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*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **DIVORCE AND SOCIAL CONSEQUENCES – AN EXPLORATION ACROSS RELIGIOUS CULTURES**

AUTHORED BY - ABHEESHT SHARMA

## **ABSTRACT**

This research paper examines the social consequences of divorce across religious cultures in India. It delves into the legal frameworks governing divorce in India and investigates sociocultural attitudes towards divorce within Indian society. The paper further explores religious perspectives on divorce, focusing on Hinduism, Islam, and Christianity. Through a comparative analysis, it evaluates how divorce is perceived and handled within these religious traditions. By synthesizing legal, sociocultural, and religious viewpoints, this study provides insights into the complex interplay between divorce and religious diversity in India.

## **KEYWORDS**

Divorce, Social Consequences, Religious Cultures, India, Legal Frameworks, Sociocultural Attitudes, Hinduism, Islam, Christianity, Comparative Analysis.

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## CHAPTER 1: INTRODUCTION

Marriage and divorce in India are deeply intertwined with religious, cultural, and legal dynamics, reflecting the country's diverse social fabric. As divorce rates rise and societal attitudes evolve, understanding its implications across religious cultures becomes increasingly relevant.

This paper explores the complex relationship between divorce and religious diversity in India. It investigates the legal frameworks governing divorce, the sociocultural attitudes shaping perceptions, and the religious perspectives on marital dissolution within Hinduism, Islam, and Christianity.

By conducting a comparative analysis across religious traditions, this study aims to elucidate the multifaceted nature of divorce in India and its social consequences. Understanding these dynamics is crucial for navigating the complexities of modernity and tradition while fostering inclusivity and social cohesion amidst religious diversity.

## CHAPTER 2: LEGAL FRAMEWORKS GOVERNING DIVORCE IN INDIA

### ➤ **Hindu Marriage Act, 1955:**

The Hindu Marriage Act of 1955 is the main piece of legislation that defines the legal framework for divorce in Hinduism in India. This statute offers a comprehensive set of rules governing Hindu, Buddhist, Jains, and Sikh marriage and divorce. Divorce is defined by this act as the dissolution of marriage, and it can be requested by either spouse for any of the reasons specified in the statute. The Hindu Marriage Act acknowledges a number of divorce-related theories, such as the Irretrievable Theory, Mutual Consent Concept, and Fault Theory. The Fault Theory is mostly used in divorce situations, wherein one spouse is held accountable for marital transgressions, hence enabling the innocent spouse to pursue a divorce.

The Act lists a number of grounds for filing for divorce, including adultery, cruelty, abandonment, conversion, and mental illness. In order to provide financial support after a divorce, the act also permits married Hindu women to seek for maintenance under Section 125 of the Criminal Procedure Code. Overall, the Hindu Marriage Act of 1955 is essential in giving Hindus in India a legal framework for divorcing, covering a range of issues related to marriage dissolution and guaranteeing the safety of those pursuing a divorce within the Hindu community.<sup>1</sup>

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<sup>1</sup> The Hindu Marriage Act, 1955

➤ **Hindu Succession Act, 1956:**

The Hindu Succession Act of 1956 primarily governs the inheritance and succession of property among Hindus, Buddhists, Jains, and Sikhs in India. While the act does not directly address divorce, it plays a significant role in divorce proceedings indirectly. In cases of divorce among Hindus, the Hindu Succession Act comes into play when determining the distribution of property post-divorce. The act ensures that the distribution of assets is carried out according to its provisions, which include rules for succession and inheritance among Hindus. Therefore, the Hindu Succession Act plays a crucial role in determining how property is inherited and divided post-divorce within the Hindu community.<sup>2</sup>

➤ **Muslim Personal Law (Shariat) Application Act, 1937:**

The primary sources of Muslim Personal Laws are the Holy Quran, traditions of the Prophet (Hadis), and the general consensus of opinion amongst the ulema (Ijma).<sup>3</sup>

Section 2 of The Muslim Personal Law (Shariat) Application Act 1937, all Muslims in India (except those in Jammu Kashmir) are governed by Muslim Personal Laws/Sharia in the matters of *“intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including talaq, Ila, zihar, lain, khula and mubaraat, maintenance, dower, guardianship, gifts, trusts and trust properties, and wakfs (other than charities and charitable institutions and charitable and religious endowments)”*.<sup>4</sup>

