

# **A Legal Study of the Life and Problems of a Divorced Woman in Indian Society**

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## **Abstract**

Divorce has always been a reliable means to start discussions on unsolved issues, whether the conversation is for academic purposes or simply for fun. The discussions may go indefinitely, but the real-life consequences, particularly for women in India, have been ongoing. People tend to think that divorced women struggle with their emotions, social lives, and finances. Even the most educated and hard-working women in our society have faced social rejection since women are still primarily seen as second-class citizens. A divorce is the legal process of dissolving a marriage and freeing one spouse from the other. It happens after a marriage has been established. When two individuals have radically different thoughts and goals, they may decide to get a divorce. When husbands and wives sign a legal document, they proclaim that they are no longer married to one other and offer each other permission to be married again if they want to do so. The study investigates the challenges that women face during and after a divorce in order to identify the specific impediments that they encounter. A woman who is going through a divorce has a multitude of challenges in several aspects of her life. This legal research aims to determine how much women have been affected by the significant increase in divorce rates and to provide potential remedies to these problems.

**Keywords:** Divorce, Social Issues, Legal Rights, Divorced Women, Indian Society

## **Introduction**

Divorce is a social issue that occurs when a marriage is officially dissolved and the spouses no longer live together. When a husband and wife discover that they no longer want to live together because of a family problem, they choose to separate and seek a divorce. By signing this legal document, they are confirming that they are both presently single and that they would be open to the prospect of getting married again if they want to do so. The study also examined the challenges that women faced before and after their divorces. Women who are going through a divorce encounter a number of obstacles, such as mental health problems, financial troubles, strained relationships, and a lack of support from friends and family. Women who are getting divorced and have family members who can give them emotional and practical assistance seem to have a more manageable experience overall.

A divorce is the legal and socially accepted end of a marriage. The rights and duties of both partners in the marriage are changed. Moreover, it is a life-changing event that has significant consequences in a variety of areas, including emotional, financial, legal, social, and psychological. It is often linked to the end of a marriage by most individuals. One of the worst

things that may happen to a person is experiencing an emotional setback, such as a breakup in a love relationship. Some of the mental health symptoms that may be affected by a divorce include anxiety, wrath, despair, and low self-esteem. The person who caused the issue may take responsibility for what they did. Women who are divorced experience deterioration in their mental and physical well-being.

Divorce is a major problem at the moment. For many people, especially women, this has been a catastrophic blow to their mental and emotional health, and it has disrupted the conventional family structure. Women are seen to be the ones who hold families together, so if anything goes wrong, they are also the ones who are blamed. Some people believe that women see divorce as a greater failure than men do since they tend to make larger financial contributions and take on more duties in a marriage. In my opinion, the only way a marriage may end is by divorce, which is the official ending of the marriage. This research aims to identify the elements that contribute to divorce, including differences in socioeconomic status, career, family history, role conflict, physical flaws, educational background, and legal reasons.

### ***Research Problem***

Even while the literature review addresses many of the problems that women who have gone through a divorce experience, as well as the remedies to those problems, there is still a significant need for further research in a number of areas. Women face a number of challenges during the course of their life. Divorce is one of them, and it is reasonable for a woman who has just gone through a divorce to be frustrated with the judicial system. There is some law in place, but it is not nearly enough to meet the requirements. A divorced lady is devastated in terms of her social life, finances, and mental well-being.

The researcher is trying to establish-

- What difficulties have women who have been divorced faced, and
- What are some possible solutions to these difficulties?
- Current laws and rights.
- The reliability of the laws and rights that have previously been discussed.

### **Research Objectives**

Objectives of the research –

1. What can we do to prevent males from bothering women in this manner?
2. Do you have any ideas for reducing the stigma?
3. There are not a lot of suggestions that can be acted upon.

### **Literature Review**

There is a lack of contemporary publications, including books, journals, and newspapers, on this important subject. There have been a limited number of books, newspapers, and distinguished journals published. Books about separation and divorce, writings by Simone de Beauvoir, and Lloyd's Jurisprudence are some helpful resources. Numerous magazines have websites that allow readers to get the latest stories and take part in in-depth conversations about current events.

### ***Harassment by Father-in-law***

According to two sources, the father-in-law of the person being questioned said that he wanted to be touched. That was the main reason why they decided to get a divorce. Even still, my brother and father, who are now my in-laws, continue to pressure me to have sex with him. My father-in-law would argue that I brought you into the family for my personal benefit, not for my kid because I wanted to have sex with you. That is the reason I arranged for you to marry my son. I was left feeling exhausted both physically and mentally after dealing with him. One person who responded said, "My sister-in-law, who is separated from my brother, also lives with my family." She was unyielding in her efforts to get my husband to join her side, rather than standing by me. As a consequence of this, my spouse's violent attitude against me became more severe.

