

# The Recent Divorce Trends in India

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## ABSTRACT

A few years ago, divorce was considered one of the rare social phenomena in the Indian context. As society began to take a new shape due to modernization and technological advancement, the rigid boundaries that governed traditional Indian life began to be replaced by a new outlook and way of life. This provided the moment when women began to be employed, which increased gender incompatibility due to the changing positions of women. In addition to this, the evolution of the demographic contexts, from the rural lifestyle to the urban or metropolitan lifestyle, the change from the extended family system to the nuclear family, the choice of the husband to the detriment of the arranged marriage are the characteristics of the new scenario in India. In a modern society, the dissolution of marriage arises from the idea that it is better to live an independent life than to maintain a marriage in terms of personal well-being. This article is based on the problems and issues of marriages due to the changing scenario of socio-cultural life, technological explosion through social media and other forms of media, influence of the West, etc. which have damaged the stability of marriages in India. The purpose of this study is to examine recent trends in divorce. And the objectives are to recognize the sociocultural factors that influence divorce rates and to suggest possible strategies to reduce or solve the problems of divorce in the family. 50 male and 50 female respondents were studied in detail in this research study.

**Keywords:** Modernisation , Demographic Contexts , Marriage , Socio-Cultural Life , Divorce

## INTRODUCTION OF DIVORCE

The term "separation" refers to the process of a conjugal association ending or the breakdown of a marriage. India has the highest base separation charge in the world, according to various investigations and findings. The highest divorce costs are found in the United States and Luxembourg, with 87% and 50%, respectively. Meanwhile, just 1% of Indian partnerships generally end up in separation; that is, out of 1,000 couples, just 1 in 13 end up in separation. Indians are closely associated with their civilisations and social mores, and it is widely acknowledged that the low rates of divorce are primarily due to the manner of life and customs of the Indian people. However, this isn't usually the case given the remarkably low US separation costs. However, this isn't always the case; the remarkably low US separation cost illustrates a number of unfavourable aspects. Dangerously low separation charge indicates illiteracy, financial instability, misplacement of appropriate criminal tools, and legal infraction underdevelopment, disparities in sexual orientation, mindfulness, and so on These give a dreadful impression of the United States in relation to the global situation.

## DIVORCE RATE BY VARIOUS FACTORS

Regional disparities: diverse pricing ranges according to various regions of the nation. Research indicates

that the northeastern Indian region experiences greater separations than the rest of the nation. Research indicates that Mizoram has the highest separation value, at 4.08%. Nagaland, the nation with the next highest price, is now at 0.88%. The reasons for this shift are that, according to the matrilineal structure, women in the north have greater cultural popularity. States with a long-standing sense of human control over society, such as Rajasthan, Uttar Pradesh, and Bihar, have much lower costs. Urban and rural contrast: There is a noticeable difference between the conditions in city and rural areas. The fact that urban areas have more separations than rural areas is still up for debate. Some notable reasons for this distinction may be low proficiency and the absence of criminal awareness in Indian towns. By mediating disputes between couples, the Panchayat assembly in provincial areas also helps to keep the rate of separation and detachment low. Religion-related differences: A Stay Mint analysis found that for every 1,000 married Hindus, 3.7 are separated, indicating that Muslims are significantly more likely than Hindus to be separated. This suggests that general population and conjugal prominence have changed. Gender differences: There is a monstrous sex partition in subjects related to separate, which leads to more girls being isolated and separated because people generally remarry.

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<sup>1</sup> <https://www.123helpme.com/essay/Introduction-To-Divorce-667720>

## TRENDS OF DIVORCE IN INDIA

Recently, a diverse and steadily increasing number of married couples in India have been ending their relationships. Court statistics and records from the divorce reporting department reveal that in the last decade, divorce rates have surged, with urban areas witnessing a threefold increase. This trend is observable in both rural and smaller urban areas, as well as semi-urban regions. It reflects India's evolving economic landscape, indicating that this phenomenon is now not confined to affluent city dwellers, unlike in the 1980s. Statistics show that a larger portion of the middle class is opting out of unhappy marriages. Delhi is at the forefront of this trend, with around 9,000 divorces filed annually, a significant rise from the typical 1,000 cases recorded in the 1990s. Notably, more women are initiating divorce petitions, a trend that has significantly changed since the 1970s and 80s.

## CAUSES OF DIVORCE

The research on divorce indicates three prominent social factors influencing marital breakdowns. The first factor pertains to individual characteristics, including personal and economic traits, which differentiate people's likelihood of separation. The second factor involves the family structure and internal dynamics that can trigger the dissolution of a marriage. Lastly, the third factor encompasses external circumstances that shape boundaries, driving forces, and opportunities affecting decisions to end a relationship (South, 2001).

