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**The Rising Trend of Divorce in India: Unraveling Societal Shifts Changing Perspectives**

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**ABSTRACT:**

India, a country known for its strong emphasis on family values and tradition, is witnessing a significant increase in divorce rates. In recent years, there has been a noticeable shift in societal attitudes toward marriage and divorce, leading to a surge in the dissolution of marriages across the country. This article aims to explore the various factors contributing to the rise in divorce in India and shed light on the changing dynamics of relationships in contemporary Indian society. In India, there are different types of divorce that individuals can seek based on their specific circumstances. Here are some of the common types of divorce recognized under Indian law:

**Mutual Consent Divorce:** this is the most common type of divorce in India. It occurs when both parties mutually agree to end their marriage life and file a joint petition stating their desire for divorce. The couple must have been living separately for a specified period (usually one year) before filing for mutual consent divorce.<sup>1</sup>

**Contested Divorce:** In a contested divorce, one party initiates the divorce proceedings without the consent of the other party. It occurs when there are significant disagreements or disputes between the spouses, such as cruelty, desertion, adultery, or mental illness. The party seeking divorce must prove these grounds in court.<sup>2</sup>

**Desertion Divorce:** Desertion divorce is filed when one spouse abandons the other without any reasonable cause or justification. The deserted spouse can file for divorce on the grounds of desertion if the abandonment has lasted for the continuous period specified by law (usually two years).<sup>3</sup>

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<sup>1</sup> A Constitution Bench of the Supreme Court has held that it can invoke the special powers under Article 142 of the Constitution of India to waive the waiting period of 6 to 8 months prescribed for seeking divorce through mutual consent as per Section 13-B of the Hindu Marriage Act 1955.

<sup>2</sup> This divorce takes about 3-5 years for final decision of the court

<sup>3</sup> As per clause (ib) of sub-section (1) of Section 13 of Hindu Marriage Act, the desertion must be for a continuous period of not less than 2 years immediately preceding the Institution of the petition.

**Adultery Divorce:** Adultery divorce can be sought when one spouse engages in a voluntary sexual relationship outside of the marriage. The aggrieved spouse can file for divorce based on adultery as a ground, providing evidence of the extramarital affair.<sup>4</sup>

- ❖ **Cruelty Divorce:** Cruelty divorce can be filed when one spouse treats the other with cruelty, making it impossible for them to continue living together. This can include physical, mental, or emotional abuse.
- ❖ **Conversion Divorce:** If one spouse converts to another religion, and as a result, the other spouse is not willing to continue the marriage, the spouse facing religious conversion can file for conversion divorce.
- ❖ **Judicial Separation:** Judicial separation is not technically a divorce but a legal recognition that the couple is living separately. It allows the couple to live apart without formally dissolving the marriage. It can be sought on various grounds such as cruelty, desertion, or adultery. If the couple decides to reconcile during the period of judicial separation, they can resume their marital relationship.

### **Reasons for Dissolution of Marriage in Present Society:**

In the present society, there are several reasons that contribute to the dissolution of marriages. It's important to note that the reasons can vary greatly depending on individual circumstances and cultural factors.<sup>5</sup> However, some common factors that often lead to the breakdown of marriages in modern society include:

- **Lack of Communication:** Communication is a fundamental aspect of any successful relationship. When couples struggle to effectively communicate their needs, desires, and concerns, it can lead to misunderstandings, resentment, and a breakdown of the marital bond.

<sup>4</sup> The Supreme Court has issued notice in a Special Leave Petition filed by husband challenging a court direction which allowed the plea of his wife- who is alleging adultery by him- to obtain and preserve his call detail records and details relating to hotel stay. The petitioner contended that the decision of the family court infringes his fundamental right to privacy. The High Court had set a “regressive and draconian” precedent turning the clock behind and taking the society back to the era prior to Justice KS Puttaswamy (Retd) v. Union of India (2017).