➤ **Dissolution of Muslim Marriages Act of 1939:**

Significant legislation that unifies and explains Muslim law's provisions regarding women married under Muslim law filing lawsuits to dissolve their marriages is India's Dissolution of Muslim Marriages Act of 1939. By virtue of this act, Muslim women now have the legal ability to request a decree for the dissolution of their marriage for a number of reasons, such as the husband's cruelty, insanity, impotence, neglect, or refusal to pay maintenance. It also makes sure that a married Muslim woman's marriage is not automatically dissolved upon her

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<sup>2</sup> Hindu Succession Act, 1956

<sup>3</sup> Dev: Marriage and Divorce Laws (Muslim Personal Laws), E-book Rights of Women & Children Chapter 14, Retrieved [23-03-2024] from the World Wide Web, <https://ebooks.inflibnet.ac.in/hrdp05/chapter/marriage-and-divorce-laws-muslim-personal-laws/>

<sup>4</sup> The Muslim Personal Law (Shariat) Application Act, 1937

renunciation of Islam or conversion to another faith, enabling her to file for divorce on the reasons outlined in the act.<sup>5</sup>

➤ **Muslim Women (Protection of Rights on Marriage) Act in 2019:**

Under Islamic law, divorce, known as "Talaq," is recognized as a means for the dissolution of marriage. The Triple Talaq practice in India was addressed by the Muslim Women (Protection of Rights on Marriage) Act of 2019. The goal of this act, which replaced a previous ordinance on July 31, 2019, was to safeguard the rights of married Muslim women by outlawing divorce through the husbands' declaration of Triple Talaq. All Triple Talaq declarations, whether made in writing or electronically, were declared null and void under the Act. Triple Talaq was defined as Talaq-e-Biddat or any comparable instantaneous, final divorce announced by a Muslim male. The Act made Triple Talaq declarations illegal and made them a crime that may result in up to three years in jail and a fine. The Act also offered custody for minor children and a subsistence allowance for the wife in situations when Triple Talaq was declared.<sup>6</sup>

➤ **Indian Divorce Act, 1869:**

The Indian Divorce Act of 1869 is a significant legislation that governs the divorce of Christian couples in India. This act provides provisions for the dissolution of marriage, null and void marriages, custody of children, and more specifically for Christian marriages. It outlines grounds for divorce under section 10, allowing either a Christian man or woman to file for divorce based on specific reasons such as adultery, bestiality, rape, or sodomy. The Act also includes provisions for dissolution of marriage by mutual consent, where couples can file for divorce mutually under certain conditions. Additionally, the Act addresses the issue of adultery as a valid ground for divorce, although it is no longer a punishable criminal offense. The Indian Divorce Act ensures that only civil courts have the jurisdiction to grant a divorce, preventing personal or religious laws from governing divorce in the country. Overall, this act plays a crucial role in regulating divorce proceedings among Christian couples in India, providing a legal framework for the dissolution of marriages within the Christian community.<sup>7</sup>

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<sup>5</sup> Dissolution of Muslim Marriages Act of 1939

<sup>6</sup> Muslim Women (Protection of Rights on Marriage) Act in 2019

<sup>7</sup> Indian Divorce Act, 1869

➤ **Special Marriage Act, 1954:**

An important legal framework in India is the Special Marriage Act of 1954, which allows people of different religious beliefs or those who prefer not to practise any religion to get married in a particular manner. With the help of this statute, married couples from a variety of religious backgrounds can now legally register and celebrate their union under secular law as opposed to private legislation controlled by particular faiths. By establishing a legal framework that allows people to get married without being restricted by customary religious norms, the Special Marriage Act, 1954 significantly contributes to the promotion of interfaith and inter caste marriages. It also specifies how weddings should be solemnised and registered, guaranteeing that each party's rights are safeguarded by a legal system that is secular in nature. The act also covers a number of other marriage-related topics, such as requirements for solemnization, notice of intending marriage, objections to marriage, registration procedures, and rules pertaining to judicial separation, divorce, and the restoration of conjugal rights. All things considered, the Special Marriage Act, 1954 is a significant piece of legislation that supports the values of equality, individual choice, and secularism in Indian marriage law.<sup>8</sup>

