
THE UNSTABLE EQUILIBRIUM: A SOCIO-LEGAL CRITIQUE OF MARITAL BREAKDOWN, ECONOMIC DIGNITY, AND THE INDIAN FAMILY COURT SYSTEM

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ABSTRACT

In India, marriage is viewed legally and socially as an extraordinary and everlasting connection of the mind through samaskara, a term denoting a spiritual obligation to uphold as sacred and respected by couples; through the bond of companionship, which should ultimately yield positive results for all families; as outlining both positive and negative ramifications for couples. Thus, "marriage" can be expressed as a duality, being a positive experience for couples, while also being a negative experience for couples who must endure an abusive marriage. This paper focuses on examining in detail the legal and social aspects of Indian Family Law and identifying the connections between the stridhan or property of women, the dowry system, which is the coercive financial obligation imposed on women to families; and alimony or financial support for women after divorce. This article claims that despite the Indian judiciary's safeguarding role in addressing legislative gaps with innovative interpretations, the system is nevertheless plagued by a lack of unified codification, procedural delays, and enforcement inadequacies. It accomplishes this by fusing both the social and judicial aspects of the family court system with doctrinal study. It emphasizes at the social implications of these legislative errors, where women are vulnerable to socioeconomic precariousness and dispossessed since the struggle for dignity often fails as a result of unenforced court rulings.

Keywords:

Marriage, Divorce, Stridhan, Dowry system, Alimony, Unified codifications, Women's socioeconomic vulnerability, Enforcement failures, doctrinal analysis.

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I. Introduction: The Myth of Sanctity and the Reality of Rupture

In India, marriage has been gradually but surely transforming. The institution has become more diverse over time, given the long-held belief that it is a continuous Vedic samskara. What was originally thought of only as a holy connection was given contractual components by colonial legislation and later post-independence revisions. Despite the legalisation of divorce by the Hindu Marriage Act, 1955 (HMA), a lot of people continue to believe that marriage should never end, making divorce seem strange or even unlawful.

In the courtroom, the difference between how marriage is seen and how it actually works becomes obvious. Disagreements over day-to-day money, and responsibilities are what remain when a marriage fails. The law must then intervene to determine how a relationship should end.

This situation can be seen in the term "marital breakdown." It refers to couples that may still be legally wed but do not have a deep connection. However, the Fault Theory, which still acts as the basis of Indian family law, does not always take into account marriages that have simply failed without an obvious act of misbehaviour. In this regard, three financial variables have a major influence on the safety of women and independence:

1. Alimony (maintenance): Acknowledging a woman's neglected domestic work and offering financial assistance after a divorce.
2. Dowry: An ongoing social burden that strains the finances of women and their families.
3. Stridhan: A woman's property is often contested in traditional family structures. This article contends that the legal freedom to divorce may not provide true protection until women's Stridhan is protected, dowry customs are aggressively curtailed, and alimony is given in a fair and dependable manner. Without these protections, divorce can put many women in greater debt than they found themselves in when they were married.

II. “Dead Marriages” and the Discourse on Irretrievable Breakdown: Debate

The Persistence of Fault Theory

Divorce is mostly based on blame under the HMA, 1955. According to Section 13, the person submitting the petition must demonstrate that the other spouse committed a "matrimonial offence," such as violence, adultery, abandonment, converting, or mental disorder. This arrangement presupposes a distinct separation between a "liable" and a "not guilty" spouse. Serious issues are frequently caused by this type of antagonistic setup. The push to make common marriage dissolution a crime is a significant problem. In order to meet legal standards, relationships who have merely grown distant are often urged to portray their circumstances as "mental cruelty" or an additional weakness.

- The fabric of lies: Attorneys frequently urge couples to make up accusations in order to obtain a divorce. To comply with the laws, a mutual drift away must be disguised as "mental cruelty".
- The Trap: A spouse may be legally bound to a person they dislike for years if they are unable to demonstrate specific cruelty.
- Recrimination: The system encourages mudslinging, which makes a compromise or shared parenting after a divorce practically impossible.