**Family Structure and Divorce:** Joint family systems are prevalent in many Indian communities, reflecting varying rates of marital breakdown. Common reasons for divorce within these family units include emotional or social gaps between partners due to issues like interference from family, challenges in cohabitation, personal freedom, differences in status, and obstacles related to education and childcare. Traditional values, respect systems, and behavioral norms also play a role in joint family dynamics, which may leave newlyweds feeling dissatisfied and uncomfortable navigating these established practices.

**Occupation and Divorce:** The nature of individuals' jobs significantly impacts their social and economic standings, affecting personal behaviors. Careers that require long absences from home, involve close con-

tact with the opposite sex, or are heavily managed by the workplace can lead to increased chances of separation among partners.

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<sup>2</sup> <https://www.lexisnexis.in/blogs/divorce-under-hindu-marriage-act/>

## REVIEW OF LITERATURE

**Lueptow, Guss, and Hyden (2016)** find that non-traditional women experience lower levels of happiness and a higher likelihood of divorce or separation. Portman (2016) notes that how couples manage their work lives can also impact relationship stability. His research indicates that if the wife works more hours than the husband in the first year of marriage, the risk of divorce increases. He also states that couples who are not attuned to each other or face financial difficulties have higher chances of separation. Kalmijn and Poortman (2015) further outline that: 1) the more hours a wife works, the more likely she is to end the marriage; 2) couples with financial issues are more likely to separate; 3) couples with children, particularly young ones, are less likely to divorce; and 4) the longer a couple has been together before cohabitation, the lower the likelihood of divorce.

**Sayer and Bianchi (2014)**<sup>3</sup> state in their longitudinal study that a wife's economic independence is a factor in exiting unhealthy marriages, but it is not the sole determinant of divorce. They argue that emphasizing economic factors without understanding the deeper issues, such as the mistreatment of women, diverts attention from the fundamental causes of separation.

**Chakraborty (2014)**<sup>4</sup> observes that Indian families are undergoing significant changes due to modernization. She notes that while the joint family structure remains prevalent, the depth of connections within it has diminished. Unlike in the past, women from all societal backgrounds increasingly share the burden of supporting the family and participate more actively in family dynamics. She further points out that these changes in Indian families have cultivated a new form of domestic populism, contrasting with the traditional family authority model that was largely based on gender and age hierarchies.

**Kakar and Kakar (2016)**<sup>5</sup> highlight that the identity and resilience of Indian women are closely tied to the societal ideal of Jodi, which embodies a united two-person entity. This supports the understanding of why many women, regardless of their financial independence, prefer to endure hardship rather than leave a difficult marriage. They describe how, despite facing severe marital distress and emotional abuse from their partners, some women choose suicide over separation. This adherence to the ideal may compel women from various backgrounds to suppress their marital issues and maintain the facade of a happy relationship, as acknowledging a troubled marriage not only subjects them to the pain of losing a loved one but also contradicts prevailing societal ideals.

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Sayer and Bianchi (2014) Widows and divorcees with dependent children: Material, personal, family, and social well-being. Family

Relations, 20.01.2019, <http://ignited.in/1/a/231917>

Chakraborty, Divorce-related reactions and adjustments, Differences in the experiences of males and females. Family Relations,

20.01.2019, <http://ignited.in/1/a/231917>

<sup>5</sup> Kakar and Kakar (2016). Research on divorce: Continuing trends and new developments. Journal of Marriage and Family, 20.01.2019. <http://ignited.in/1/a/231917>

## METHODOLOGY

The plan is illustrated as this research aims to describe, analyze and decipher existing situations more precisely. This is an informative review with sufficient translation. This plan is generally the best technique for collecting data to highlight relationships and describe the world as it exists. Bickman Rog (2013) argues that knowledge reviews can address topics such as “what is or what has been done”. It is a systematic method of observing and describing the behavior of a subject without influencing it in any way. It was completed mainly after the scientist had to develop an advanced understanding of divorce and examine the modern positive miracles. It is also an analytical report because logical situations and effects are obviously considered. The demonstration test is concerned with cause and effect relationships and direction for the movement, for example the adoption of restorative measures. It's about what and why, what needs to be done.

## LEGAL HISTORY OF DIVORCE IN INDIA

Before independence, the idea of divorce was no longer prevalent because marriage was considered a sacred idea and a bond of indissoluble nature, but very soon the parliament felt the need to pass laws related to marriage and separation and so on, eight years after independence. After the country's independence, the Hindu Marriage Act of 1955 was passed. Very similar laws were passed by the governments of Madras and Saurashtra in 1949 and 1952. India is a religiously diverse kingdom and therefore divorce in India is related to religion or belief. Divorce laws for Jains, Sikhs, Hindus and Buddhists are listed in the Hindu

Marriage Act, 1955. Divorce laws for Muslims are mentioned in the Muslim Marriage Divorce Act, 1939. Divorce laws governing Parsi marriage are mentioned in the

Parsi Marriage and Divorce Act, 1936. Christians are governed by the Indian Divorce Act, 1869. All inter-marriage networks are in accordance with the provisions of the Special Marriages Act, 1954.