<sup>5</sup> couple Family Pschol, Shelby B. Scott, Galena K. Rhoades, Scott M. Stanley, Elizabeth S. Allen, and Howard J. Markman, Reasons for Divorce and Recollections of Premarital Intervention: Implications for Improving Relationship Education, ncbi.nlm, (July. 01, 2023, 9:29 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4012696/>

- **Infidelity:** Extramarital affairs can be devastating to a marriage, eroding trust and causing emotional pain. The discovery of an affair often leads to irreparable damage to the relationship, leading to divorce.
- **Financial Issues:** Financial stress and disagreements over money matters can put a strain on a marriage. Differences in spending habits, debt, or financial instability can lead to conflict and, in some cases, result in divorce.
- **Incompatibility:** Over time, couples may realize that they have significant differences in values, goals, or interests that make it challenging to sustain a fulfilling partnership. Incompatibility in areas such as lifestyle choices, religious beliefs, or parenting styles can contribute to the dissolution of marriages.
- **Domestic Violence and Abuse:** Physical, emotional, or sexual abuse within a marriage can be a major reason for divorce. Spousal abuse creates an unsafe and unhealthy environment, often necessitating the end of the relationship to ensure the safety and well-being of the victim and any children involved.<sup>6</sup>
- **Substance Abuse and Addiction:** Substance abuse problems, including alcohol or drug addiction, can place significant strain on a marriage. The impact of addiction on trust, emotional stability, and the ability to maintain a healthy relationship can often lead to divorce.
- **Changing Gender Roles and Expectations:** As societal norms evolve, shifting gender roles and expectations can impact marriages. Women's increased education, career aspirations, and desire for independence can create conflicts within traditional marriages, leading to the breakdown of the relationship.<sup>7</sup>
- **Unrealistic Expectations:** Unrealistic expectations about marriage and the belief that it should always be a constant state of happiness and fulfillment can lead to disappointment when reality falls short. When couples face challenges and difficulties, the inability to cope with these realities may lead to divorce.
- **Lack of Intimacy and Emotional Connection:** A lack of emotional connection, intimacy, or sexual dissatisfaction can erode the foundation of a marriage. The absence

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<sup>6</sup> Protection of Women from Domestic Violence Act of 2005. An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. Section 3 of the Act explains about kinds of Domestic Violence and definition of Domestic Violence.

<sup>7</sup> J Marriage Fam, Changing Gender Norms and Marriage Dynamics in the United States, ncbi, (July. 01, 2023, 9:29 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5766036/>

of emotional and physical closeness can contribute to feelings of unhappiness and ultimately lead to divorce.<sup>8</sup>

It's important to remember that every marriage is unique, and the reasons for divorce can be complex and multi-faceted. Additionally, societal and cultural factors can influence the prevalence of certain reasons for divorce in specific regions or communities. Understanding and addressing these factors can help individuals and couples navigate the challenges and work forwards healthier and more fulfilling relationships.

### **Changing Social Dynamics:**

Indian society has traditionally placed great importance on the institution of marriage, considering it a sacred bond that lasts a lifetime. However, in recent years, societal attitudes have undergone a transformation. Factors such as urbanization, increased education and career opportunities for women, and exposure to Western influences have played a pivotal role in reshaping the mindset of individuals, especially in urban areas. The younger generation is now more inclined to prioritize personal fulfillment, compatibility, and individual happiness within a marriage, leading to a higher propensity for divorce.

### **Western Culture and Trend Affecting Marriages in India:**

In the era of globalization and increased cultural exchange, Indian society is witnessing the influence of present trends and Western culture on the institution of marriage. This article explores the effects of these influences on marriage in India, examining both the positive and negative aspects and the challenges they pose to traditional marital dynamics.