The Legislative Void: Irretrievable Breakdown of Marriage (IBM)

The majority of contemporary legal structures (UK, USA, Europe) have adopted the "Irretrievable Breakdown" concept, in which a duration of separation is typically used to demonstrate that the the marriage has collapsed. The Commission on Law of India has often called for the inclusion of irreversible marital disintegration as a basis for divorce, most notably in its 71st Report (1978) and later in its 217th Report (2010). However, two concerns have caused Parliament to stall:

1. The conservatives fear that the "easy divorce" will ruin the family.
2. The Feminist Fear: IBM permits men to leave their wives penniless after utilising their labour for years in the absence of strong financial protections.

Judicial Innovation: The Article 142 Route

Legislative lethargy has prompted the Supreme Court to act as a "super-legislature." In its 2023 Constitution Bench ruling in *Shilpa Sailesh v. Varun Sreenivasan*, the Supreme Court affirmed that it may utilise its authority under Article 142 to end a marriage if it determines that there has been an irreversible breakdown.

- **The Rationale:** The Court ruled that there is more powerful community benefit in dissolving a marriage that has entirely broken down than in sustaining its outward form. It can be cruel in and of itself to maintain two people in an engagement that has ended.
- **Waiver of Waiting Period:** The Court also made it clear that in cases where there is no realistic likelihood of the couple getting back together, it may waive the required 6–18 month "cooling-off" period for a consenting divorce.
- **The Limitation:** Crucially, only the Supreme Court has this discretionary authority.

Divorce cannot be granted by Family Courts or High Courts based only on breakdown. This leads to an unequal situation: whereas many individuals have to spend years showing "cruelty" in lower courts, those having the means to reach the Supreme Court may dissolve a dead marriage rather swiftly.

III. Stridhan: Understanding Women's Property

Stridhan, which translates to "a woman's wealth," is a notion unique to Hindu law. In a patrilocal in nature system, it is an essential guarantee of financial security and separates a woman's personal property from the larger pool of shared family assets.

Definition of Doctrine: Legally and customarily, Stridhan consists of: Legally and traditionally, Stridhan includes:

1. Gifts given prior to the nuptial fire (Adhyagni).
2. Bridal ceremonial gifts (Adhyāvāhanika).
3. Presents that parents or in-laws give out of love.
4. Property that a woman earns on her own or inherits.

Legal Status: The Supreme Court upheld a woman's complete ownership rights over her Stridhan in *Pratibha Rani v. Suraj Kumar* (1985). It was held unequivocally that

these properties would not become a part of the entire family's estate and remain solely as her.

The "Locker Syndrome" and Socio-Legal Reality

Along with bitter strict regulations, Stridhan's recovery is a nightmare marked by what is known as the "Locker Syndrome."

1. The Ritual Of Dispossession: Following the wedding, the bride's mother in law typically takes her jewelries and most of the stridhan, to keep it in a 'safe locker', which is either registered in the father in law or the groom's name.
2. Misappropriation: The husband's family frequently liquidates or mortgages this gold during family emergencies or business needs, frequently without the woman's express approval or under emotional duress.
3. The Evidentiary Black Hole: The wife must demonstrate the existence and possession of These objects when the marriage dissolves years later.

O Bills: The parents who purchased the gifts typically own the bills, which are frequently misplaced over time.

O Pictures: Wedding albums are the only option available to courts. Judges are required to Perform the role of forensic jewellers, counting necklaces in photos with magnifying. Glasses—a tedious and inaccurate procedure.

Recent Judicial Reinforcement

The Supreme Court strongly condemned the common practice of husbands stealing their wives' jewellery to pay off personal obligations in *Maya Gopinathan v. Anoop S.B.* (2024). The Court reiterated that Stridhan is the woman's sole and unalienable property as well as no part of it may be used to satisfy the husband's debts. It further emphasised that losing such wealth deprives a woman of what's sometimes her only source of autonomy and safety in a traditional household, making it far beyond simply a financial loss.

IV. Dowry: The Shadow of Economic Violence

Dowry provides the contrary reasoning if Stridhan signifies a woman's independent claim to property—assets that are both morally and legally hers alone. As the cost of the bride's admission into the married household, it burdens the bride's birth family financially rather than empowering her. Marriage has become a place of negotiations, request, and financial pressure as a result of the distortion of what started out as voluntary actions of affection in the shape of var-dakshina into a forceful economic extraction. In this change, wealth passes via the woman rather than to her, transforming her participation in the marital residence into a transaction of business rather than a partnership based on equality and respect.