➤ **Parsi Marriage and Divorce Act, 1936:**

The Parsi Marriage and Divorce Act of 1936 is a legislation that regulates Parsi marriage and divorce in India. This act establishes a legal framework for Parsi marriages, including the conditions that must be met for a Parsi marriage to be deemed valid, the steps involved in certifying and registering a marriage, and the consequences of breaking any of these laws. The act also addresses the problem of bigamy among Parsis, declaring that no Parsi may enter into a new marriage while their spouse is still alive without first obtaining a legal divorce or having the prior marriage declared null and void. The act also establishes Parsi Matrimonial Courts to adjudicate matrimonial disputes and has provisions for child custody and property settlement for the benefit of children. Ensuring legal clarity and protection for all participating in such proceedings, the Parsi Marriage and Divorce Act, 1936 is a vital regulatory framework that governs marriage and divorce matters within the Parsi community in India.<sup>9</sup>

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<sup>8</sup> Special Marriage Act, 1954

<sup>9</sup> Parsi Marriage and Divorce Act, 1936

### CHAPTER 3: SOCIOCULTURAL ATTITUDES TOWARDS DIVORCE IN INDIAN SOCIETY

Cultural beliefs and values play a significant role in shaping attitudes towards divorce in India. These deeply ingrained societal norms influence how divorce is perceived and approached. Some Sociocultural Attitudes towards Divorce in Indian Society are as follows:

- **Sacredness of Marriage:** The sacredness of marriage in Indian society significantly influences sociocultural attitudes towards divorce. Marriage is deeply revered, viewed as a lifelong commitment and a union between two families rather than just two individuals. The concept of arranged marriages underscores the importance of upholding familial honour and harmony, making divorce challenging as it disrupts the sanctity of this institution.<sup>10</sup> The importance of preserving family unity and the effect on social reputation make divorce-related fears of criticism, social stigma, and possible exclusion very real deterrents. A large number of people place a high priority on preserving unpleasant marriages in order to protect their children from emotional harm and to ensure their future opportunities.
- **Family Unity and Harmony:** Family unity and harmony play a crucial role in shaping sociocultural attitudes towards divorce in Indian society. The emphasis on maintaining family bonds and collective well-being influences how divorce is perceived and approached within the cultural context of India.

In Indian society, the family unit is considered the cornerstone of social structure, with extended families living together and strong family bonds deeply ingrained in cultural values. Divorce is viewed as a disruption not only to the couple but also to the extended family network, impacting the harmony and stability of the entire family. The pressure to maintain family unity often dissuades individuals from seeking divorce as they prioritize familial relationships over personal happiness.<sup>11</sup>

Furthermore, societal norms in India place great importance on upholding familial honour and harmony, making divorce a sensitive issue that can lead to social ostracization and disapproval. The fear of discord within the community and the

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<sup>10</sup> Jobs (2022): Unveiling the Intricate Cultural Landscape of Divorce in India, The Cultural Complexity Surrounding Divorce in India, Vocal Media Articles – Families, Retrieved [23-03-2024] from the World Wide Web, <https://vocal.media/families/unveiling-the-intricate-cultural-landscape-of-divorce-in-india>

<sup>11</sup> Ibid

potential impact on social reputation act as significant deterrents for individuals considering divorce.<sup>12</sup>

- **Stigma and social perception:** Stigma and social perception significantly influence sociocultural attitudes towards divorce in Indian society. The fear of judgment, social stigma, and potential ostracization associated with divorce act as significant deterrents for individuals seeking to end their marriages.

Divorced individuals, particularly women, often face social disapproval, ostracization, and a tarnished reputation due to societal norms and perceptions.

The concern about the impact on personal and professional lives, as well as the fear of what others will say, creates formidable barriers for those considering divorce. This stigma and social perception surrounding divorce contribute to the complexity of attitudes towards marital dissolution in India, shaping individual decisions and societal norms within the cultural landscape of the country.<sup>13</sup>

- **Children's Well-being:** Indian society places a high priority on the welfare of children, which has a big impact on the way people think about divorce in society. Maintaining unpleasant marriages is typically a top priority for parents who want to protect their kids from the emotional and psychological fallout. Many couples choose to put their family's needs ahead of their own happiness, even if it means sticking through an unpleasant marriage, out of concern that divorce may negatively impact their children's upbringing and future opportunities. Given the cultural importance Indian culture places on children's welfare, parents carefully consider the effects of divorce on their children, working to give them a stable upbringing and a promising future.