### **Changing Attitudes Towards Marriage:**

Present trends and Western culture have contributed to shifting attitudes toward marriage in India.<sup>9</sup> The emphasis on personal fulfillment, individual freedom, and compatibility has gained prominence, challenging traditional notions of arranged marriages and societal expectations. Younger generations are increasingly prioritizing love marriages, seeking partners based on

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<sup>8</sup> Plekan Law, A Top Cause of Divorce: Lack of Physical Intimacy In a Relationship, plekanlaw, (July. 01, 2023, 9:29 PM), <https://plekanlaw.com/effects-of-lack-of-physical-intimacy-in-a-relationship/>

<sup>9</sup> India is considered to have the lowest divorce rate globally, estimated to be around 1.1% but, in the past few years, India is witnessing a rise of 50% to 60 % in divorce rates, especially in the Urban Areas.

shared interests, compatibility, and emotional connections, rather than solely relying on familial and societal factors.

### **Evolving Gender Roles and Equality:**

Western culture has played a significant role in reshaping gender roles and promoting gender equality in marriages. Women in India are increasingly pursuing higher education, entering the workforce, and seeking independence. This shift has altered power dynamics within marriages, leading to more egalitarian relationships, where decisions are shared, and both partners have equal opportunities and responsibilities.

### **Influence on Relationship Dynamics:**

Western culture has also influenced relationship dynamics within marriages. Concepts such as open communication, emotional intimacy, and mutual respect are gaining prominence. Couples are now more inclined to express their emotions, discuss their expectations, and work towards shared goals. Additionally, concepts like dating, cohabitation, and pre-marital relationships are becoming more prevalent, allowing couples to better understand each other before committing to marriage.

### **Challenges to Traditional Values:**

While the influence of present trends and Western culture brings positive changes, it also presents challenges to traditional Indian values. Rapid urbanization, increased exposure to media, and Western lifestyle trends have led to a rise in materialistic pursuits, consumerism, and individualism. These trends can create a strain on marriages, as couples may prioritize personal aspirations over family and societal expectations.

### **Impact on Extended Family Dynamics:**

Traditional Indian marriages often involve strong ties with extended family members. However, present trends and Western culture can challenge these dynamics. Couples may face conflicts when trying to balance the expectations and values of their families with their own desires and choices. This can lead to tension and strain on marital relationships, requiring open communication and negotiation to find a harmonious balance.

**Preserving Indian Cultural Values:**

While it is essential to embrace cultural diversity and the benefits of Western influences, it is equally important to preserve Indian cultural values within marriages. Maintaining respect for elders, honoring familial obligations, and fostering a sense of community are aspects that can strengthen marriages in the face of changing trends. Incorporating traditional values, rituals, and customs can help couples maintain a connection to their cultural roots while adapting to modern influences.

The influence of present trends and Western culture on marriages in India is undeniable. It has brought about positive changes, such as increased individual autonomy, gender equality, and open communication, as well as challenges to traditional values and extended family dynamics. The key lies in finding a balance between embracing the benefits of modern influences while preserving core Indian cultural values. By fostering open dialogue, mutual understanding, and respect for cultural diversity, couples can navigate the complexities of these influences and build strong, fulfilling marriages that are rooted in Indian ethos and adaptive to changing times.

**The Impact of Feminism on Current Divorce Situations in India:**

The changing roles and expectations of men and women within Indian society have contributed significantly to the rise in divorces. Women are now more empowered, financially independent, and assertive about their rights. They are increasingly challenging societal norms and traditional gender roles, refusing to endure abusive or unhappy marriages. This empowerment has given them the courage to seek divorce as a means to escape from oppressive relationships, thereby increasing divorce rates.

Feminism, a global movement advocating for gender equality and women's rights, has had a profound impact on various aspects of society, including marriage and divorce. In the Indian context, feminism has played a significant role in influencing the current divorce situation. This article examines how feminism has shaped attitudes, legal reforms, and the empowerment of women, leading to changes in divorce trends in India.<sup>10</sup>

**Empowerment of Women:**

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<sup>10</sup> history.com, <https://www.history.com/topics/womens-history/feminism-womens-history>, (last visited July. 6, 2023).

One of the core principles of feminism is the empowerment of women, which has had a transformative effect on marriage and divorce dynamics in India. As women gain access to education, employment opportunities, and legal rights, they are becoming more independent and assertive. This empowerment has given women the confidence to challenge oppressive or abusive marriages and seek divorce as a means to escape such situations.