- The Economic Theory: Marriage Markets
- Dowry price inflation has increased despite modernization, as reported by economists Chiplunkar and Weaver (2023). In a hypergamous society, this can be explained by the “Groom Price” phenomena. The “price” for obtaining such a groom rises when women look to get married “up” into better economic or social strata (and as high-earning grooms have become a scarce commodity). In essence, the dowry serves as a financial transfer for the groom's household to either buy status or make up for the bride's perceived “burden”.
- The Legal Failure: Dowry Prohibition Act, 1961
- Many people consider the 1961 Act to be a toothless tiger.
- Definition Loopholes: Although “Dowry” is illegal under the Act, “gifts” made out of affection and love can be given as long as they are “customary.” Due to this loophole in order millions of rupees worth of cash, automobiles, and gold can be passed off as “customary gifts.”
- Failure to Report: The bride's relatives (the givers) are considered collaborators as both giving and receiving dowries are illegal. They don't disclose the crime until the marriage fails, at which point the evidence is frequently stale.
- Section 498A and the “Misuse” Narrative
- In order to prevent dowry deaths, Section 498A of the IPC (Cruelty by

Husband/Relatives) was added in 1983. It is categorized as an offense that is both recognizable and non-bailable. The Debate: There is still a common misconception that unhappy wives regularly “misuse” Section 498A to attack their husbands and in-laws. It is frequently referred to as “legal harassment” by men’s rights organizations.

- The Judicial Response:
- The Supreme Court noted in *Arnesht Kumar v. State of Bihar* (2014) that the clause was occasionally used to detain parents who were elderly and distant family members without sufficient investigation. The Court decreased regular arrests by ruling that arrests in 498A cases can’t be made by default and mandating that the police adhere to Section 41A of the CrPC. **Verify Reality:** Even while there are cases of abuse, the emphasis on abuse sometimes obscures the more significant problems of inadequate reporting and lax enforcement. Although only 15–20% of proceedings under Section 498A result in convictions, this does not always mean that the complaints are untrue. Rather, it indicates:
- **Compromise:** Negotiated settlements are the outcome of many instances. In exchange for the return with their belongings and a divorce with mutual agreement, women frequently consent to drop the criminal charge.
- **Inadequate Investigation:** The police frequently fail to gather the required monetary or documentary evidence, which results in weak court cases.

V. Alimony and Maintenance: The Economics of Survival

Financial survival is frequently the woman's top priority when a marriage fails. Alimony, also known as payments, serves as the vital support that keeps her from falling into poverty.

The Judicial Labyrinth of Upkeep

A woman must take a number of different legal paths in order to obtain this fundamental support:

1. The CrPC's Section 125, which offers a prompt, impartial remedy to stop destitution and desertion.
2. The Hindu Marriage Act's Section 24, which permits temporarily support while a marriage case is pending.
3. The Domestic Violence Act, which provides financial assistance in cases of financial abuse.

The same income is frequently reevaluated by several courts due to the various forums in which these laws apply, leading to conflicting rulings and procedural confusion.

Rajnish v. Neha: The Pivotal Case

Maintenance procedures were infamously obscure prior to 2020. Husbands frequently asserted

to be without employment or make very little money while using cash transactions to hide income or

Benami assets.

A significant change resulted from the Supreme Court's decision in Rajnish v. Neha.

- The Court mandated that each party submit an extensive Affidavit of Disclosure outlining banking accounts, credit card statements, living costs, international travel, and commercial activity.
- False statements on this affidavit may result in contempt of court or perjury prosecution. A degree transparency that was before lacking has been brought about by this action.

The Reasoning for "Capacity to Earn"

The argument that the wife shouldn't be eligible to maintenance since she is educated and consequently able to support herself is a common line of defence.

Courts have consistently rejected this viewpoint. The Supreme Court made it clear in *Shailja & Anr v. Khobbanna* (2018) that if a woman has an actual opportunity to work

is more important than whether or not she is possibly capable of doing so. The Court stressed that taking extended leaves of absence from work to care for children and take care of the home greatly lowers employability. The husband cannot avoid responsibility by citing his "capacity to earn," and the maintenance standard must match the woman's standard of living in the married home.