Furthermore, the arguments became more intense when her children were around. The ladies who were surveyed also said that they would have been OK with being taken advantage of if their husbands had shown them real love. However, they discovered that problems such as their husbands' disrespectful and exploitative conduct, their husbands' insensitive attitude, their husbands' biased assumptions, and their own lack of support became more difficult with time. In addition, the informants were unable to put up with significant problems, and these problems would have had a negative impact on the dignity and self-esteem of everyone involved. If a husband engages in extramarital affairs, makes derogatory remarks about male children, abuses his wife in any way (physically, verbally, emotionally, or mentally), cheats, acts abnormally, has an emotional attachment, and forces her to pay a dowry, it would be extremely difficult, if not impossible, for the couple to repair their relationship.

### ***Social Rejection***

A few ladies have stated that they were rejected by their social circles after their divorce. A lot of the people who answered the survey indicated that they were categorised as belonging to a lower socioeconomic class because of their divorce. Furthermore, they are not as close to her pals as they used to be. These women would be seen differently by certain individuals, who would think of them as being of a lesser social rank. Some of them could feel excluded from whatever they were entitled to accomplish. Instead, they started to feel guilty about their breakup and were paralysed by the idea of getting back in touch with their old friends. Maintaining the long-held belief that friends continue to have the same relationship both before and after marriage, but that, due to their social status, they desire to keep their distance when the news of the divorce is made public. If you remember from the first time, "My relationship with my friends deteriorated after I became a divorced woman." A lot of my pals did not want to spend time with me. My profession has always caused others to see me in a more favourable light. However, after my divorce, it seemed like everyone was blaming me for my shortcomings, and this was ultimately a result of my divorce.

Most women who had just been through a divorce choose to go back in with their parents. However, only a small number of them claimed that they originally had a terrible relationship with their parents. This is because of the psychological stress that is generated by the social stigma that still exists in today's atmosphere. According to most of the people who answered the survey, the parents and children of the respondents are the most important sources of inspiration.

### ***Financial Position***

People's financial conditions are important since they are part of society. As has just been seen, a person's financial condition has an impact on all of their acts, whether they are social or not. A person's financial condition is strongly tied to the amount of freedom they have to make choices in life. An individual's financial condition, or their capacity to purchase anything, has an impact on everything that they feel. Couples decide to stay together as a core family, even when it comes to post-marriage settlement agreements, so that they may take advantage of the advantages of separate savings. One of the most typical reasons for this problem is that people have to give up part of their freedom in order to take care of a child later in life. People at different levels often find themselves focused on their personal money troubles as a result of these decisions. After a divorce, a lot of people prioritise ensuring that their financial situation will be stable in the future.

### ***Psychological Issues***

Regardless matter whether a person is a male or a woman, their mental health will definitely be affected in the early aftermath of a divorce. Getting the party that is more reliant involved makes the issue worse. A person who was financially supported by the partnership is now dependent on the legal system and a society in which she feels uncomfortable. If he has been doing well, he may be able to find some time and space to push away negative thoughts. However, as is often the case with divorced women who are financially reliant on others, it requires a great deal of bravery to overcome these negative thoughts and social stigmas and to find a method to support oneself financially. These dependent women may engage in dangerous actions as a result of the bad feelings they experience.

### ***Suicide***

There are still certain areas of psychology that have not yet developed enough to provide proper support to a woman who is going through a divorce. According to the poll, one person was so embarrassed by society that they attempted to end their own life.

### ***Trauma***

Divorce may have a significant impact on a person's emotional and mental well-being, including trauma. The repercussions of trauma are typically mild and unnoticed in the early aftermath of a divorce. When a person comes to understand what her divorce has cost her at different times in her life, the effects of trauma are intensified.

### ***Lack of Confidence***

In rural areas, social stigma is a significant issue. It is not unusual for a woman who has gone through a divorce to hold herself responsible for the end of her marriage. Due of her stable position, she is more vulnerable to the opinions of society, which might cause her to get stuck in a rut. Even if a woman lives in a more liberal urban area, her marital status is still seen unfavourably. These outdated ideas prevent people from acting freely and honestly in today's reality. Some women are perfectly capable of working, but they choose not to do so. After some time, it becomes more difficult for people to return to their normal lives or even their occupations.