Feminism has played a crucial role in challenging traditional gender roles that have long been entrenched in Indian society. By advocating for gender equality and dismantling rigid gender norms, feminism has encouraged women to question their subordinate status within marriages. Women are now more inclined to seek partnerships based on mutual respect, shared responsibilities, and the recognition of their individual rights, which can contribute to changes in divorce patterns.

### **Breaking the Silence on Marital Issues:**

Feminism has also played a significant role in breaking the silence around marital issues, including those related to divorce. Through feminist activism, women are encouraged to speak up about their experiences of marital unhappiness, domestic violence, and inequality. This has created awareness and encouraged discussions surrounding divorce, reducing the stigma associated with it and providing a support network for women contemplating or going through the divorce process.

### **Changing Attitudes and Perceptions:**

Feminism has played a pivotal role in shifting societal attitudes and perceptions toward divorce. As feminist ideas gain wider acceptance, divorce is increasingly seen as a legitimate option for women seeking personal fulfillment, escaping abusive relationships, or asserting their rights. This changing perception has contributed to more a supportive environment for women considering divorce and has reduced the social stigma associated with it.

Feminism's influence on the current divorce situation in India cannot be overstated. The movement's emphasis on gender equality, women's empowerment, and legal reforms have played a pivotal role in reshaping attitudes, challenging traditional gender roles, and providing women with the tools and resources to seek divorce when necessary. While feminism has contributed to changes in divorce trends, it is essential to recognize that the movement's goal is not to undermine marriage but to ensure that women have equal rights and autonomy within



marital relationships. By fostering a society that upholds gender equality and supports individuals in making informed choices, feminism has contributed to creating a more inclusive and equitable landscape for divorce in India.

### **Steps towards Controlling Divorce Rates in India:**

Controlling divorce rates and safeguarding Indian ethics and reforms is a complex task that requires a multifaceted approach. While it is important to respect individual autonomy and personal choices, there are steps that can be taken to promote healthy marriages and reduce the instances of divorce. Here are some potential measures that can be considered:

- **Educating and Counseling:** Implement comprehensive marriage education programs that focus on communication skills, conflict resolution, and understanding the responsibilities and commitments of marriage. Provide pre-marital counseling to help couples understand each other better before entering into marriage.
- **Relationship Support Services:** Establish support services such as marriage counseling centers, helplines, and support groups where couples can seek guidance and assistance in resolving conflicts and strengthening their relationship.
- **Family Mediation:** Promote the use of family mediation as an alternative dispute resolution mechanism, wherein a neutral third party helps couples find mutually agreeable solutions to their problems, rather than resorting to divorce.<sup>11</sup>
- **Strengthening Family Support Systems:** Encourage the development of robust family support systems within communities, where individuals facing marital challenges can seek guidance and support from family elders or trusted community leaders.
- **Gender Equality and Empowerment:** Continue to work towards achieving gender equality by addressing issues such as domestic violence, unequal distribution of household responsibilities, and promoting women's empowerment. Ensuring that both spouses feel respected and have equal opportunities within the marriage can contribute to healthier relationships.
- **Awareness Campaigns:** Launch awareness campaigns that highlight the importance of marriage, commitment, and the long-term consequences of divorce. These

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<sup>11</sup> The legal aspects related to resolution of family disputes through mediation is given under "Section 5 of the Family Courts Act 1984" provides a provision for the government to require the association of "Social Welfare Organization" to hold the family court to arrive at a settlement. A detailed study at [www.sharada.ac.in](http://www.sharada.ac.in)

campaigns can emphasize the impact of divorce on children, families, and society at large.

- **Marriage and Family Education in Schools:** Integrate comprehensive marriage and family education programs into the school curriculum to educate young individuals about the importance of healthy relationships, communication skills, and conflict resolution from an early age.
- **Social Support for Single Parents:** Provide social support networks and resources for single parents, ensuring that they receive the necessary assistance to raise their children effectively and minimize the negative impact of divorce on the family unit.
- **Strengthening Cultural Values:** Promote cultural values that emphasize commitment, respect for elders, and family cohesion, while also adapting to changing societal dynamics. This can be achieved through community engagement, cultural events, and initiatives that celebrate and preserve Indian traditions and ethics.