VI. The Family Court System: Institutional Collapse

In order to create a more compassionate, casual, and conciliatory setting for settling family conflicts, the Family Courts Act of 1984 was enacted. However, this ideal is undermined by serious structural flaws that are shown by actual events inside these courts forty years later.

Infrastructure and case management are where the stress is most noticeable. Family courts in big Indian cities struggle with a severe staffing deficit, inadequate facilities, and an excessive caseload. According to a 2022 study by the Centre for Social Justice, judges in a few of urban courts often hear between sixty and seventy cases each day, giving each litigant a typical of three to five minutes to speak. Due to the pressure to clear lists, proceedings that ought to involve real engagement with delicate personal matters frequently become mechanical hearings. Seldom is privacy safeguarded, despite being a fundamental component of civilised judgement. Hearings on matters like sexual disparity, domestic abuse, and custody of children often take place within courtrooms packed with attorneys, police officers, and unconnected litigants, adding additional humiliation to already vulnerable situations, according to researchers from the National Law University Delhi.

Despite being intended as a supporting device, the counselling and mediation framework frequently has the opposite impact. Although the Act views settlement as the first option, empirical analyses show serious problems with the way these sessions are conducted. Nearly 60% of women in mediation reported feeling stressed out to make amends, even in situations involving confirmed abuse, in accordance to a 2018 research study conducted by the Tata Institute of Social Sciences, almost sixty percent of women in mediation stated that they felt pressured to make reparations, even in cases with documented abuse. Due to their lack of training in gender-responsive practice, professionals often put stability in marriage ahead of their own security. The

notion that women should return to violent households in order to safeguard their children is nevertheless remarkably common. The inherent inequality in marriages makes negotiations much more difficult. When one partner lacks stable employment, a home, or psychological assistance, the idea of comparable bargaining power becomes just theoretical. In order to resolve protracted legal conflicts, women sometimes give up claims to property or accept inadequate alimony in these circumstances.

The method by which a court order is executed also bring attention to an even larger systemic problem; it is simpler to enforce payment(s) regarding maintenance than it is to enforce compliance with that court order. The most recent Indian Family Justice Report 2021 indicates that of the orders relating to maintenance, almost 45% were either completely or partially unpaid. How and when maintenance orders are executed generally follows a predictable pattern. When an individual stops making maintenance payments, the custodial parent will file for execution of the court order; the custodial parent will be issued a warrant for the non-compliance of the order, but by the time that the custodial parent has obtained the warrant, their spouse has usually either moved on or was unaware of the warrant issued. Men who fail to pay maintenance frequently will only make a nominal deposit to avoid being arrested after ages away from their families. The applicant continues to go through the motions of repeat filings to obtain further warrants. The avenue of asset manipulation as an avoidance technique further complicates the situation. There has been an increase in men transferring their properties to family members, conducting illegal businesses or falsely claiming they are unemployed, all as a means to avoid paying maintenance. Due to the lack of any effective financial disclosure process and the lack of communication and co-operation between the courts, financial institutions and tax authorities, this type of hiding and transfer of assets is now commonplace in India. In comparison to other countries such as Australia and the UK, research indicates that India is far behind in developed means of enforcing payments through privacy laws that prohibit the release of any information pertaining to financial records, as well as automated banking systems in which banks can monitor and report financial transactions. Overall findings indicate an ongoing division between the Family Courts' current operations compared to the ethical purposes of the Family Courts Act and the objective of providing support through the court process. While

intended to provide an atmosphere of support and care to families, the Family Courts Act has turned into yet another place where women who are seeking justice find resistance and/or obstacles at virtually every turn, and ultimately wind up in another battle with the system. In addition to changing policies and investing in infrastructure, thoroughly training mediators and developing a robust enforcement mechanism to address the use of financial strategies to avoid the use of the domestic violence resolution process in India is needed to achieve any meaningful change.

