

Marriage and Divorce in India and the UK

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Divorce in India

The secular mindset of the Indian judicial system has initiated the proclamation of various personal laws based on different religious faiths. Hindus, Christians, and Muslims are governed under separate marriage acts and grounds for divorce in India.

Various researches and studies have revealed that India has the lowest divorce rate in the world, only 1% of total Indian marriages end up in divorce, that is, in every 1,000 marriages, only 13 ends up in divorce. Indians have a devoted connection to their cultures and social ethics and it is often believed that Indian culture and traditions are the main reasons behind the low divorce rates. But this is not necessarily true, the surprisingly low divorce rate of the country depicts various negative factors. Dangerously low divorce rate implies the lack of literacy, financial instability, lack of proper legal apparatus and legal awareness, underdevelopment, gender inequality, etc. this paints a bad picture of the country in the global scenario. Although the divorce rates in 2021 still remain low, it has seen a slow, small increase in the past decades, especially in the developed areas.

Divorce and divorce rate in India is influenced by various factors like:

Regional differences: divorce rate vary according to different regions of the country. It has been observed that north-east Indian region experience more number of divorces than the rest of the country. Studies reveal that Mizoram experience the highest divorce rate, that is, 4.08%. Meanwhile, Nagaland, the state with the second highest rate is at 0.88%. The reasons behind this variation is that women of the north-east enjoy a higher societal status due to matrilineal system. States like Rajasthan, Uttar Pradesh and Bihar have a deeply rooted sense of patriarchy and hence have a much lower divorce rate.

Urban and rural difference: a difference between divorces related situations exist between urban and rural areas. It has been observed that urban areas experience more number of divorces than rural areas. Low literacy and lack of legal awareness in Indian villages can be some prominent reasons behind this difference. The institution of Panchayats in rural areas also help in keeping the number of divorce and separation low by mediating disputes between couples.

Differences based on religion: A study published on live mint revealed that for every 1,000 married Hindus, 2 are divorced, and for every 1,000 married Muslims, 3.7 are divorced. This implies that population and marital status adjusted, Muslims are more likely to be divorced than Hindus.

Gender difference: a huge gender divide exists in matters related to divorce. The gender gap leads to more women being divorced and separated because men tend to remarry.

LEGAL HISTORY OF DIVORCE IN INDIA

Before independence, the concept of divorce was not given much thought because marriage was considered as a sacred concept and a bond of indissoluble nature but soon the parliament felt the need to enact laws related to marriage and separation and hence, 8 years after the country's independence, the Hindu Marriage Act, 1955 was enacted. However, the first legislation relating to the dissolution of marriage was passed in the 1920's by the state of Kolhapur.

India is a diverse nations in terms of religion and hence, divorce in India is associated with faith or religion. Divorce laws for Jains, Sikhs, Hindus and Buddhists are given under the Hindu Marriage Act, 1955. The divorce laws of Muslims are mentioned under Dissolution of Muslim Marriage Act, 1939. Divorce laws governing Parsi marriage are under Parsi Marriage and Divorce Act, 1936. The Christians are governed by the Indian Divorce Act, 1869. All inter-community marriages are according to the provisions under the Special Marriages Act, 1954

Divorce in the UK

When you apply for a divorce you'll need to prove that your marriage has broken down and cannot be saved. You'll need to give one or more of the following 5 reasons

Conditions:

Adultery

Unreasonable behaviour

Desertion

You've been separated for 2 years.

You've been separated for 5 years.

Stats: There were 107,599 divorces of opposite-sex couples in 2019, increasing by 18.4% from 90,871 in 2018. There were 822 divorces among same-sex couples in 2019, nearly twice the number in 2018. Of these, nearly 72% were between female couples. Unreasonable behaviour was the most common reason for opposite-sex couples divorcing in 2019 with 49% of wives and 35% of husbands petitioning on these grounds; it was also the most common reason for same-sex couples divorcing, accounting for 63% of divorces among women and 70% among men.

Trends: The Divorce Rate was extremely low in the late 1950s, at only 2.5 per 100 000 married couples. The Divorce Reform Act of 1969 led to this increasing rapidly to 10 per thousand in just a few years, by the early 1970s. The Divorce Rate continued to increase until the early 1990s when it hit almost 15 per thousand married couples. It then stabilized for about 10 years and then started to decline in 2003, the number of divorces per year is still declining. There are currently just under 90 000 divorces per year in England. Since then, it has been falling and currently stands at 7.5%.

Marriage in India

India is a secular country and a wide number of religions are freely practiced. The major religions practiced include Hinduism, Islam and Christianity. People solemnize marriages in accordance with religious rituals and ceremonies, which are mostly codified by statutory personal laws. Therefore, the matrimonial laws in India, including laws on marriage, divorce and other connected issues, are essentially governed by the personal laws of the parties depending on their religion, which are codified by statute in most cases:

Hindu: Hindu Marriage Act 1955.

Muslim: Muslim marriage is a contract under Muslim law.

Christian: Indian Christian Marriage Act 1872 and the Divorce Act 1869.

Parsi: Parsi Marriage and Divorce Act 1936.

In addition, the Special Marriage Act 1954 applies to all persons of all religions.

Arranged marriage is a tradition in the societies of the Indian subcontinent, and continue to account for an overwhelming majority of marriages in the Indian subcontinent. The arranged marriage tradition lacks any official legal recognition or support, the institution has proved to be "surprisingly robust" in adapting to changed social circumstances and has defied predictions of decline as India modernized. The rate of arranged marriages in India is approximately 90%.

Marriage in The UK

For a marriage to be legally recognized in England and Wales it must comply with certain legal requirements. Even if your marriage is recognized by your community or religion, it may not be a lawful marriage according to English law.

Not closely related. For example, you cannot marry your brother or sister.

Over 16 years old. If you are under 18 years old you will need consent from your parents.

Not already married or in a civil partnership

There were 242,842 marriages registered in England and Wales in 2017, a decrease of 2.8% compared with 2016 and 1.1% lower than 2015. The change between 2016 and 2017 was driven by a 9.5% decline in the number of religious marriages coupled with a 0.6% decline in the number of civil marriages.

Marriages of opposite-sex couples accounted for the majority (97%) of marriages in 2017, with 235,910 opposite-sex marriages registered, a decrease of 2.8% compared with 2016. Since 1972, the number of opposite-sex marriages has decreased by 45%