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# **RESTITUTION OF CONJUGAL RIGHTS IN INDIA: A CONSTITUTIONAL ANALYSIS OF ITS IMPACT ON INDIVIDUAL RIGHTS AND PERSONAL LIBERTY.**

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## **Abstract:**

This research paper examines the concept of Restitution of Conjugal Rights (RCR) in India, focusing on its Constitutional validity and its impact on individual rights and personal liberty. RCR, governed under Section 9 of the, Hindu Marriage Act, 1955, allows an aggrieved spouse to seek restoration of cohabitation. The paper traces its Historical origins, analyzes its presence in different personal laws, and evaluates socio-legal implications. It also compares international perspectives where the concept has been abolished. The study concludes by questioning. The relevance of RCR in modern constitutional values such as privacy and dignity.

This remedy exists in various personal laws and has been incorporated into statutory frameworks to preserve the institution of marriage. However, it has been the subject of significant debate, particularly concerning its compatibility with individual autonomy, privacy, and dignity. Critics argue that compelling cohabitation may infringe upon fundamental rights, while supporters maintain that it serves as a conciliatory measure aimed at reconciliation rather than coercion.

Judicial interpretations have attempted to balance these competing concerns by emphasizing that such decrees cannot be enforced through physical compulsion but may have legal consequences, such as forming a ground for divorce if not complied with. In contemporary discourse, the relevance of restitution of conjugal rights continues to be questioned, especially in light of evolving societal values and constitutional principles.

Overall, the doctrine represents a complex intersection of law, morality, and personal freedom, highlighting the ongoing tension between preserving marital relationships and protecting individual rights.

## **CHAPTER II.**

### **Meaning and Definition of Restitution of Conjugal Rights**

Restitution of conjugal rights means restoration of the matrimonial rights. This concept is given in the Section 9 of the Hindu Marriage Act. According to the section, if any person withdraws from society of his or her spouse without any reasonable cause, the aggrieved party can file petition in the court of law asking for the restoration of the matrimonial rights.

The concept of Restitution of Conjugal Rights comprises of two major words. These are 'Restitution' which means restoration of something and 'Conjugal Rights' which means matrimonial rights. Therefore, it means restoration of the matrimonial rights of the aggrieved in case these rights have been violated. Hence, if either of the party to a marriage withdraws from the society of other without any reasonable cause, the aggrieved party has a right to file a petition in the court claiming the relief of restitution of conjugal rights. The court will grant relief if there is no legal bar to such decree.

The legal definition of restitution of conjugal rights is given under Section 9 of the Hindu Marriage Act. The conditions to be satisfied for obtaining a decree are as follows -

1. The other spouse has withdrawn from the society of the petitioner
2. There is no reasonable excuse for such a withdrawal. Should the respondent allege
3. reasonable excuse, the burden of proof lies on the him/her
4. The court is satisfied with the statements made in petition
5. No legal grounds exist for refusing the decree

This right is only given when a legal and valid marriage exists between the husband and wife and there has been a withdrawal from the society of the other without a reasonable excuse.

### **International Scenario**

The concept of decree of Restitution of conjugal rights is an issue which has been observed in the whole of the world. Several countries have framed laws and made provisions to protect the institution of marriage.

### **United Kingdom**

In English law, there was a common belief that the decree for restitution of conjugal rights was the only matrimonial matter over which the ecclesiastical courts had jurisdiction. It could be issued against the person, either the husband or wife, who withdraws from the society of other without any good ground and if successful, the parties would be forced to stay together. It was followed for a long period of time until a report was published by the law commission in Beirut in 1969 which recommended the abolition of this relief and as a result it was abolished by the Matrimonial Proceedings Act, 1970.

### **Scotland**

The term used for restitution of conjugal rights in Scotland was “adherence” and it was abolished by Section 2(1) of Law Reform Act 1984.