VII. Comparative Perspectives: Lessons from Abroad

A comparison of India's fragmented family law framework with practices in Other countries offers useful insights for possible reforms

- The United Kingdom adheres to the Clean Break strategy outlined in the Matrimonial causes Act of 1973. The main aim is to use only one, final agreement to put an end to the couples' financial dependence. Following payment, each party proceeds on their own.
- Suitability for India
- The social circumstances of India are not well adapted to this approach. The Clean Break assumes that a woman will have significant chances to go back to work and earn a living. A single settlement could leave many women lacking long-term security in India, where women's employment participation is still low and social hurdles frequently prohibit remarriage.
- United States
- The majority of US states adhere to the equitable distribution principle.
- There are two types of property: independent property, obtained throughout the marriage, and shared assets. The court then divides the marital wealth in a way that it deems equitable, giving proper consideration to non-cash contributions like child care, household chores, and career sacrifices.
- Suitability for India

- This strategy is much more in line with what India needs. The concept of marital property is currently not expressly recognised by Indian law. When a husband buys a house in his own name, the wife does not automatically inherit the property if the marriage ends, even if the financial gains have been rendered possible by her unpaid domestic work. She can only perform maintenance. Implementing a structure for equitable distribution will guarantee a more just result and recognise her contribution to the development of family assets.

VIII. Challenges and The Way Forward

The critical circumstances of these flaws shows how significant it is to acquire unambiguous reforms and policies.

1. Legislative Reform: Marital Property and IBM

- Irretrievable Breakdown: The HMA must be amended by Parliament to incorporate Irretrievable Breakdown as a basis for divorce, yet only with a “hardship clause” that permits the court to deny divorce if the wife’s financial assistance is insufficient.
- Community involvement of Property: India needs to transition to a “Community of Property” system. Regardless of whose name appears on the title deed, assets acquired during the marriage must be legally deemed to be jointly owned.

2. Reforming Procedures: The “Rajnesh” Audit

- Required Registration: The “List of Presents” (dowry/stridhan list) was kept up to date. Must be required beneath the Dowry Prohibition Act and registered at the time of registering a marriage. The subsequent evidentiary battle is eliminated as a result.
- Forensic Accounting: Forensic accountants should be assigned to family courts in order to track concealed assets of spouses as opposed to placing the onus of proof on the dependent spouse.

3. Automated Enforcement for Institutional Strengthening

- Auto-Debit Systems: banking institutions and the employer's payroll should be directly connected to maintenance orders. To guarantee timely assistance, maintenance might be set up to be immediately deducted, just how income tax gets deducted at source (TDS).
- Unified Code: There is a compelling argument for replacing the current overlap between the Domestic Violence Act, the HMA, and the CrPC with a single "Family Justice Code." A simplified "One Family, One Judge" strategy would assist prevent contradictory rulings in several forums.