- **Gender Roles and Expectations:** Gender roles and expectations play a significant role in shaping sociocultural attitudes towards divorce in Indian society. Traditional gender norms and expectations within marriages have been challenged by changing social

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<sup>12</sup> Tarte and Kute (2023): Causes of Increasing Divorce Rates in India, Journal of Emerging Technologies and Innovative Research Volume 10, Issue 12, Retrieved [23-03-2024] from the World Wide Web, <https://www.jetir.org/papers/JETIR2312026.pdf>

<sup>13</sup> Jain (2020): A Study on the Attitude towards Divorce and Cohabitation in the Indian Society, Academia Research Paper, Retrieved [23-03-2024] from the World Wide Web, [https://www.academia.edu/112050503/A\\_Study\\_on\\_the\\_Attitude\\_towards\\_Divorce\\_and\\_Cohabitation\\_in\\_the\\_Indian\\_Society\\_?uc-sb-sw=104707033](https://www.academia.edu/112050503/A_Study_on_the_Attitude_towards_Divorce_and_Cohabitation_in_the_Indian_Society_?uc-sb-sw=104707033)

norms, influencing attitudes towards marital dissolution. The evolving societal attitudes toward gender roles, individualism, and personal happiness have contributed to a shift in traditional notions of marital permanence, impacting how divorce is perceived and approached. Additionally, increasing education and economic independence among women have empowered them to seek divorce as a means of escaping abusive or unsatisfactory marriages, reflecting a changing dynamic in gender relations and marital expectations. The impact of gender roles and expectations on divorce in India underscores the complex interplay of cultural values, societal changes, and individual empowerment within the context of marital relationships.<sup>14</sup>

#### **CHAPTER 4: RELIGIOUS PERSPECTIVES ON DIVORCE: HINDUISM**

**A Taboo:** In Hinduism, divorce is considered a taboo due to the deeply ingrained religious beliefs and cultural norms surrounding marriage. Traditionally, Hinduism does not approve of divorce, viewing marriage as a sacred relationship, a divine covenant, and a sacrament meant for procreation and continuation of family lineage rather than for personal pleasure.<sup>15</sup> It is considered a lifelong commitment and a union between two families rather than just two individuals.

**Indissoluble Tie:** The concept of divorce is considered alien to Hinduism, with the religion emphasizing the indissoluble tie created by marriage and the obligatory duty to uphold the marital bond throughout one's life. The concept of divorce was historically rare and discouraged, as marriage was viewed as a lifelong commitment and a duty that should be upheld by both parties throughout their lives.

**Sacredness of Marriage:** The historical context of Hindu society, where women had limited freedom and rights, further reinforces the taboo surrounding divorce, as women were often at the mercy of their husbands or in-laws without the right to seek divorce or legal separation. The stigma associated with divorce, the impact on families and children, and the challenges faced by divorced individuals, especially women, contribute to the reluctance to accept divorce within Hindu society.<sup>16</sup>

The sanctity of marriage in Hinduism influences the perception of divorce as a disruption to this sacred bond. Divorce challenges the traditional values and beliefs surrounding marital

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<sup>14</sup> Supra note 20

<sup>15</sup> Supra note 3

<sup>16</sup> Supra note 7

relationships within Hindu society, as it is seen as a violation of the divine covenant established through marriage. The religious emphasis on upholding marital bonds throughout one's life contributes to the stigma associated with divorce and shapes societal attitudes towards marital dissolution.

Family Unity: Furthermore, Hindu religious beliefs emphasize the importance of family unity and social harmony. Divorce is viewed as a disruption not only to the couple but also to the extended family network. The pressure to maintain family unity and the fear of discord within the community often dissuade individuals from seeking divorce, as they prioritize collective well-being over personal happiness.