Grounds of divorce as per section 13(1) of the Hindu Marriage Act, 1955 Adultery <sup>1</sup>

- Cruelty
- Desertion
- Conversion
- Insanity
- Leprosy
- Venereal Disease
- Renunciation
- Presumption of Death
- Mutual Consent
- Additional grounds on which a wife can obtain the divorce mentioned under section 13(2):
- Bigamy
- Rape, sodomy, or bestiality
- Failure of maintenance by the husband
- Option of puberty
- Muslim women can seek divorce on the grounds set out in section 2 of the Muslim Marriages

<sup>1</sup> <https://indiankanoon.org/doc/1284729/>

- Settlement Act, 1939.<sup>2</sup> The grounds are as follows:
- When the wife does not know the whereabouts of her husband for at least four years When the husband has not provided food for two consecutive years.
- When the husband has at least seven years in prison.
- When the husband has not fulfilled his marital obligations for three years.
- Impotence
- In case of any form of venereal disease or when the man has been declared insane for a period of two years.
- If a minor woman is given by her father to another relative before she reaches majority.
- Cruelty to the husband.

Amendments to the Hindu Marriage (Amendment) Act, 1976 Some provisions contained in the Hindu Marriage (Amendment) Act, 1976 are as follows:

1. Hindus can obtain a divorce on the grounds of desertion and cruelty, all grounds for which "judicial separation" was made possible. "Deliberate negligence" was added to the reason for abandonment
2. With this amendment, a single act of adultery became sufficient to obtain a divorce decree.
3. A new clause has been added whereby a spouse can effectively obtain a support order under any law.
4. This change added the possibility of "divorce by mutual consent"
5. Repeated attacks of insanity, mental disorders, inability to marry or the ability to give birth, etc., were added as reasons for the invalidity of marriage.
6. The scope of "insanity" is broadened by this change.
7. It was said that after the entry into force of this amendment, every marriage will be solemnized and registered through the camera.
8. The scope of article 19 will be expanded.
9. Nine sections relating to speedy trial have been added in section 21 of the Act.
10. The article was deleted which provided that "the divorced must wait 365 days before remarrying".

### **MARRIAGE LAWS AMENDMENT BILL, 2010<sup>3</sup>**

The Marriage Amendment Council was introduced to suggest amendments to the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954. It was first introduced in Parliament in 2010 The Rajya Sabha passed it on August 26, 2013. The bill aims to make divorce laws more "women-friendly." Here are some of the changes made in the project:

1. Irretrievable breakdown was introduced as a new ground for divorce through this bill.
2. In this bill a provision is made for the payment of sufficient reimbursement to the spouse and children from the real estate of the spouse.
3. Section 13(f) is added. It gave the courts the power to award the spouse and children a refund amount from the spouse's inherited and inherited property once the marriage (legally) ends.

### **PERSONAL LAW AMENDMENT, 2019<sup>4</sup>**

Personal Law Amendment, 2019

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<sup>2</sup> <https://indiankanoon.org/doc/209038/>

<sup>3</sup> [https://prsindia.org/files/bills\\_acts/bills\\_parliament/2010/Marriage\\_Laws\\_Bill\\_2010.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2010/Marriage_Laws_Bill_2010.pdf)

<sup>4</sup> [https://prsindia.org/files/bills\\_acts/acts\\_parliament/2019/the-personal-laws-\(amendment\)-act,-2019.pdf](https://prsindia.org/files/bills_acts/acts_parliament/2019/the-personal-laws-(amendment)-act,-2019.pdf)

The Personal Law Amendment Act, 2019 was passed by the Lok Sabha on 10 August 2018 and passed on 13 February 2019. He sought to amend five laws, namely:

1. Divorce Act 1869
2. Dissolution of Muslim Marriages Act 1939
3. Special Marriage Act 1954
4. Hindu Marriage Act, 1955
5. Divorce Act, 1869: Chapter II:- Section 10(1)(iv) relating to leprosy as a ground for divorce is omitted.
6. The Dispersal of Muslims Act, 1939: Chapter III: - the words "leprosy is" were deleted from section 2 (iv).
7. Special Marriage Act, 1954: Chapter IV:- Section 27(1)(g) which states that "leprosy" is a cause of divorce has been deleted.
8. Hindu Marriage Act, 1955: Chapter V:- "Leprosy" as a ground for divorce under Section 13(1)(iv) is omitted.
5. Hindu Adoption and Maintenance Act, 1956: Chapter V:- Section 18(2)(c) which states that "the wife is entitled to receive maintenance from her husband throughout her life if her husband is afflicted with any form of virulent leprosy". is left out.