## ***Legal Rights of Divorced Woman in India***

### ***Maintenance Rights***

In a multifaith society like India, the cultural norms and religious customs surrounding marriage differ significantly from one location to another. When a woman gets married, she is given the opportunity to become a member of a new family. As a result, most of our laws are designed to safeguard a wife's right to her husband's money and property. A woman immediately obtains a percentage of her husband's salary when she gets married.

Even after the divorce proceedings have been filed, the court may still require or instruct her to pay for the divorce procedures. Even if there is no court order, she has the right to receive any benefits from settlements or alumni.

### ***Wife's Legal Rights***

#### ***Streedhan***

Streedhan is the term used to refer to money or property that a woman receives before, during, or after her marriage, and that no one else has a right to.

#### ***Right to Maintenance from Husband***

If the husband is found guilty of cruelty, polygamy, desertion, or a sexually transmitted illness, Section 18 of the Hindu Adoption and Assistance Act of 1956 provides assistance to the wife. Section 25 of the same legislation provides the lady with alimony and child support. If a spouse believes they have been mistreated and goes to a court that has jurisdiction under the Act, the court may compel the other spouse to give support and maintenance to the spouse who applied.

#### ***The Entitlement to a Dignified and Respectful Life***

Article 21 of the Indian Constitution guarantees that every person of India has the right to live a dignified life. This includes a person's right to mental and physical health, basic requirements, social and cultural rights, and other rights. A woman cannot be denied these rights once she has been divorced.

#### ***Making a Maintenance Claim in Compliance with Many Laws***

India is ostensibly a secular country, but its many religious groups have their own rules on marriage and divorce.

#### ***The Meaning of Maintenance Under Hindu Law***

Under the Hindu Marriage Act of 1955 and the Hindu Adoption and Assistance Act of 1956, any woman who receives a divorce is entitled to receive support from her husband. Furthermore, the Hindu Marriage Act provides that if one spouse is determined to be unable to support themselves, the other spouse may be eligible to receive maintenance payments.

In accordance with Islamic Sharia, upkeep, after a divorce, Muslim women have the right to receive NAFQA (maintenance). Three months later, the Supreme Court made a decision in the case of Mohammad Ahmed Khan vs. Shah Bano Begum. The verdict said that a divorced woman may continue to receive assistance from her ex-husband until she remarries. The verdict also provides that a woman may still claim compensation from her ex-husband even if she has adequate money. In 1986, legislation was created by MPs to protect the rights of Muslim women who are going through a divorce. Meher or dower is the term used to refer to the gifts that the groom's family presents to the bride, either before or after the wedding. A father who files for divorce from his pregnant wife is legally required to provide financial support for his child for the first two years after the child is born. After that, he must continue to provide support for the remainder of the child's life, until either parent becomes financially independent or the mother marries someone else. The wife is also entitled to various allowances in addition to kharch-e-pandan, guzara, mewa khore, etc.

#### *The Definition of Maintenance in Christian Law*

If the woman does not remarry, the legal maximum for support is one-fifth of the husband's wages. When the court makes a decision on maintenance, it takes into account the income of each spouse. The Parsi Law's definition of maintenance shows similarities with **the Christian Law**.

#### *Special Marriage Act of 1954 Marriages*

According to the court's ruling, a woman has the right to request different amounts of maintenance from her husband after they are divorced. However, in order for this to happen, a number of changes to the surrounding environment will be required. The spouse may seek assistance if the situation worsens.

#### *PendantLight Maintenance*

According to Section 24 of the Hindu Marriage Act of 1955, a party may request maintenance from the opposing party at any point throughout the case, as long as their request is reasonable and the court is convinced that it should be granted.

According to Section 36 of the Special Marriage Act 1954, a woman has the right to ask her husband for financial support if she does not have any other way to sustain herself.

According to Section 125 of the Criminal Procedure Code, the wife is also permitted to ask for temporary assistance.

This section is almost the same as clause 36 of the Special Marriage Act of 1954. According to section 36 of the Divorce Act, Christians have the right to request interim respite.

#### *Permanent Maintenance*

According to the Hindu Marriage Act of 1955, the spouse is given maintenance for the remainder of her life or until she remarries.

#### *The Adoption and Maintenance Act of 1956 in the Hindu religion*

According to section 18, the lady is entitled to get help from her husband. Furthermore, this provision states that the wife has the right to seek separate housing and maintenance if she remains faithful to her chastity or changes her religion if she is abandoned if there is another wife or concubine living in the same house if there is cruelty, leprosy, or any of the other reasons listed in section 18(2) of the Act. Furthermore, her father-in-law is liable for paying for the assistance that grieving spouses are entitled to receive under section 19 of this Act.