### **CHAPTER 5: RELIGIOUS PERSPECTIVES ON DIVORCE: ISLAM**

Islam views divorce as a permissible but discouraged practice that should only be considered as a last resort under specific circumstances. Divorce is allowed in Islam under certain conditions, but it is regarded as an undesirable act that should be avoided whenever possible. The Prophet Muhammad is reported to have expressed that divorce is detestable before Allah, highlighting the seriousness with which Islam views the dissolution of marriage.<sup>17</sup>

Islamic teachings emphasize the sanctity of marriage and the importance of maintaining family unity. While divorce is permitted in Islam, it is considered a measure that should be taken with caution and after all efforts to reconcile have been exhausted. The process of divorce in Islam involves specific steps and procedures to ensure fairness and justice for both parties involved.<sup>18</sup>

Islam provides guidelines on legitimate reasons for seeking divorce, such as immoral behaviour, apostasy, dishonesty, cruelty, inability to support a spouse, refusal to live together, impotence, and other valid grounds. However, Islam also cautions against seeking divorce for trivial reasons like personal preferences or moodiness, emphasizing the importance of patience, understanding, and seeking resolution within the marriage.

In summary, Islam views divorce as a permissible but undesirable practice that should be approached with caution and only considered after sincere efforts to reconcile have been made.

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<sup>17</sup> Reasons to Consider Divorce, Sound Vision: helping tomorrow's Muslims today, Article under Conflict & Divorce, Retrieved [23-03-2024] from the World Wide Web, <https://www.soundvision.com/article/reasons-to-consider-divorce>

<sup>18</sup> Amini: An Introduction to the Rights and Duties of Women in Islam, Al-Islam Organisation E-platform, Retrieved [23-03-2024] from the World Wide Web, <https://www.al-islam.org/introduction-rights-and-duties-women-islam-ibrahim-amini/divorce-islam>

The religion emphasizes the importance of maintaining the sanctity of marriage, resolving conflicts, and seeking guidance and support from the community before resorting to divorce.

## **CHAPTER 6: RELIGIOUS PERSPECTIVES ON DIVORCE: CHRISTIANITY**

Christianity, particularly the Catholic Church, views marriage as a lifelong commitment and sacrament that should not be dissolved except under specific circumstances. The Catholic Church does not recognize divorce and considers marriage indissoluble. However, in cases where a marriage breaks down irreparably, the Church allows for annulment or separation. The Bible, in Matthew 19:8-9, permits divorce only in cases of sexual immorality, with remarriage considered adultery.<sup>19</sup>

The Church also distinguishes between Divorce and the concept of Annulment. The difference between annulment and divorce in Christianity, particularly in the Catholic Church, is significant as follows:

- **Divorce:** Divorce is the legal dissolution of a marriage, ending the marital relationship between two individuals. Divorce acknowledges that a legally-binding union existed and ends that union, allowing the former spouses to remarry civilly. However, in the eyes of the Church, a civil divorce does not end the marriage sacramentally, and individuals are still considered married in the eyes of the Church even after a civil divorce.<sup>20</sup>
- **Annulment:** An annulment, on the other hand, is a declaration by the Church that a valid marriage never truly existed. It is not a process of ending a marriage but rather a determination that the marriage was not valid from the beginning. An annulment holds that the marriage was void ab initio, meaning it was never legally valid. This distinction is crucial because an annulled marriage is considered to have never been a true marriage in the eyes of the Church, unlike a divorce that acknowledges the existence of a legal union that is being dissolved.<sup>21</sup>

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<sup>19</sup> Divorce and Separation, Oasis Academy, Mayfield, Retrieved [23-03-2024] from the World Wide Web, [https://www.oasisacademymayfield.org/uploaded/Mayfield/Curriculum/Knowledge\\_Organisers/Yr10\\_RE.pdf](https://www.oasisacademymayfield.org/uploaded/Mayfield/Curriculum/Knowledge_Organisers/Yr10_RE.pdf)

<sup>20</sup> Divorce vs. Annulment: Understanding Catholic Marriage Rules, Catholic Annulment: Another Chance, Article (2019), Retrieved [23-03-2024] from the World Wide Web, <https://www.churchannulment.com/blog/divorce-vs-annulment-understanding-catholic-marriage-rules>