It is crucial to approach this issue with sensitivity, recognizing that divorce can sometimes be a necessary step for individuals in abusive or deeply unhappy marriages. Striking a balance between supporting healthy marriages and respecting individual choices is essential to safeguard Indian ethics which also addresses the changing dynamics of relationships in modern society.

### **Legal Role:**

Divorce is a legal right and a personal choice; the law can play a crucial role in promoting and preserving the sanctity of marriage, encouraging reconciliation, and providing necessary safeguards. Here are some specific ways in which the law can contribute:

### **Legal Framework:**

The law establishes the legal framework and procedures for divorce, ensuring that it is a well-regulated process. It sets out the grounds, conditions, and requirements for obtaining a divorce, providing a structural approach to the dissolution of marriages.

- **Counseling and Mediation:** The law can encourage or mandate counseling and mediation as part of the divorce process. These alternative dispute resolution methods can help couples explore reconciliation and amicable settlement, thereby minimizing the need for divorce and preserving the family unit.

- **Legal Aid and Support:** The law can ensure access to legal aid and support services for individuals seeking divorce. This helps ensure that individuals are aware of their legal rights, understand the implications of divorce, and receive appropriate guidance and representation throughout the process.
- **Education and Awareness:** The law can support educational initiatives and awareness campaigns on the importance of marriage, commitment, and the consequences of divorce. These efforts can foster a cultural shift by promoting healthy relationships, effective communication, and conflict-resolution skills.
- **Marriage Registration and Documentation:** The law can mandate proper marriage registration and documentation, ensuring transparency and legal validity of marriages. This helps prevent fraudulent or forced marriages and ensures that the individuals enter into marriage with full awareness and consent, aligning with ethical considerations.
- **Children's Welfare:** Divorce involving children requires special attention to ensure their well-being. The law can establish guidelines for child custody, visitation rights, and child support to protect the rights and interests of children involved in divorce cases.
- **Protection of Vulnerable Individuals:** the law can provide protection to vulnerable individuals, such as victims of domestic violence or abuse. It can offer legal remedies, restraining orders, and support systems to ensure the safety and well-being of individuals and their children, thereby addressing the ethical aspect of safeguarding vulnerable members of society.

It is essential to strike a balance between preserving cultural values and respecting individual autonomy and personal choices. While the law can provide a framework for safeguarding Indian culture and ethics, it should also recognize the evolving dynamics of relationships and the need to protect individuals from abusive or unhappy marriages. A comprehensive approach that combines legal measures with a social support system, education, and counseling can contribute to reducing divorce rates while promoting healthy and sustainable marriages.

### **Legal Reforms:**

In recent years, India has witnessed significant legal reforms aimed at simplifying and expediting divorce proceedings. The introduction of the Family Courts Act in 1984 and subsequent amendments have provided a more accessible legal framework for couples seeking

divorce. These changes have streamlined the process, reducing the social stigma associated with divorce and encouraging more individuals to opt for legal separation when faced with irreconcilable differences.

### **Financial Independence and Economic Factors:**

The economic independence of both men and women has had a profound impact on marital relationships. Economic stability plays a vital role in determining the decision to divorce, as financial constraints can be a major source of stress in marriages. Increased economic opportunities, along with a rising emphasis on individual financial security, have given individuals the confidence to consider divorce as a viable option instead of enduring unhappy marriages.

While divorce was once heavily stigmatized in Indian society, there has been a perceptible shift in attitudes. Divorce is now viewed more as a personal choice and less as a moral failing. The media, movies, and television shows often depict divorce as a means to escape from toxic relationships or seek personal happiness. This portrayal, combined with the growing acceptance of individual autonomy, has contributed to a change in social perceptions and an increase in divorce.