#### LANDMARK JUDGEMENTS:

##### *Amardeep Singh v. Harveen Kaur*<sup>5</sup>

In the aforementioned case, the couple lived alone since 2008. In 2017, an agreement was reached and the husband and wife filed for divorce by mutual consent. The court was asked to waive the waiting period of 6 months, as stated in Section 13B (2) of the Hindu Marriage Act, 1955. In response to the request, they stated that they lived alone for eight years and there was no possibility of meeting. This landmark case is considered as a great advance in the idea of divorce by mutual consent under Hindu law. In this judgment, the Supreme Court held that the cooling off period or waiting period of 6 to 18 months under Section 13B(2) of the Hindu Marriage Act, 1955 is not mandatory. This is a provision of the list and it has also been found that it can be waived in some cases. In addition, the court stated that it can exercise its discretion based on the data and circumstances of each case and postpone or waive the waiting period in cases where there is a possibility of rehabilitation, but there is no possibility of resume cohabitation.

##### *Sureshta Devi v. Omg Prakash*<sup>6</sup>

This case describes exactly what "living apart" means. The three-judge Supreme Court panel ruled in this decision that "living separately" does not mean living as a couple. "Living apart" must refer to the couple's current place of residence. Even if the husband and wife live together, but do not properly fulfill the marital obligations, then they are considered to be living separately.

##### *Shikha Bhatia v. Gaurav Bhatia & Ors.*<sup>7</sup>

In this case the Court held that once the husband has agreed to fulfill the obligation mentioned in the original petition for dissolution of marriage under Section 13B(1) of the Hindu Marriage Act, 1955, cannot waive this commitment by agreement between the parties. If the husband decides to waive this

<sup>5</sup> <https://indiankanoon.org/doc/79830357/>

<sup>6</sup> <https://mutualdivorcelawyer.co.in/consentandcondition/#:~:text=The%20Sureshta%20Devi%20vs.,different%20stance%20on%20these%20issues.>

<sup>7</sup> <https://www.casemine.com/judgement/in/56b49349607dba348f006192/amp>

agreement, doing so may constitute a breach of the agreement, which may result in any contempt of court proceedings.

***Mrs. Christine Lazarus Menezes v. Mr. Lazarus Peter Menezes***<sup>8</sup>

In the aforementioned case, the wife challenged the judgment of the family court in which the family court had accepted the husband's request for the dissolution of the marriage and refused the request to provide the food. The Bombay High Court rejected the wife's appeal and refused to deviate from the family court's decision on the husband's divorce petition on grounds of "cruelty". During the investigation, it was found that the wife had filed an FIR against her husband under Sections 498-A and 406 of the Indian Penal Code at Kherwadi Police Station, Mumbai. The woman had undoubtedly admitted in this case that she had filed a criminal complaint with the aim of returning her husband to his matrimonial home. Keeping in view the whole situation, the Court said that if the complaint filed by the appellant against her husband was false and was made only to return her husband and because of his action he was arrested and imprisoned for a week, this constitutes a clear and flagrant case of cruelty by the use of the wife of her husband. The court said cases of fake affairs under Section 498A of the Indian Penal Code constitute cruelty and a valid ground for divorce.

***Narendra V.K. Meena***<sup>9</sup>

In this case, with the help of the husband, an attraction was made on a case in which the wife made numerous persistent efforts to prevent her husband from meeting or talking with his family. The court stated that this act of forcing her husband to meet her family could constitute an act of cruelty and that the husband is entitled to a divorce decree.

## CONCLUSION

*Esther Fisher* argues that the role of the board is not limited to improving the personality and the nature of the dissolution of the organization, because the role of the board must be a continuum of stages. Before the divorce, the question is whether the divorce should be considered. During the divorce process itself, support must be given to one or both partners so that they do not abuse each other under the normal gaze of the law and do not take the children captive. Once the legal divorce takes effect, the counselor's role is to enable the client to make the transition from ex-spouse to single. Fisher argues that divorce itself can be seen as a three-stage process. Enthusiastic divorce occurs when the couple knows their relationship is over. Physical divorce follows the separation of the bed from the table. Legal divorce is a disappointment; it only reminds posterity of what was cultivated and allows the divorced couple to legally remarry. However, the right psychological help can ease the struggles.

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<sup>8</sup> <https://www.lawinsider.in/judgment/mrs-christine-lazarus-menezes-vs-mr-lazarus-peter-menezes-and-anr>

<sup>9</sup> <https://main.sci.gov.in/jonew/judis/44123.pdf>