According to Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986, a Muslim woman is entitled to receive fair and reasonable assistance from her former spouse throughout the iddat period. The mahr or dower that was agreed upon at the time of the marriage should be equal to the whole amount.

According to Section 37 of the Special Marriage Act of 1954, only women may seek help from husbands in a court that has power over Chapters V and VI of the Act.

The district court has the authority to take into account the financial problems of the parties involved and make a fair decision about the maintenance duties of each party based on their unique circumstances. Section 37 of the Divorce Act of 1869 grants this ability.

### *Things to Think About While Considering Maintenance*

While considering maintenance, things that should be considered may be: the fundamental needs of each marriage, the socioeconomic status of the parties, what is the number of people who depend on the maintenance, the way the claimant lived their life before getting married, the responsibilities of the spouse who pays for maintenance, at any point throughout this procedure, the court may decide how much maintenance is appropriate, and the spouse who is liable for maintenance payments may be the one who has to pay for the divorce.

## **Significance of Study**

Who feels the difficulties of being alone more intensely: a woman or a husband? This long-standing argument is still going on. Divorce has an impact on both men and women. In a society like ours, where various nations have experienced modernity to varying degrees or in different ways, it is incredibly difficult to discern whether everyone is enjoying and conserving the rights that are given to all citizens. One problem is that individuals are not receiving enough information or exposure. Social stigmas are another way that society restricts individuals, even when they try to apply logic. Are women prepared to be equal to men because of cultural norms, even if laws seem to be sufficient to protect women's rights in today's society? How can a divorced woman expect the world to see her differently after going through such humiliation? Society considers her unsuitable since she has a poor income and is unable to have a steady marriage.

### *Landmark Cases*

#### ***Bhagwan Dutt v. Kamla Devi,***

In this situation, the amount of maintenance that the wife is entitled to must be assessed by taking her income into account. It was also determined that a woman who has been neglected does not

always have the right to get maintenance and that the husband is not always required to provide for her.

### ***Bhuwan Mohan Singh v. Meena***

In this case, giving a woman maintenance for her "sustenance" implies that she is living in a way that is similar to her husband's home, rather than just living in a way that is animalistic. Additionally, it is the husband's responsibility to make sure that his wife has the resources to live a dignified life that is in line with their socioeconomic status.

### ***Vanamala v. H.M. Ranganatha Bhatta***

under this specific case, it was shown that the term "wife" was employed differently under Sections 125(1) and 125(4) of the CRPC. According to the court, Section 125(4) does not apply to a married woman who decides to live apart from her husband. Because of this, a woman who obtains a divorce with her husband's approval and moves away cannot be denied financial support.

### ***Shayra Bano v Imran Khan***

The Supreme Court ruled in this ruling that a Muslim woman who is unable to support herself may still be entitled to maintenance even after the iddah periods have finished, according to Section 125 of the CrPC.

### ***Data on Divorce Procedures and the Risks Involved***

India has one of the lowest official divorce rates in the world. According to research and statistics, just around 1% of married couples in India decide to terminate their marriage and stop living together as a family.

In the United States, more than 45 per cent of legally lawful marriages end in divorce. Owing to this, the signal is very tiny compared to the average.

The idea that the legal divorce procedure in India is not well-defined is mostly due to the absence of clear requirements for marriage registration.

According to some attorneys, the majority of marriages are not legally recognized. The reality is that a lot of contemporary marriages are not legally documented.

According to Vasudha N R, Bengaluru has only added four family courts in the previous twenty years. Because of the judgmental nature of society, many feel forced to remain in unhappy marriages, since this shows that taking legal action is not essential.

In a similar way, societal taboos have an impact on individuals. According to psychotherapist Shreya Chatterjee, children who have made a bad choice about marriage face additional pressure from their families as they try to adjust for the rest of their life.

Bob Butterworth, the CEO of a website that provides customers in the United says and Canada with the best information and help about divorce proceedings and pre-made court-approval

papers for filing, says that the Indian market has a lot of promise, but there are now barriers to complete access.

It is not a simple undertaking to introduce new innovations in the sector that we are trying to enhance and increase access to for millions of people. With each new country and direction we go, we come across different cultures and ways of thinking. We remain hopeful no matter what the situation is. He said, "We want to include as much as we can in India, taking into account the local game regulations."