### **Ireland**

In Ireland, it was abolished by Family Laws Act, 1988 as it was considered unconstitutional by the courts in a number of cases.

### **South Africa**

It is also one of those countries which has got rid of restitution of conjugal rights as early as 1979 through the Section 14 of the Divorce Act, 1979.

### **Canada**

The family law in this country has varied from time to time, and till now it is continuously evolving but it is somewhat based on the common English Law. The Decree for Restitution of Conjugal Rights was considered in law. However, it was present in only a few provinces of Canada. It was after the 20th century only that standardization of Family Law has taken place and after that only Restitution of Conjugal Rights has been considered as a valid law in whole of Canada.

### **Source and putting to use in the Indian Scenario**

In order to appreciate the debate over the constitutionality of the provisions of Restitution of Conjugal Rights it is necessary to explore the origin, concept and application of the law on restitution of conjugal rights. A peek into the history will help understand the course taken by the legislation with the transition of time.

## Source

Before embarking on the pathway to assess the future of Restitution of Conjugal Rights understanding the historical development is essential. A window in the past serves as a prerequisite for gauging its origin in India. The principle of restitution of conjugal rights, was never documented under the Dharmashastra nor did the Muslim law made any provisions for it<sup>1</sup>. Nevertheless, it entered India during the much detested British Invasion where it was introduced with the name of social reforms (as per the British Raj)<sup>2</sup>. Furthermore, on conducting an extensive study on the issue it was learned that Restitution of conjugal rights has its roots in the period of feudal England, where marriage was merely considered as a property deal and a wife was rendered as a meagre part of man's possession like other chattels. In this regard there is an ever increasing need to highlight that this concept was never welcomed by the English Society and to support this line of thought, the authors would like to make a mention of the opinion given by Sir J Hanne in the famous English judgment of *Russell v. Russell*<sup>3</sup>. This demonstrates that the concept of restitution of conjugal rights is very barbarous, moreover it has been blatantly misused resulting in the ultimate abolishment of this reform in England by the Law Reforms (Miscellaneous Provisions) Act, 1947. Thus, it was brought by the Britishers as a social reform and for the first time this concept was introduced in India in the case of *Moonshee Buzloor Ruheem v. Shumsoonissa Begum*<sup>4</sup>, where such actions were regarded as considerations for specific performance<sup>5</sup>.

## Concept

Now after having a good overview over its origin, we must sweep over the conceptual background of this marital remedy to stimulate our thoughts regarding its nuances and for developing a strong background. As it has been repeated for times immemorial that marriage is an institution under all prevailing matrimonial laws, it is a kind of pious union where spouses gets certain legal rights to rely upon in exchange of which they are additionally vested with certain duties to perform. Rights, duties, obligations and emotions play a pivotal role to run the cycle of marital life with all its implications. It is a union to enrich lives of those involved however when the course of events turn otherwise matrimonial remedies serve as a legal aid to

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<sup>1</sup> Paras Divan, *Law of Marriage and Divorce*, 5th ed. Universal Law Publishing Co. 2008.

<sup>2</sup> *ibid*

<sup>3</sup> Salona Tutelage, *Restitution of Conjugal Rights: Criticism Revisited*, available at <http://www.legalserviceindia.com/articles/abol.htm> (last visited Aug. 12, 2013)  
4S.P.Gupte, *Hindu Law in British India*, 2nd ed. Premier Publishers Delhi 1947.

<sup>4</sup> *Moonshee Buzloor Ruheem v. Shumsoonissa Begum*, (1877) ILR, Bombay

<sup>5</sup> *ibid*

heal. A marital bond is based on obvious concepts such as both the spouses are under a necessary obligation to live together both physically and emotionally i.e. comfort consortium<sup>6</sup>. This is categorically emphasized under all the personal laws i.e. Muslim, Hindu, Christian and Parsi religion. The concept of restitution of conjugal rights is present in all the following listed laws i.e.

