

It now stand repealed
by the hindu marriage



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It therefore follows that the Hindu law does not recognise a divorce. Although the law did not contemplate divorce yet it has been held that it was recognised in some communities of Hindus as an established custom.

In some parts of the country it was permitted by legislation. For example, in Bombay, Madras and Saurashtra, it was specifically contained in the Bombay Hindu Divorce Act, 1947, Madras Hindu Bigamy Prevention and Divorce Act, 1949, and the Saurashtra Hindu Divorce Act, 1952. All these Acts now stand repealed by the Hindu Marriage Act, 1955. In other parts of the country in absence of custom divorce had no recognition under any circumstances.

Manu does not approve of dissolution of marriage in any condition.

He declared, " Let mutual fidelity continue till death, this in brief may be understood to be the highest dharma of husband and wife. The duty of a wife continues even after her death. She can never have a second husband."

But on the other hand we find some texts in Narada and Parashar codes of law, which permit divorce to wife in certain conditions of life. According to Narada, there are five conditions as under in which a woman could renounce her husband and choose another: (1) Husband lost and unheard of for a period of seven years; (2) Husband be dead; (3) Husband renounced the world; (4) Husband became impotent; (5) Husband is ex-communicated. In Arthasastra, Kautilya declared that marriage might be dissolved by mutual consent in the case of unapproved forms of marriage.

According to him a wife could repudiate her marriage under the following conditions: (a) Husband's misconduct with the wife, (b) Husband's prolonged absence, (c) Husband's punishment, (d) Husband becoming dangerous to the

wife's life, (e) Husband ex-communicated, (f) Husband having become impotent. Majority of ancient jurists expressed their disapproval for divorce. It was only in unapproved forms of marriage that they favoured divorce, that too in extreme cases of distress. The parties to a marriage solemnised under the Special Marriage Act, 1954, could obtain a decree of divorce under the conditions laid down in chapter 3 thereof.