

The background of the journal cover features a top-down view of a wooden desk. On the desk, there is a pair of black leather brogue shoes in the top left, a black leather bag in the top right, an open notebook with a silver pen in the bottom left, and a black leather watch with a silver face in the bottom right. A large white rectangular panel is centered on the desk, containing the journal's title and ISSN. A yellow horizontal band is at the bottom of the cover.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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ARTICLE ON DIVORCE UNDER THE HINDU MARRIAGE ACT, 1955

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ABSTRACT

Divorce under the Hindu Marriage Act is a legal process by which a marriage between two individuals who were married under the Hindu Marriage Act can be legally terminated. The Hindu Marriage Act provides for both parties to a marriage to seek a divorce on certain grounds. The grounds for divorce under the Hindu Marriage Act are categorized as fault- or no-fault-based. Fault-based grounds for divorce include adultery, cruelty, desertion, conversion to another religion, mental illness, and incurable diseases. No-fault grounds for divorce include irretrievable breakdown of marriage or mutual consent. In order to obtain a divorce under the Hindu Marriage Act, the party seeking the divorce must file a petition in court and provide evidence to support their case. The court will then consider the evidence and determine whether or not to grant the divorce. If the court grants the divorce, it will issue a decree of divorce that legally terminates the marriage. The court may also make orders with respect to child custody, child support, and spousal support, as well as the division of property and assets. It's worth noting that divorce is not encouraged in Hinduism and is considered a last resort. The Hindu Marriage Act recognizes that there may be situations where divorce is necessary, such as in cases of abuse or abandonment, and provides a legal framework for couples to obtain a divorce under certain circumstances. Divorce under the Hindu Marriage Act is a complex legal process that can be emotionally and financially draining for both parties. It's important for couples to consider all of their options, including counselling and mediation, before deciding to pursue a divorce.

1. INTRODUCTION

In general terms, divorce refers to the legal process by which a marriage is terminated, resulting in the dissolution of the marital bond between the two individuals. It involves the formal ending of a marriage, and it typically entails a legal proceeding that takes place in a court of law.

Divorce may be initiated by one or both parties to the marriage, and it can be sought on a variety of grounds depending on the jurisdiction. Common grounds for divorce may include irreconcilable differences, infidelity, abuse, abandonment, or incompatibility.

The divorce process involves a division of marital assets, debts, and property, as well as decisions regarding child custody, child support, and spousal support. The specific terms of the divorce settlement are typically negotiated by the parties involved, or they may be determined by a judge if the parties cannot come to an agreement.

Overall, divorce is a significant life event that can be emotionally and financially challenging for those involved. It is important to seek legal advice and support throughout the divorce process to protect your rights and interests.

2. THE SITUATION BEFORE DIVORCE IN INDIA

Before a divorce can be granted in India, there are certain legal requirements and procedures that must be followed.

The first step towards obtaining a divorce is for either party to file a divorce petition with the appropriate court. The court in which the petition is filed will depend on the place of residence of the parties or the place where the marriage was solemnized.

Once the petition is filed, the court will issue a notice to the other party, requiring them to respond to the petition. The other party may choose to contest the divorce, in which case the court will hear both sides and make a determination based on the evidence presented.

If the court finds that there are valid grounds for divorce, it will grant a decree of divorce, which dissolves the marriage. The court will also make orders with respect to the division of property and assets, and the payment of maintenance or alimony, if applicable.

It is important to note that the divorce process in India can be a lengthy and complex one, and may involve multiple court appearances and legal procedures. Additionally, there may be social and cultural barriers to divorce, particularly for women, which can make the process even more challenging.

Overall, the process of obtaining a divorce in India can be difficult and stressful, and individuals seeking a divorce should seek the advice and support of a qualified lawyer to guide them through the process.

3. CONTENTS OF DIVORCE

The contents of a divorce under the Hindu Marriage Act, of 1955 include the following:

- **Petition for Divorce:** The party seeking a divorce must file a petition for divorce in the appropriate family court. The petition should state the grounds for divorce and provide all necessary details, including the names and addresses of the parties involved, the date and place of marriage, and any details related to children or property.
- **Response to Petition:** The other party to the marriage will be given an opportunity to respond to the petition for divorce. They may either contest the grounds for divorce or agree to the divorce.
- **Evidence and Arguments:** The parties will have the opportunity to present evidence and arguments to support their case. This may include witness statements, documents, and any other relevant information.
- **Counselling:** The court may order the parties to undergo counselling to explore the possibility of reconciliation before granting a divorce.
- **Child Custody and Support:** The court may make orders regarding child custody, visitation, and support.
- **Property Division:** The court may also make orders regarding the division of marital property and assets.
- **Maintenance and Alimony:** The court may order the payment of maintenance and alimony to the spouse who is unable to support themselves financially after the divorce.
- **Decree of Divorce:** If the court is satisfied that the grounds for divorce are proven, it will grant a decree of divorce that legally terminates the marriage.