### **Hindu Law**

Hindu law is mainly governed by Hindu Marriage Act, 1955. This one piece of legislation covers almost all the nuances of Hindu religion. The concept of restitution of Conjugal Rights is also present in Hindu Marriage Act<sup>7</sup> and expressly given under Sec.9 of the act.

### **Muslim Law**

Under Muslim religion this concept of restitution of Conjugal Rights is given under the general law as they consider it as the concept with securing to the other spouse the enjoyment of his or her legal rights. Here earlier it was considered as the concept of specific performance but the case of Abdul Quadir v. Salima<sup>8</sup> inculcates new understanding whereby from the period followed after the case the concept of restitution must be decided on the principles of Muslim Law and not on the basis of justice, equity and good conscience<sup>9</sup>.

### **Christian law**

Under Christian Law the provision of restitution of Conjugal Rights is stated under sec.32 and 33 of the Indian Divorce Act, 1929<sup>10</sup>.

### **Parsi Law**

Under Parsi law also there is a provision of restitution of conjugal rights and it is given under sec.36 of the Parsi Marriage and Divorce Act, 1936<sup>11</sup>.

Another category beyond all the religions where only special marriages are being recognized is under Special Marriage Act, 1954<sup>12</sup> which also carries the remedy of restitution of conjugal

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<sup>6</sup> Sir Dinshah fardunji mulla, Principles of Hindu Law ,satyajeet a. Desai eds., 21st ed. Lexis nexis butterworths wadhwa 2010.

<sup>7</sup> Hindu Marriage Act, Hindu Code, 1955, p.9

<sup>8</sup> Abdul Quadir V. Salima, 1886, ILR p.149

<sup>9</sup> ibid

<sup>10</sup> Indian Divorce Act, GEN. S.R. & O., 1929,, pp. 32- 33.

<sup>11</sup> Parsi Marriage and Divorce Act, GEN. S.R. & O., 1936, p.36.

<sup>12</sup> Special Marriage Act, GEN. S.R. & O., 1954, p. 22

rights under sec.22 of the act<sup>13</sup>.

Hence, it can be concluded that all personal laws in India imbibe full-fledged provisions of restitution of conjugal rights and all the above listed provisions are gender neutral consequently give equal remedy to both the spouses. Therefore, just going by all the provisions in all the above listed set of personal laws, the authors just want to say that there are mainly four major premises in all the personal laws based on which the court of law order the decree of restitution of conjugal rights *i.e.*

- Withdrawal by the respondent from the society of the petitioner.
- The withdrawal is without any reasonable cause or excuse or lawful ground.
- There should be no other legal ground for refusal of the relief.
- The court should be satisfied about the truth of the statement made in the petition.

On examining all the above listed requisites the court will only grant the decree of restitution of conjugal rights if it gets satisfied on the grounds when the petitioner prove that the respondent has withdrawn from the society of petitioner without any reasonable excuse<sup>14</sup>, in addition to which all the statements made by the aggrieved spouse should be true so that there should not be an establishment of any valid ground on which the petition of the aggrieved party should not be granted<sup>15</sup>. **Effects of Socio Legal**

In Indian culture, marriage is a holy institution, and divorce is considered taboo. Although the situation is improving as the younger generation is becoming more independent, the term “divorce” is still frowned upon. As a result, dealing with divorce in India necessitates a great level of emotional stability and endurance on both spouses’ parts.

Divorce in India is still not as common as it is in the West. In India, [one out of every 100 couples](#) seeks a divorce, whereas, in the [United States, half of all marriages result in divorce](#).

Despite the fact that India’s divorce rate is lower than that of Western countries; the number of divorce cases is steadily increasing as a result of different social and economic changes. Also, talking from a legal point of view, divorce is not a major issue because everyone has the right to live their life freely and according to their choice. In modern Indian society, a woman’s role is not confined to that of a housekeeper. Women of the new generation have achieved economic parity with males. As women become more economically independent and autonomous, the

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<sup>13</sup> Mohan Lal V. Shanti Devi, A.I.R. ,1964,p.21

<sup>14</sup> Kusum, Family Law 1(Family Law Lectures) 42-44, 3rd ed. Lexis Nexis Butterworths Wadhwa 2011.