Prenuptial agreements are particularly important in India, unlike in the West, where they are often used. In Indian law, marriage is considered a sacred connection, which is why it cannot be limited in any way.

Recently, some individuals have claimed that a prenuptial agreement is essential in order to clarify the obligations and roles of both parties prior to getting married. Maneka Gandhi went so far as to submit her thoughts on the problem to the administration so that they would be recognized. No one has ever attempted concepts that are this hazardous before.

### **Limitation of Study**

Legal studies have a significant impact on Indian society, regardless of whether the intended study provides an exaggerated representation of the experiences and obstacles that divorced women in the nation encounter. It is also important to be aware of its limitations. The present study may apply a few possible limitations. For example, some avenues to further study can be, being able to easily get reliable and unique information on women who have gone through annulment, a certain number that was reported in the surveys, performing a mental health assessment on a woman who is divorced, being accepted by society, being able to relax without any problems during in-person interviews, and the real reasons behind every divorce.

### **Conclusion**

There are many social factors involved in the complicated process of divorce. It is found in every civilization, regardless of whether it is legal or considered a social norm. In a culture that is more open and industrialized, this occurs organically. A new social phenomenon has arisen due to the changes in society that have been brought about by modernity and urbanization occurring at the same time. It is necessary for sociologists to examine it. Researchers who want to learn more about the reasons for divorce in the future may find the sociological data offered in this study to be valuable. A variety of societal, familial, emotional, and economic issues might affect the numerous types of dissatisfaction that can occur in a marriage. After a divorce, many women have extra social, economic, and cultural restraints that arise from this significant life event, and many suffer in silence as a consequence. Children who live in these families often experience a lack of connection to their parents and social isolation. As a result, they have a hard time interacting with other people. Divorce has a significant influence on women's personal and professional life, resulting in a number of social expenditures for them. She is now unemployed and has to depend on occupations that need low or medium skills in order to get by. Men and women have different causes for the acts they conduct. Due to social, cultural, and economic obstacles, a large number of divorces are not documented in court records. As a result, it is important to examine and assess the traditional divorce norms that are present in every country.

## **Suggestions**

In Indian culture, women must be completely aware of their social, legal, and financial duties in order to protect their whole system from calamities like as divorce.

Keep in mind that mothers who remain at home with their children do not usually spend a lot of time thinking about the family's finances. Information especially that which is related to finances, should be readily available to everyone so that they may stay up to date. The wife of the breadwinner should constantly be informed of her husband's sources of income, assets, property, and obligations.

When a woman makes the mistake indicated above, she does not pay much attention to her income or the condition of her personal assets, such as streedhan. Because of the procedure, her husband and in-laws are now the legal owners of these objects. In order to safeguard her assets as quickly as possible, a contemporary woman must be vigilant for any indications that her marriage is coming to an end.

If you are a woman and you find yourself in a situation where you require legal assistance but do not have the financial means to pay for it, you have the right to seek maintenance. Because hiring a good lawyer costs a lot of money and a woman who was considered dependent throughout her marriage may not have the funds to do so, an interim maintenance judgment might be a lifeline while she goes through the legal procedures of her case.

### ***The Role of Women***

Every woman should be acknowledged and appreciated for everything that she does for the people she cares about. People often consider the contributions of women to be less valuable than those of males. These items were made with the wife's love and care for her family, which are priceless, but that is not included here. As a result, women's rights should be given priority, and their achievements should be recognized. It is important to regularly assess the measures that are in place to protect women's assets and property.

### ***Proof Documentation***

A married lady must show how she handles her problems as they get more serious. She must be careful about what she does and does not want to do as soon as she becomes aware of it. It is essential to save every communication, whether spoken or written, in order to preserve it for potential use as evidence. When individuals employ these techniques, they are often attempting to pressure others into saying something they would prefer not to say, which might lead to them stumbling over their words.

In today's world, self-sufficiency has become a need since both men and women have to work very hard to achieve equality in every area of society. In our society, it is uncommon for women to ignore the chances they have to get an education and get a job. This need some changes. If a woman is able to meet her own financial demands, she will never have to depend on anybody else. There is a preconception that married women often allow their work to take a second place.

She becomes a cleaner, and they both quit their careers in order to aid the family and take care of everyone in it. Furthermore, because of this method, she is unable to take advantage of job chances. The end of a marriage in which one person has spent many years investing and doing chores, but who is now perceived as nervous and insecure in her former position. She may take some time to get used to it, and she could even have difficulty going back to work.

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