<sup>21</sup> Choo & Soo (2022): Divorce and Annulment in the Catholic Church, Faith Formation, Project Taste & See, Article, Retrieved [23-03-2024] from the World Wide Web, <https://oyp.org.sg/divorce-and-annulment-in-the-catholic-church/>

Other Christian denominations accept divorce but approach it with caution. Anglicans accept divorce as per UK law but discourage remarriage. Non-Conformists like Methodists believe divorce should be avoided but permit remarriage under suitable conditions. Catholics do not recognize divorce and consider marriage a sacrament that cannot be dissolved except for special reasons. Some marriages can be annulled under specific circumstances.

Christianity's stance on divorce reflects a balance between the sanctity of marriage and the recognition of situations where dissolution may be necessary. While divorce is allowed in certain circumstances, the emphasis is on upholding the commitment to marriage and seeking reconciliation whenever possible before considering divorce as an option.<sup>22</sup>

## CHAPTER 7: SOCIAL AND ECONOMIC CONSEQUENCES OF DIVORCE

The social and economic consequences of divorce, particularly for women, are significant and vary across different religions. Research indicates that divorce can have a substantial negative impact on women's equalised household incomes, especially in the short term. The effects of divorce differ between religions, as follows:

### ➤ Increasing Divorce Rates:

The divorce rate in India is on the rise due to various social and economic changes, such as increasing education levels, employment opportunities for women, and changing societal norms. While divorce rates in India are lower compared to Western countries, the number of divorce cases is steadily increasing, reflecting shifting social dynamics.<sup>23</sup>

The increasing divorce rates in India have significant social and economic consequences, reflecting a departure from traditional cultural norms and values.

### 1. Social Implications:

- i. Changing Societal Norms: Shifting attitudes towards marriage, individualism, and personal happiness challenge traditional notions of marital permanence.<sup>24</sup>

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<sup>22</sup> Desai (2024): How Should A Christian View Marriage And Divorce, Focus on the Family Organisation, Article, Retrieved [23-03-2024] from the World Wide Web, <https://www.focusonthefamily.com/marriage/how-should-a-christian-view-marriage-and-divorce/>

<sup>23</sup> Akhtar (2016): Social and Economic Problems of Divorced Women with Special Reference to Sangam Vihar Delhi, Research on Humanities and Social Sciences Vol.6, No.21, 2016, Retrieved [23-03-2024] from the World Wide Web, [file:///C:/Users/USER/Downloads/34265-37240-1-PB%20\(1\).pdf](file:///C:/Users/USER/Downloads/34265-37240-1-PB%20(1).pdf)

<sup>24</sup> Supra Note 20

This shift reflects evolving aspirations and challenges faced by couples in India, leading to a rise in divorce rates.

- ii. **Impact on Children:** Divorce has a profound impact on children, affecting their emotional well-being, educational prospects, and social integration. Children may face challenges in adapting to societal norms and may experience guilt or instability post-divorce.<sup>25</sup>
- iii. **Stigma and Social Problems:** Divorce is often stigmatized in Indian society, with divorced individuals facing judgment, exclusion, and societal pressures. The stigma surrounding divorce can lead to emotional challenges and loneliness, potentially impacting mental health and well-being.<sup>26</sup>

## 2. Economic Consequences:

- i. **Financial Burden on Women:** In India, divorced women frequently experience financial difficulties; a sizable portion of them rely on their parents for financial help after the divorce. Indian women's divorce might cost them between 25 and 30% of their income, which emphasises their financial uncertainty after the divorce.
  - ii. **Lack of Financial Support:** Many divorced women in urban India experience financial insecurity and hardship since they do not receive financial support from their ex-husbands. The financial difficulties that divorced women in the nation experience are highlighted by this lack of support.
- **Social Stigma:** The social stigmas associated with divorce in India are deeply ingrained in societal norms and cultural perceptions, impacting individuals who go through marital dissolution. Key social stigmas are as follows:
1. **Taboo Perception:** In Indian culture, divorce is frequently seen as socially unacceptable and marriage is revered as a holy institution. The shame associated with divorce still exists, which makes it difficult for people to dissolve their marriages, particularly for women. Because of societal conditioning that stigmatises divorce, divorcees may experience exclusion and devaluation in social circles.