<sup>15</sup> Aditya Swarup, Constitutional Validity of Restitution of Conjugal Rights: Scope and Relevance, available at [http:// works.bepress.com/adityaswarup/8](http://works.bepress.com/adityaswarup/8) ( last visited Aug. 12, 2013).

concept of “compromise in marriage” is rapidly diminishing. Modern Indian men and women do not believe in marital compromise in the same manner that our forefathers did. But it is our patriarchal society that exaggerates the issue of divorce. As a result, women are the ones that suffer the most. They become the target of either harsh criticism or unfathomable sympathy. Women who have been divorced are conditioned to feel that they are weak and incapable of surviving in the harsh world without the help of a man. The culture rejects their requests for a second marriage or partnership. They are referred to as “damaged goods” and other derogatory words. Men, on the other hand, continue to live in a calm setting following their divorce. They are still considered bachelors regardless of their age. This does not imply that women are the only ones who suffer. Men, too, are affected. However, as compared to women, their ratio is smaller.

Marriage and divorce are unavoidable parts of life. While marriage helps you to adjust to a new partner and family, divorce trains you to become mentally stronger and more self-reliant. Divorce can be granted for a variety of reasons, including adultery, cruelty, desertion, religious conversion, mental illness, and venereal infections. In the past, divorce law was skewed heavily in favour of women. This implies that patriarchal views and notions have an impact on the law. However, with the law’s revision, the law now treats men and women equally.

## **CHAPTER: II**

### **Impact of divorce on mental health**

Marriage dissolution isn’t usually a joyous occasion. Divorce is frequently accompanied by disappointment, the loss of dreams, and lowered expectations. Divorce also brings with it a slew of legal, financial, parental, emotional, and practical concerns that force the afflicted spouse to drastically alter their duties and routines, which can take years to recover from. Divorce has been identified as a risk factor for mental health disorders and has been linked to negative mental health outcomes. Divorce, in particular, has a detrimental impact on a family’s financial stability, social environment, academic/employment performance, as well as the family’s psychological and physical well-being.

Divorce exacerbates addictions and depressions, which are the most common mental diseases. Addictions are usually linked to a lack of personal responsibility, which can lead to the other spouse taking on too much duty. Because their primary goal is to satisfy their addiction need, an addicted individual finds it difficult to be intimate in their relationships. Addicted people also have a tendency to blame the world or other people for their unhappy marriage, including

their partner.

### **Impact of divorce on children**

Divorce has a significant impact on the parent-child connection. Usually, it is seen that children, as well as custodial parents, do not have that connection which a child and parent should have. Due to a lack of understanding and connection, both the parties are in tension. Furthermore, divorce necessitates a clear definition of child rights in the current environment, as well as how they must be represented in a divorce case.

Children are unquestionably distressed by divorce. Outside of the family, a child faces a lot of issues and problems fitting in with a traditional society due to the stigmatization of divorce. It is usually observed that children who see their parents' divorce have lower educational prospects than children who grow up in intact families because they cannot cope with their surrounding family environment. The physiological behaviour of the child is the most evident influence within the family. In the post-divorce period, there are also children who are left with a guilty conscience that because of them their parents got divorced, especially if they are regular witnesses to the parents' feuds.

Furthermore, step-families are frequently problematic, as children struggle to adjust to their new step-parent and extended step-family. Children learn how to interact with others by observing how their parents interact with one another. Divorce instils in them an unspoken distrust of their partners. Divorce also raises the likelihood of young people fleeing their families due to conflict with a parent.