The specific contents of divorce under the Hindu Marriage Act may vary depending on the circumstances of each case. The process can be complex and emotional, and it's important for individuals seeking a divorce to seek legal advice and support to ensure that their rights and interests are protected.

4. GROUNDS OF DIVORCE IN INDIA

Under the Hindu Marriage Act, of 1955, there are various grounds on which a divorce can be granted to a married couple. These grounds are categorized into two types: fault-based and no-fault-based grounds.

The fault-based grounds include adultery, cruelty, desertion, conversion to another religion, mental disorders, venereal diseases, and incurable diseases. Adultery refers to a situation where one spouse engages in sexual intercourse outside of the marriage. If one spouse treats the other with cruelty, both mental and physical, it can be grounds for divorce. Desertion refers to the act of one spouse abandoning the other for a continuous period of at least two years without any reasonable cause.

Conversion to another religion refers to a situation where one spouse converts to another religion, and the other spouse does not want to continue the marriage. Mental disorder refers to a condition where one spouse suffers from a mental disorder that makes it difficult or impossible for the other spouse to continue living with them. Venereal disease refers to a situation where one spouse suffers from a venereal disease in a communicable form, and it can be grounds for divorce. Incurable diseases refer to a situation where one spouse suffers from an incurable disease that is likely to cause death or affect their ability to continue living with the other spouse.

In addition to the fault-based grounds, there are also two no-fault-based grounds for divorce. The first is irretrievable breakdown of marriage, which means that either party can seek a divorce if they believe that the marriage has broken down irretrievably. The second is mutual consent, which refers to a situation where both parties agree to end the marriage and file a joint petition for divorce.

It is important to note that the process of obtaining a divorce under Hindu law can be complex and emotionally challenging. Therefore, it is advisable for individuals seeking a divorce to seek legal advice and support to protect their rights and interests.

5. PROVISIONS UNDER DIVORCE IN THE HINDU MARRIAGE ACT, OF 1955

The Hindu Marriage Act, of 1955 is the primary law in India that deals with the dissolution of marriages under Hindu law. This Act contains provisions related to the grounds for divorce, the procedure for obtaining a divorce, and the legal consequences of divorce.

Chapter VIII of the Act specifically deals with the provisions related to divorce. The chapter lays out the various grounds on which a divorce can be granted, the process for filing for divorce, and

the legal consequences of divorce, including the division of property and the custody of children. The chapter also contains provisions related to alimony or maintenance payments that may be required to be paid to one spouse by the other after the divorce.

It is important to note that the Hindu Marriage Act only applies to Hindu marriages solemnized between two Hindus, Buddhists, Jains, or Sikhs or where at least one of the parties is a Hindu, Buddhist, Jain, or Sikh. For marriages between individuals of different religions or faiths, there are other Acts and laws in India that may govern the divorce proceedings.

Overall, the provisions related to divorce under Hindu law are outlined in detail in the Hindu Marriage Act, and individuals seeking a divorce should seek legal advice and support to ensure that their rights and interests are protected throughout the process.

Divorce laws under the Hindu Marriage Act, of 1955 are of significant importance for a variety of reasons.

Firstly, the Act provides a legal framework for the dissolution of marriages under Hindu law. Prior to the enactment of this law, divorce was not recognized as a legal remedy in Hindu marriages. The Hindu Marriage Act, therefore, brought about a significant change in the legal landscape of India by introducing provisions for divorce in Hindu marriages.

Secondly, the Act provides a set of clear and well-defined grounds on which a divorce can be granted, providing legal clarity to couples seeking a divorce. The Act also sets out the procedure for obtaining a divorce, including the requirements for filing a divorce petition, the process of serving the petition, and the role of the courts in adjudicating divorce cases.

Thirdly, the Act provides for the equitable division of property and assets between the parties to a divorce, as well as provisions for the maintenance of the spouse and children after the divorce. These provisions ensure that the interests and rights of all parties involved in a divorce are protected and that the process of divorce is fair and just.

Finally, the Act recognizes the changing social and economic realities of modern India and provides for the recognition of the irretrievable breakdown of marriage as a ground for divorce, which was not recognized as a ground for divorce under earlier laws.

In summary, the divorce laws under the Hindu Marriage Act are of great importance in protecting the rights and interests of parties to a divorce, and in providing a legal framework for the dissolution of marriages under Hindu law.

6. CONCLUSION

In conclusion, it is clear that the use of technology has transformed various aspects of our lives, including the way we work, learn, communicate, and entertain ourselves. Technology has made it possible for people to connect and collaborate with others from different parts of the world, making it easier to access information and resources. Additionally, technology has led to significant advancements in fields such as healthcare, transportation, and energy, which have contributed to improving people's quality of life. While there are certainly challenges associated with the use of technology, such as privacy concerns and potential job displacement, it is likely that technology will continue to play a central role in our lives and bring about many more positive changes in the future. Therefore, it is essential that we continue to embrace technological advancements while also being mindful of their impact on society and taking steps to mitigate any negative effects.