### **Significant Case Laws Shaping Divorce Proceedings in India:**

Divorce laws in India have been shaped by various landmark judgments that have set precedents and provided clarity on legal aspects surrounding marital dissolution. These case laws have played a crucial role in guiding the interpretation and implementation of divorce laws in the country.<sup>12</sup> This article highlights some important case laws that have significantly influenced divorce proceedings in India and have had a lasting impact on the legal landscape.

#### **1. Saroj Rani vs. Sudarshan Kumar Chadha(1984):<sup>13</sup>**

This case dealt with the concept of cruelty as a ground for divorce under the Hindu Marriage Act. The Supreme Court held that cruelty must be of such a nature that it makes it impossible for the petitioner to live with the respondent. The judgment clarified the definition of cruelty and established that mental cruelty can be a valid ground for divorce.

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<sup>12</sup> Jannat, Key judicial decisions on divorce cases in India, blog.ipleaders, (July. 01, 2023, 9:29 PM), <https://blog.ipleaders.in/key-judicial-decisions-divorce-cases-india/>

<sup>13</sup> [Smt. Saroj Rani vs Sudarshan Kumar Chandha AIR 1984 SC 1562](#)

**2. Smt. Sureshta Devi vs. Om Prakash(1991):<sup>14</sup>**

In this case, the Supreme Court emphasized the importance of mutual consent in divorce proceedings. It held that a petition for divorce by mutual consent cannot be unilaterally withdrawn by one party. The judgment established that mutual consent is a necessary ingredient for a valid divorce by mutual consent, and both parties must express their intention to dissolve the marriage.

**3. Vishnu Dutt Sharma vs. Manju Sharma(2009):<sup>15</sup>**

This case addressed the issue of false allegations of adultery and cruelty. The Supreme Court ruled that making false allegations against the spouse constitutes mental cruelty, which can be a ground for divorce. The judgment highlighted the importance of honesty and integrity in divorce proceedings and discouraged the use of false accusations as a means to obtain a divorce.

**4. Shyamala Devada vs. Parimala(2011):<sup>16</sup>**

The Supreme Court, in this case, held that desertion by one spouse must be voluntary and intentional for it to be considered a valid ground for divorce. The judgment clarified that mere separation or living apart is not sufficient, and there must be an intention to bring cohabitation to an end to establish desertion as a ground for divorce.

**5. Bharat Hegde vs. Saroj Hegde(2016):<sup>17</sup>**

This case addressed the issue of irretrievable breakdown of marriage as a ground for divorce. The Supreme Court, in its judgment, recognized that irretrievable breakdown of marriage can be valid grounds for divorce under exceptional circumstances. The judgment provided a more liberal approach to divorce and acknowledged that sometimes the marriage may be beyond repair, and it is in the best interest of the parties to grant a divorce.

These landmark case laws have had a profound impact on divorce proceedings in India. They have brought clarity to the interpretation of legal provisions, defined the grounds for divorce, and established important principles such as mutual consent, cruelty, desertion, and irretrievable breakdown of marriage. These judgments have helped shape the legal framework surrounding divorce, ensuring that the process is fair, just, and aligned with evolving societal dynamics. It is crucial for legal professionals, couples, and stakeholders to be aware of these

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<sup>14</sup> Equivalent case law [1992 AIR 1940, 1991 SCR \(1\) 274](#)

<sup>15</sup> The appellate court decided that respondent is not willing for mutual divorce under Section 13B of the Act and appeal is dismissed.

<sup>16</sup> Shyamala Devada vs. Parimala

<sup>17</sup> Bharat Hegde vs. Saroj Hegde

significant case laws to navigate divorce proceedings effectively and ensure the protection of rights and interests in matrimonial disputes.

### CONCLUSION:

The rise in divorce rates in India can be attributed to a combination of factors, including changing societal dynamics, evolving gender roles, legal reforms, economic factors, and shifting attitudes. As individuals continue to prioritize personal fulfillment and happiness in their relationships, divorce is increasingly viewed as a legitimate option. It is essential for society to adapt to these changes and provide support systems to help individuals navigate through the emotional and legal complexities of divorce, ensuring their well-being and the well-being of any children involved.