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<sup>25</sup> Sinha (2021): Social and legal aspects of divorce in India, Ipleaders, Blogs, Retrieved [23-03-2024] from the World Wide Web, <https://blog.ipleaders.in/social-legal-aspects-divorce-india/>

<sup>26</sup> Supra Note 38

2. Shaming and Exclusion: Women, in particular, are more likely to face shaming and judgment after divorce compared to men. Reports indicate that women are twice as likely as men to be shamed post-divorce, highlighting the gendered nature of the stigma associated with marital dissolution in India.<sup>27</sup>
3. Impact on Children: Children of divorced parents may also face social challenges, including difficulties fitting into traditional societal norms due to the stigmatization of divorce. The social stigma surrounding divorce can affect children's emotional well-being and social integration, adding to the complexities faced by families post-divorce.<sup>28</sup>
4. Generational Trauma: Divorce can challenge generational norms and traditions, with individuals breaking away from toxic or abusive marriages to prioritize their well-being. While some families may not be supportive, others recognize the importance of breaking the cycle of toxic relationships and view divorce as a means to find happiness and peace.<sup>29</sup>
5. Cultural Expectations: The stigma attached to divorce in India is a result of cultural pressure to comply to customs, traditional attitudes on marriage, and arranged weddings. The stigma associated with divorce and the emphasis placed on long-term marriages might make it difficult for people to leave violent or unpleasant relationships.

These social stigmas surrounding divorce in India reflect a complex interplay of cultural, societal, and gender dynamics, underscoring the need for greater awareness, support, and acceptance to address the challenges faced by individuals navigating the process of marital dissolution in the country.

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<sup>27</sup> Varma (2022): Love After Divorce: The Stigma Around Healing And Seeking Affection Again, Feminism in India E-Platform, Article, Retrieved [23-03-2024] from the World Wide Web, [https://feminisminindia.com/2022/02/18/love-after-divorce-the-stigma-around-healing-and-seeking-affection-again/#google\\_vignette](https://feminisminindia.com/2022/02/18/love-after-divorce-the-stigma-around-healing-and-seeking-affection-again/#google_vignette)

<sup>28</sup> Siva (2023): Divorce is still a stigma in India, Book Excerpt: Divorce is Normal, Retrieved [23-03-2024] from the World Wide Web, <https://scroll.in/article/1055369/divorce-is-still-a-stigma-in-india-this-book-looks-for-ways-to-overcome-it>

<sup>29</sup> Ibid

**CHAPTER 8: COMPARATIVE ANALYSIS OF FINDINGS ACROSS RELIGIOUS GROUPS**

| Aspect                     | Hinduism  | Islam  | Christianity                                       |
|----------------------------|---|--|--|
| <b>Concept of Divorce</b>  | Recognizes divorce as a means to end marital ties.              | Viewed as an exception, discouraged unless necessary.        | Recognized within the Indian Divorce Act of 1869.  |
| <b>Legal Framework</b>     | Governed by the Hindu Marriage Act of 1955.                     | Governed by Islamic law, including various modes of divorce. | Governed by the Indian Divorce Act of 1869.        |
| <b>Grounds for Divorce</b> | Fault and breakdown grounds outlined in the Hindu Marriage Act. | Various modes of divorce recognized under Islamic law.       | Enumerated grounds within the Indian Divorce Act.  |
| <b>Mutual Consent</b>      | Divorce by mutual consent provision available.                  | Mutual agreement divorce (Khula, Mubarat) allowed.           | Mutual consent provision introduced in amendments. |
| <b>Judicial Discretion</b> | Court empowered to grant divorce based on evidence presented.   | Court issues decree based on mode of divorce.                | Court discretion in granting divorce.              |
| <b>Social Stigma</b>       | Stigma exists but varies in intensity.                          | Social stigma exists, especially for women.                  | Historical stigma addressed in recent amendments.  |

|                           |  |   |  |
|---------------------------|--|---|--|
| <b>Support Systems</b>    | Cultural and community support systems play a role.      | Religious affiliation can influence support networks. | Legal and social support systems available.          |
| <b>Impact on Children</b> | Divorce has significant impact on children's well-being. | Consideration of children's welfare emphasized.       | Child custody and welfare considered in proceedings. |