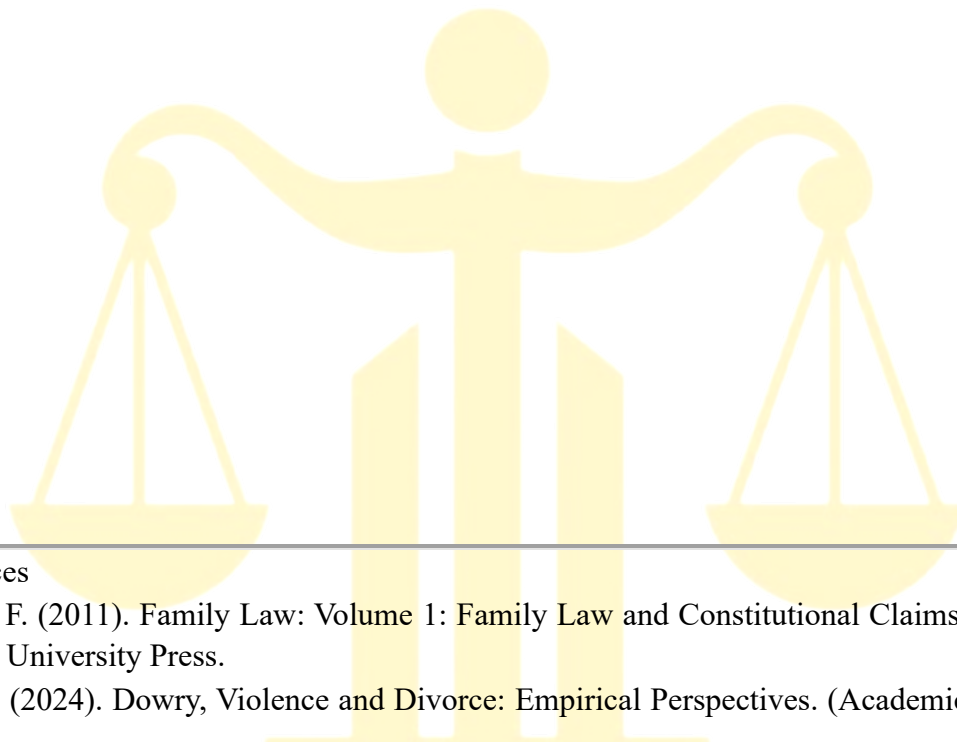
4. Valuing Unpaid Labor

In recent times, the Supreme Court has started to recognise the "opportunity cost" connected to union. Any structure for reform should publicly acknowledge the economic worth of cooking at home. When a woman quits her work to take care of the family or raise children, allowing her spouse to succeed professionally, she successfully contributes to his human capital. Alimony, therefore, should not be considered as an act of assistance but as a type of return on the money she invested to keep the family going

IX. Conclusion

India's divorce regulations reveal a significant paradox: while the laws appear to be protected in theory, they are often difficult to implement. The judicial branch has played the role of an innovator by filling in the holes created by the laws regarding women's rights through its consistent interaction with women's rights, such as Shah Bano, Pratibha Rani, and Rajnesh vs. Neha and Shilpa Sailesh. It is not, however, a reasonable or sustainable means of achieving rights for women by relying solely on the courts to grant rights. This does not address systemic problems with the regulation of women's rights and leads to varied results dependent upon the individual judges and the assessment of each case individually. Likewise, even well-reasoned decisions of the courts may not be implemented in a timely manner due to a fragmented family law system. Thus, the way for the system to be a viable means of protecting rights is to establish comprehensive legislation and ceasing piecemeal approaches through the court system. Also, the current "maintenance model", which focuses largely on mere subsistence must be replaced with a rights-based model that acknowledges the equal

status of women's participation within the marriage. Both sufficient enforcement mechanisms and clearly established legal principles are needed, at which point family law in India will be more than a random array of contrary decisions and will become a rational, dependable system that promotes justice, fair treatment and dignity of people experiencing divorce.



References

- Agnes, F. (2011). *Family Law: Volume 1: Family Law and Constitutional Claims*. Oxford University Press.
- Bag, S. (2024). *Dowry, Violence and Divorce: Empirical Perspectives*. (Academic Press).
- Chiplunkar, G., & Weaver, J. (2023). *Marriage Markets and the Rise of Dowry in India*. *Journal of Development Economics*.
- Desai, S. (2022). *The Dynamics of Dead Marriages in Indian Law*. *Journal of Indian Law and Society*.
- Diwan, P. (2020). *Modern Hindu Law*. Allahabad Law Agency.
- Menski, W. (2008). *Hindu Law: Beyond Tradition and Modernity*. Oxford University Press.
- Mullally, S. (2004). *Separate Spheres? Security, Equality and the Household*. *Legal Studies*, 24(3).
- Palriwala, R. (2009). *Marriage, Migration and Gender*. SAGE Publications.
- Singh, K. (2018). *Separated and Divorced Women in India: Economic Rights and Social Stigma*. SAGE Publications.
- Uberoi, P. (2006). *Freedom and Destiny: Gender, Family, and Popular Culture in India*. Oxford University Press.

Cases

- Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273.
- Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353.
- Danial Latifi v. Union of India, (2001) 7 SCC 740.
- Manish Jain v. Akanksha Jain, (2017) 15 SCC 801.
- Maya Gopinathan v. Anoop S.B., (2024) SCC OnLine SC.
- Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556.
- Pratibha Rani v. Suraj Kumar, (1985) 2 SCC 370.
- Rajnesh v. Neha, (2021) 2 SCC 324.
- Rashmi Kumar v. Mahesh Kumar Bhada, (1997) 2 SCC 397.
- Shailja & Anr v. Khobbanna, (2018) 12 SCC 199.
- Shilpa Sailesh v. Varun Sreenivasan, 2023 SCC OnLine SC 544.

