



Family Law in India: Marriage, Divorce and Maintenance – A Legal Perspective

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Introduction

Family law is also known as matrimonial law. It is a part of civil law that deals with marriage, divorce, maintenance, adoption, guardianship, and succession. In India there are different communities of people are living and for everyone there are different laws. For example - Hindus are governed by the Hindu Marriage Act, 1955. Muslims follow Muslim Personal Law. Christians have the Indian Christian Marriage Act, 1872. Parsis have the Parsi Marriage and Divorce Act, 1936. The Special Marriage Act protects cross-faith couples by letting them marry, divorce, and secure financial support entirely through civil law, without forcing anyone to change their religion.

Marriage under Indian Family Law

Marriage in Hindu culture is considered to be a sacred ritual. The relation of Husband and wife is considered as made for from birth to birth or forever. Once person entered into marriage it cannot be easily dissolved. It is a reason that wife is called the second half of the husband 'Ardhanarishwar'. Under the Hindu Marriage Act, 1955, there is some conditions which is written in section 5 a marriage will be valid when both people must be Hindus, not have another spouse, both should be of sound mind, the boy must be 21 and the girl 21, and they shouldn't be closely related unless their custom allows it.

Divorce and Its Legal Grounds

In most of the commonwealth countries the offence theory was considered to be the most appropriate theory of divorce. The divorce is only granted on those offences which are recognized as grounds of divorce. In Hindu Marriage Act, there are several reasons for divorce: cruelty, adultery, desertion, conversion to another religion, mental illness, renouncing the world, and if a spouse is presumed dead. Couples can also file for divorce by

mutual consent if both agree and meet the legal conditions. The dissolution of marriage is only permissible if one spouse has committed a matrimonial offence.

Courts in India usually push for reconciliation first. Family Courts often send couples for counselling, especially if there are kids. The idea is to save the marriage, if possible, but also respect that people should be able to walk away with dignity.

Maintenance: Protecting Financial Security

Maintenance is just financial support to another party. A woman has right to claim maintenance under Section 24 and 25 of the HMA, 1955, Section 125 of the BNSS, 2023 — that's the new law that replaced CrPC 125 the DVA, 2005, and other personal laws. The courts look at both parties' income, how they lived during marriage, the claimant's needs, age, health, and other factors. It's to make sure dependents can live with some stability and dignity.

Landmark Judicial Decisions

In **Shah Bano v. Mohd. Ahmed Khan (1985)**, The Supreme Court concluded that "there is no conflict between the provisions of Section 125 and those of the Muslim personal law on the question of the Muslim husband's obligation to provide maintenance for a divorced wife who is unable to maintain herself."

In **Danial Latifi v. Union of India (2001)**, The Supreme Court upheld the Muslim Women provisions. It stated that a Muslim husband is obligated to provide maintenance and reasonable provisions for his divorced wife's future.

In **Shayara Bano v. Union of India (2017)**, the landmark case that questioned the constitutional validity of Triple Talaq and the fundamental rights of Muslim women in India. It took a step towards women's rights to equality and dignity and secularism of the country. The case held the Talaq-e-biddat custom invalid and unlawful.

Challenges and the Way Forward

There are some challenges too like cases are pending on for years, which causes huge emotional and financial stress. Many people don't even know their rights. Some provisions get misused. Financial dependency and social stigma around divorce still make it hard for people to get justice.

To fix this, we need faster case disposal, stronger mediation, more legal awareness, and better enforcement of maintenance orders. That's how the system can actually help families instead of hurting them.

Conclusion

India is a Secular Country. People from different religions reside here, the personal laws of the Parties are given an upper hand while dealing with the personal issues of the party. Maintenance is often seen as a biased favour granted to woman, but looking at the vulnerable nature of a woman her dignity and needs are to be protected in the best way possible. Further, the amounts vary as per the condition of both the husband and wife and in certain cases the court may reduce the amount taking into consideration the condition of wife. Some Laws in India provide maintenance to the husband in certain cases. Whereas Mutual Divorce is generally less traumatic for the parties and their families, contested divorce brings more problems which relate to child custody, maintenance and other things.