1. Legal Framework and Grounds for Divorce:

- i. Hinduism, Islam, and Christianity each have distinct legal frameworks governing divorce, namely the Hindu Marriage Act of 1955, Islamic law, and the Indian Divorce Act of 1869, respectively.
- ii. Hinduism recognizes fault-based and breakdown grounds for divorce, including adultery, cruelty, and desertion.
- iii. Islam offers various modes of divorce, such as unilateral repudiation (Talaq), mutual agreement (Khula, Mubarat), and delegated divorce (Talaq-i-Tafweez), providing flexibility in dissolution.
- iv. Christianity enumerates specific grounds for divorce within the Indian Divorce Act, including adultery, conversion, and incurable unsoundness of mind, among others.

2. Concept and Social Perception of Divorce:

- i. Hinduism acknowledges divorce as a means to terminate marital ties, reflecting a pragmatic approach to marital dissolution.
- ii. Islam views divorce as an exception, emphasizing the sanctity of marriage and discouraging its dissolution unless absolutely necessary.
- iii. Christianity, while recognizing divorce within legal provisions, historically faced criticism for perceived gender biases, prompting amendments to address disparities and introduce fairer processes.

3. Mutual Consent and Judicial Discretion:

- i. Hinduism allows divorce by mutual consent, providing an avenue for couples to dissolve their

marriage amicably.

- ii. Islamic law permits mutual agreement divorce (Khula, Mubarat), highlighting the importance of consent in marital dissolution.
- iii. Christianity introduced a provision for mutual consent divorce in amendments, reflecting a shift towards more collaborative dissolution processes.

#### 4. Social Stigma and Support Systems:

- i. Hinduism and Islam both face social stigma surrounding divorce, particularly impacting women, although the intensity of stigma varies.
- ii. Christianity historically carried a social stigma associated with divorce, which has been addressed to some extent through legal reforms and amendments.
- iii. Cultural and community support systems play a crucial role in coping with divorce across all three religions, providing emotional, moral, and sometimes legal assistance to individuals navigating marital dissolution.

#### 5. Impact on Children:

- i. Divorce has significant implications for children's well-being across all religious groups, emphasizing the importance of considering their welfare in divorce proceedings.
- ii. Hinduism, Islam, and Christianity all recognize the importance of child custody and welfare, albeit with varying approaches within their respective legal frameworks.

Overall, while Hinduism, Islam, and Christianity differ in their approaches to divorce, they share common concerns regarding its legal, social, and familial implications. Each religion grapples with issues of stigma, support, and impact on children, underscoring the complexity of divorce within religious contexts.

## CHAPTER 9: CONCLUSION

The exploration of divorce across religious cultures in India reveals a tapestry of legal, sociocultural, and religious intricacies that shape its social consequences. Throughout this study, we have delved into the legal frameworks governing divorce, the shifting sociocultural attitudes towards marital dissolution, and the varied religious perspectives within Hinduism, Islam, and Christianity.

It is evident that divorce transcends mere legal proceedings; it is a reflection of societal values and religious beliefs. Hinduism, with its emphasis on dharma and familial duties, Islam, with its allowance for divorce under specific conditions, and Christianity, with its teachings on marriage as a sacred bond, offer unique lenses through which divorce is understood and approached.

Moreover, the social and economic ramifications of divorce cannot be overstated. From financial implications to psychological impacts on individuals and families, divorce reverberates throughout society, affecting communities and future generations.

Through our comparative analysis, we have discerned both commonalities and differences in attitudes towards divorce across religious groups. While each tradition has its own theological justifications and cultural practices surrounding divorce, there are shared themes of resilience, support systems, and the importance of family cohesion.

In conclusion, the exploration of divorce across religious cultures in India underscores the need for nuanced approaches that acknowledge the complexity of marital dissolution. By fostering dialogue and understanding amidst religious diversity, we can navigate the challenges posed by divorce while promoting social cohesion and individual well-being. Moving forward, it is imperative to recognize the interconnectedness of legal, sociocultural, and religious factors in shaping the landscape of divorce in India, and to strive towards solutions that uphold the dignity and rights of all individuals involved.

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