## **CHAPTER-III**

### **Legal aspect of divorce in India**

Divorce is one of life's most devastating events for any couple. Furthermore, if the divorce is disputed in India, it can be a lengthy and costly process. Even couples who agree to divorce must show that they have been separated for at least a year before the courts would hear their case. Divorce rules in India, like other personal problems, are linked to religion. The [Hindu Marriage Act of 1955](#) governs the dissolution of marriage among Hindus, Buddhists, Sikhs, and Jains, the [Dissolution of Muslim Marriages Act of 1939](#) governs Muslims, the [Parsi Marriage and Divorce Act of 1936](#) governs Parsis, and the [Indian Divorce Act of 1869](#) governs Christians. On the other hand, the [Special Marriage Act of 1954](#) governs all civil and inter-community marriages. **Valid Marriage** For an application and proceedings of divorce, the

main criteria are to have a valid marriage. If any criteria of a valid marriage are missed at the time of marriage then, the application for divorce will be rejected.

### **Conditions required for a valid Hindu marriage**

According to Section 2(3) of the Hindu Marriage Act, both parties must be Hindus. If one of them is a Hindu and the other is a non-Hindu, or if both are non-Hindus, the marriage will be governed by different legislation, such as the Special Marriage Act. The basic requirements for a legitimate marriage are outlined under Section 5 of the Hindu Marriage Act and are discussed below:

1. The first criterion states that neither partner should have a live spouse at the moment of marriage, effectively prohibiting bigamy. Under Section 494 of the Indian Penal Code, 1860, bigamy is also a crime punishable by up to seven years in prison, a fine, or both. If a married person remarries under this Act, the second marriage will be nullified. The apex court declared in decisions like *Boada Kannababu & Ors. v. Bugging Pyjama & OR's.* (2006), *M.M. Malhotra v. Union of India* (2006) and [Yamunabai Anantrao Adhav A v. Ranantrao Shivram Adhav & Anr. \(1988\)](#) that the second marriage would be null and void while the previous marriage was still valid.
2. The parties to the marriage shall not be of unsound mind; or have a mental disease that makes them unfit for giving consent for marriage or childbearing; or have had recurrent episodes of insanity or epilepsy. Marriage to a person who is mentally ill is void.
3. At the time of marriage, the bridegroom must be 21 years old and the bride must be 18 years old.
4. The fourth criterion is that none of the spouses in the marriage shall be in forbidden degrees. Section 3(g) of the Hindu Marriage Act defines the term “degrees of prohibited relationship.” A marriage that takes place in violation of this criterion is null and void. This condition has an exception: if any religion’s custom or usage allows it, the marriage will not be ruled void. Further, the Punjab and Haryana High Court held in [Shakuntala Devi v. Amar Nath \(1981\)](#) that two people can marry within the prohibited connection if there is proof of established tradition, which must be very old and beyond human memory.
5. Last but not least, the partners must not be Salinas (a person viewed in connection to one or more of his three or six closest male ancestors or descendants) of one

another; otherwise, the marriage is null and void. The same exception applies to this condition:

If any custom or usage permits it, the marriage will be recognized as valid.

### **Conditions required for a valid Muslim marriage**

Mahmood, J. identified the nature of Muslim marriage as a civil transaction rather than a sacrament in the landmark case of [Abdul Kadar v. Salim and Amr. \(1886\)](#). Based on his observations, we may deduce that the goal of Muslim marriage is to legalise male-female sexual relationships as well as child propagation. As a result, a legally binding contract is required for Muslim marriage. The fundamentals of a Muslim marriage are extremely similar to the fundamentals of a Civil Contract which includes:

1. **Proposal and Acceptance:** In a Muslim marriage, the proposal is known as 'jab', and the acceptance is known as 'qubit'. A proposal should be presented by or on behalf of one party and the other party should accept it. Proposal and acceptance should take place at the same time for a lawful Muslim marriage.
2. **Competent parties:** The party should be major, of sound mind, and must be Muslim. The age at which a person achieves puberty is regarded as the age of puberty for the purposes of Muslim marriage. According to Hedaya, female puberty begins at the age of 9 years while male puberty begins at the age of 12 but in the landmark case of [Muhammad Ibrahim v. Atkia Begum & Anr. \(1912\)](#), the Privy Council ruled that a girl has reached puberty under Muslim law if she has reached the age of 15 years or has reached puberty at a younger age. A Muslim boy is subject to the same rules. In the absence of evidence to the contrary, a Muslim is regarded as having reached puberty at the age of 15 years.
3. **Free consent:** A legitimate marriage requires the parties' voluntary consent. If permission is obtained by coercion, deception, or a mistake of fact, it is deemed invalid, and the marriage is declared null. In the case of [Sayad Mohiuddin Sayad Nasiruddin v. Khatijabibi \(1939\)](#), the court concluded that marriage is illegal if it is performed without the spouses' free agreement.
4. **Mahr:** It refers to the amount of money or other property that a bridegroom must offer to the bride in exchange for her hand in marriage. Its purpose is to provide financial stability to the bride both during and after the marriage. The Allahabad High Court ruled in the case of [Nasra Begum v. Rizwan Ali \(1979\)](#) that the right to mahr existed before cohabitation. The court also decided that if the woman is a

minor, her guardians can refuse to deliver her to her husband until the dower is paid and that if she is in her husband's possession, she can be returned.

5. Marriage is not permitted under restricted areas like marriage within blood relation, two wives in a relation, re-marriage within a divorced couple, etc.

### **Conditions required for a valid Parsi marriage**

In Parsi law, valid marriage conditions are outlined in [Section 3](#) of the Parsi Marriage and Divorce Act, 1936. For the validity of a Parsi marriage, the following conditions are mandatory:

1. If both contracting parties are related to each other in any degree of consanguinity, i.e. people descended from the same ancestors, the marriage will be invalid.
2. A marriage that is not solemnized by a priest in the presence of two Parsi witnesses is not legal in Parsi law. Further, it was established in the case of [Parshottam v. Meherbai \(1888\)](#) that Ashirvad, which means blessing, is required to prove the legality of a marriage. In addition, the court determined that it refers to an exhortation or prayer recited by the couples before the marital inspections.
3. If the male is under the age of 21 and the female is under the age of 18, a marriage will not be considered.
4. If the marriage is not lawful for the reasons stated above, every child born to the couple who would have been legitimate if the marriage had been valid is legitimate.

### **Conditions required for a valid Christian marriage**

The [Indian Christian Marriage Act of 1872](#), issued during the British Empire, controls Indian Christian marriages. According to the Act, [Section 60](#) states the following conditions which must be met for a marriage to be valid:

1. The bridegroom's age cannot be less than twenty-one years old, and the bride's age cannot be less than eighteen years old;
2. The consent of both parties to the marriage must be given voluntarily and should not be obtained by distorting facts, coercion, or undue influence;
3. At the time of the marriage, neither partner should have a living spouse;
4. The marriage must be performed in the presence of at least two reliable witnesses and a person licensed to provide a certificate of marriage.

Another prerequisite for validity is set forth in [Section 88](#) of the Act, which states that nothing in the Act shall legitimize any marriage that either party's personal law prohibits them from entering. For example, an inter-caste marriage between a Christian and a person of another

faith will be void if the other person's personal law prohibits marriage with a Christian. Later, the Madras High Court clarified in [Gnanasoundari v. Nallathambi and others \(1945\)](#) that Section 88 of the Act covers bans based on blood connections and affinity.

## CHAPTER: IV

### Divorce petitions

Now, if the marriage is valid, considering all the conditions mentioned above, and there's a dispute between the parties after marriage, a couple can get a divorce if both spouses agree, or either spouse can apply for a divorce without the other's approval.

