolerate unhappy marriages and are seeking divorce as a way to improve their lives.

According to data from the National Crime Records Bureau (NCRB), the divorce rate in India has increased by over 100% in the past decade. In 2019, there were over 1.3 lakh divorce cases pending in family courts across the country. The data also reveals that the rate of divorce is highest among urban couples, with cities like Delhi, Mumbai, and Bangalore reporting the highest number of cases.

Some of the factors contributing to the rise in divorce rates in India include:

- 1. Changing social attitudes:** As Indian society becomes more open and progressive; people are no longer willing to stay in unhappy marriages due to societal pressures.
- 2. Women's empowerment:** With more women becoming financially independent and aware of their rights, they are less willing to tolerate domestic violence and other forms of abuse in their marriages.
- 3. Education:** Education is a key factor in the rise of divorce rates in India, as educated couples are more likely to seek divorce as a way to resolve marital issues.
- 4. Economic factors:** As the cost of living in India continues to rise, financial pressures are causing more marriages to break down.

Overall, the trend towards increased divorce rates in India reflects a changing society, where women are becoming more empowered and are no longer willing to tolerate unhappy marriages. However, divorce in India is still stigmatized, and there is a need for greater awareness and support for divorced individuals to ensure that they can move on with their lives in a positive way.

CAUSES OF DIVORCE IN INDIA

There are several reasons for divorce in India, some of which include:

- 1. Incompatibility:** This is one of the most common reasons for divorce in India. Couples may realize over time that they have different values, interests, or personalities, which can lead to conflicts and a breakdown in the relationship.
- 2. Domestic Violence:** Domestic violence, including physical, emotional, and sexual abuse, is a significant cause of divorce in India. Women are often the victims of domestic violence, and they may choose to leave the marriage as a way to escape the abuse.

3. **Infidelity:** Extra-marital affairs can lead to a breakdown in trust and communication in a marriage, which can ultimately lead to divorce.
4. **Dowry-related issues:** Dowry is still prevalent in some parts of India, and disputes related to dowry payments can lead to divorce.
5. **Financial issues:** Financial problems, such as debt, unemployment, or disagreements over spending, can also lead to conflicts in a marriage that can ultimately lead to divorce.
6. **Interference from in-laws:** In some cases, interference from in-laws can cause conflicts in a marriage, leading to divorce.

It is important to note that these are not the only reasons for divorce in India, and each case is unique. Marriage is a complex institution, and divorce is often the result of a combination of factors that may be different for each couple.

PROBLEM STATEMENT

Divorce is one of the most horrible and excruciating encounters in an individual's life, second just to the death of a life partner. Divorce is the last end of a marriage, dropping the legitimate obligations and duties of marriage and dissolving the obligations of marriage among a couple. Divorce is perhaps the hardest thing a family can experience. Not so far in the past the word 'Divorce' was unthinkable. Individuals even delayed their enduring marriages to maintain a strategic distance from divorce. This isn't the situation any longer. Everywhere throughout the world, the divorce rate among couples is expanding at a disturbing rate.

RESEARCH METHODOLOGY

The strategy is illustrative since, on one hand, this investigation research attempts to depict, break down, and comprehend the existing situations. It was a fact-finding investigation with adequate translation. This strategy is usually the best for obtaining data that will show relationships and depict the world as it is. According to Bickman Rog (2013), insightful examinations might address issues such as "what is or what was." It is a scientific method that involves observing and portraying a subject's behavior without influencing it in any way. It is done mostly because the scientist desired to have a better understanding of divorce and explore current particular miracles.

It is also an analytic report because the conditions and logical results are clearly explored. The focus of demonstrative examination is on the link between cause and impact, as well as action suggestions such as beginning therapeutic procedures. It is concerned with both what and why it should be completed.

THE LAWS RELATED TO DIVORCE AND HOW THEY IMPACT SOCIETY

There are various laws related to divorce that vary by country and jurisdiction. In general, divorce laws govern the process of legally ending a marriage, including issues such as property division, and spousal support. child custody, and visitation rights.

The impact of these laws on society can be significant. On the one hand, divorce laws can provide important protections for individuals who are seeking to end a marriage, particularly in cases of domestic violence or other forms of abuse. On the other hand, divorce can also have negative consequences for families and children, such as increased rates of poverty and emotional trauma. Overall, divorce laws need to balance the needs of individuals seeking to end a marriage with the potential impact on broader society.

CONCERNS REGARDING THE GROWTH OF HIGHER DIVORCE RATE

In recent years, India has experienced a significant increase in the rate of divorce, raising concerns about the impact of this trend on individuals, families, and society as a whole. While divorce was once considered taboo in India, changing social attitudes and economic factors have contributed to a rise in the number of couples seeking to end their marriages. One of the primary concerns regarding the growth of the divorce rate in India is the impact on children. Divorce can be a traumatic experience for children, who may struggle with feelings of abandonment, confusion and anger. Research has shown that children of divorced parents are more likely to experience emotional and behavioral problems, as well as academic difficulties.

Another concern is the impact on women, who may face significant social and economic challenges after a divorce. In India, women often rely on their husbands for financial support and may struggle to find employment or housing after a divorce. They may also face social stigma and discrimination, particularly in traditional communities where divorce is still viewed as shameful.

The growth of the divorce rate in India also raises broader concerns about the breakdown of traditional family structures and values. Some argue that divorce represents a threat to the institution of marriage, which is seen as a cornerstone of Indian society. Others point to the potential impact on social cohesion and stability, as families are disrupted and individuals are left to navigate the challenges of single parenthood. Despite these concerns, it is important to recognize that divorce can also be a positive step for individuals who are seeking to end an unhappy or abusive marriage. It can provide an opportunity for personal growth and healing, and may ultimately lead to healthier and more fulfilling relationships in the future. Overall, the growth of the divorce rate in India is a complex issue that requires careful consideration and attention from policymakers, social scientists, and individuals alike. By working together to address the root causes of divorce and provide support for those who are affected by it, we can help to ensure that families and communities in India thrive in the years to come.

CONCLUSION

Divorce advising. "Esther Fisher fights that the job of the guide isn't constrained to improving the character and nature of the organization's disintegration, for the advisor's job must move with the phases all the while. Before the divorce, the issue is whether a divorce ought to be looked for. During the procedure of divorce itself, bolster must be given to one or the two accomplices with the goal that they won't manhandle each other under the steady gaze of the law and won't make prisoners of their kids. After a legitimate divorce has been in all actuality, the job of the advocate is to enable the customer to accomplish the change from ex-mate to a single individual. Fisher brings up that divorce itself can be viewed as a three-organized process. Enthusiastic divorce happens when the couple understands that their relationship is finished. Physical divorce follows separation from bed and board. Lawful divorce is actually a let-down; it just records for descendants what has just been cultivated and allows the divorced couple to remarry legitimately. In each progression, appropriate advising help can facilitate the battles.

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