### Divorce with mutual consent

The courts will consider a divorce with mutual consent if both the husband and wife agree to divorce. However, in order for the petition to be allowed, the couple must have been separated for at least a year or two years (depending on the relevant laws) and be able to demonstrate that they are unable to live together. Even though neither husband nor wife wants it, they often consent to a no-fault divorce since it is less expensive and less stressful than a contested divorce. Custody, support, and property rights for children could all be jointly agreed upon. The Hindu Marriage Act of 1955, the Special Marriage Act of 1954, and the Indian Divorce Act of 1869, all provide for divorce by mutual consent. The provisions of mutual consent divorce are specified in [Section 13B](#) of the Hindu Marriage Act, [Section 28](#) of the Special Marriage Act, and [Section 10A](#) of the Indian Divorce Act.

For the petition of dissolution of marriage, the petition should be presented to the court and the couple only needs to prove that they have not been living as a husband and wife for a period of one year or more and they are not able to live together in future. Keep in mind that living apart does not always imply living in different places. The Supreme Court of India held the same in the case of [Sureshta Devi v. Om Prakash \(1991\)](#), stating that living apart does not always entail living in distinct areas. The parties can live together but not as husband and wife. Further, before giving divorce, the couples are provided with a period of 6 to 18 months, called a cooling-off period, to settle their disputes and give their relationship a second chance.

However, in [Devinder Singh Narula v. Meenakshi Nangia \(2012\)](#), it was determined that such an amount of time does not need to be maintained and that if the situation requires it, the marriage must be dissolved even before the six-month period has expired. In another case, [Rajiv Chhikara vs. Sandhya Mathu \(2016\)](#), the Delhi High Court's Division Bench ruled that

reneging on a settlement is equivalent to mental abuse. According to the court, the parties had been living separately since 2009 and their relationship was beyond repair. In such a case, if one spouse insists on maintaining the marriage link, it is equivalent to subjecting the other to a severe mental cruelty condition.

Muslims can get divorced by mutual consent in two ways: khula divorce and mubarat divorce.

- Khula: In this type of divorce, the wife considers asking her husband for a divorce based on mutual consent. In the case of [Mrs. Sabah Adnan v. Adnan Sami Khan \(2010\)](#), it was held that khula is a recognized form of divorce.
- Mubarat: In Mubarat, the husband and wife agree to divorce each other. When one party makes an offer, and the spouse agrees, the divorce is final.

### **Divorce without mutual consent**

In marital ties, there are some rights and responsibilities of each partner. All of the Acts specify the reasons for filing for divorce. The Hindu Marriage Act of 1955, the Special Marriage Act of 1954, the Indian Divorce Act of 1869, and the Dissolution of Muslim Marriages Act of 1939, all allow a husband or wife to submit a divorce petition. There are various grounds on which a petition can be filed in the context of a contested divorce. It's not like a husband or wife can just ask for a divorce without giving a cause. There are 9 grounds mentioned under [Section 13\(1\)](#) of the Hindu Marriage Act, 1955 on which either the husband or the wife could sue for divorce. The following grounds are mentioned below:

### **Adultery**

Adultery is the first ground. A divorce petition can be filed if the husband or wife has sexual relations with someone other than their spouse. It must be demonstrated that the period during which the spouse was living an adulterous life was so closely related to the filing of the petition in terms of time that the petitioner had a reasonable belief that the respondent was living in adultery at the time the petition was submitted. In the case of [Dastane v. Dastane \(1975\)](#), the Supreme Court declared that if personal connections are involved, particularly those between a husband and wife, there is no need for proof beyond a reasonable doubt.

### **Cruelty**

Cruelty has now been made a reason for divorce and judicial separation under the [Marriage Laws \(Amendment\) Act, 1976](#). Before that modification, it could only be used as a basis for judicial separation, not divorce but this was upheld in the decision by the Supreme Court in the

case of *Dastane v. Dastane* (1975). The term “cruelty” is used here to refer to both mental and physical abuse. Further, the Supreme Court ruled in the case of [Mayadevi v. Jagdish Prasad \(2007\)](#) that any sort of mental abuse suffered by either spouse, not just the woman, but also the man, can lead to divorce on grounds of cruelty.

### **Desertion**

The Marriage Laws (Amendment) Act, 1976 introduced desertion as a basis for divorce to Section 13. It was previously exclusively a basis for judicial separation. Desertion is now a legal basis for judicial separation and divorce. It refers to leaving the marriage house and abandoning one’s spouse. If a husband or woman abandons his or her spouse for two years or more, it is grounds for divorce.

### **Conversion**

A Hindu marriage can be dissolved by a divorce decision if the respondent has converted to another religion and no longer considers him a Hindu. As a result, the party who continues to be Hindu has the right to divorce under this law.

In [Sala Mudgal v. Union of India \(1995\)](#), the Court held that a Hindu husband’s second marriage following his conversion to Islam is void because it violates fairness, justice, and good conscience, and thus falls under Section 494 of the Indian Penal Code. Another case of [Khambatta v. Khambatta \(1933\)](#) is in which a Muslim married a Christian woman in the Christian form. The wife converts to Islam, and the husband gets a talaq divorce. The Court ruled that the divorce was lawful under these circumstances.

### **Unsoundness of mind**

It becomes a ground for divorce if the spouse suffers from an incurable mental disease to the point where it is reasonable not to expect to live with him or her. The phrase “mental disorder” is defined as “mental sickness, arrested or incomplete development of the mind, psychopathic condition, or any other disorder or impairment of the mind, including schizophrenia” in the first explanation of Section 13. In cases like [Anima Roy v. Prasad Mohan Roy \(1969\)](#), [Kartika Chandra v. Manju Rani \(1973\)](#), [C.J. Joy v. Shelly \(1995\)](#) and [Kollam Padmalatha v. Kollam Chandrasekhar \(2000\)](#), the court maintains that the person must be able to comprehend the marriage contract and the duties and responsibilities that it entails.

## CONCLUSION:

“Artificial intelligence does not dream, does not feel, and does not hope,  
Yet it now writes our words, paints our portraits, and speaks with our voices.

It is not just imitating us; it is beginning to redefine what it means to be human.”

As the veil between algorithm and identity grows thinner, we must ask: is this the ascent of intelligence or the quiet erosion of authorship. The Book of Genesis reminds us that humankind was made “in the image of God” a status AI cannot claim, yet it now mimics with uncanny precision. These ancient warnings find unsettling relevance in the modern age, as human-crafted artificial intelligence brings virtual influencers that now blur the lines between flesh and code, authenticity and simulation. Today, AI-generated virtual influencers like Lil Miquel have transcended novelty. They are persuasive, visually flawless, always on-brand, and immune to human error. Their rise is not an accident of technology, but a calculated evolution in the architecture of digital engagement. However, behind this glittering digital facade lies a profound legal void. These non-human entities produce content indistinguishable from human creativity, yet they exist outside the protective scope of intellectual property law, which remains rooted in human authorship. The study dissected that legal conundrum. Through comparative doctrinal analysis, it exposed the inadequacies of current copyright frameworks in the U.S., EU, India, and beyond. Case law from *Thales v. Perl* mutter to European copyright rulings reflects a stubborn allegiance to anthropocentrism. AI may generate, but only humans may own. This binary fails to capture the complexity of modern creativity, where machines increasingly act as co-authors, collaborators, or even autonomous creators. The empirical findings in this research provided another layer of insight. Consumers were found to emotionally bond with virtual influencers despite knowing their artificial origins. They admired their beauty, precision, and novelty but expressed discomfort at the lack of transparency. They questioned the authenticity of brand endorsements and feared deception. These results underscore a regulatory vacuum: the law neither mandates disclosure nor provides consumers with safeguards against algorithmic manipulation.