

# Divorce Under Hindu Marriage Act: A Comprehensive Guide to Legal Dissolution of Marriage



## WAYS TO CLAIM DIVORCE, PERMANENT ALIMONY AND MAINTENANCE FROM HUSBAND: DIVORCE UNDER HINDU MARRIAGE ACT

★★★★★ 5 out of 5



The Hindu Marriage Act of 1955 governs the dissolution of marriages between Hindus in India. Understanding the legal framework surrounding divorce under this act is crucial for individuals contemplating or navigating the process. This comprehensive guide delves into the essential aspects of divorce under the Hindu Marriage Act.

### Grounds for Divorce

Under the Hindu Marriage Act, a petition for divorce can be filed on the following grounds:

1. **Adultery:** Proof of infidelity or extramarital relations.

2. **Cruelty:** Physical, mental, or emotional abuse.
3. **Desertion:** Abandonment of the marriage for a period of two years without consent.
4. **Conversion:** Change of religion by one spouse making it difficult or impossible to continue the marriage.
5. **Mental Illness:** Incapacity to consummate the marriage or understand its responsibilities for a period of three years.
6. **Presumption of Death:** Continuous absence of a spouse for seven years with no proof of their existence.
7. **Mutual Consent:** Agreement between both spouses to dissolve the marriage.

## **Procedure for Divorce**

The process of obtaining a divorce under the Hindu Marriage Act involves:

1. **Filing a Petition:** Submitting a petition to the Family Court outlining the grounds for divorce and the relief sought.
2. **Service of Notice:** The petition is served to the other spouse, who has a specified time to respond.
3. **Contested or Uncontested Divorce:** If the other spouse contests the divorce, a trial will be held. If uncontested, the Court may grant the divorce without a trial.
4. **Evidence and Arguments:** The parties present evidence and arguments to support their claims.

5. **Judgment:** The Court issues a judgment granting or denying the divorce.

## **Maintenance and Custody**

In addition to the dissolution of marriage, the Court may also consider issues of maintenance and custody.

- **Maintenance:** Either spouse may claim maintenance from the other if unable to support themselves.
- **Custody:** The Court determines the custody of minor children based on the best interests of the child.

## **Mutual Consent Divorce**

Introduced in 2001, mutual consent divorce allows spouses to jointly apply for a divorce without proving any grounds. This simplified procedure:

- Requires a separation of one year.
- Involves filing a joint petition.
- Can be granted after a six-month cooling-off period.

## **Recent Developments**

Recent amendments to the Hindu Marriage Act have addressed:

- **Irretrievable Breakdown:** The "no-fault" ground for divorce recognizes the irretrievable breakdown of the marriage without requiring proof of specific misconduct.

- **Mediation:** Courts encourage mediation for resolving disputes and promoting amicable settlements.

Divorce under the Hindu Marriage Act is a complex legal process. Understanding the grounds, procedure, and recent developments empowers individuals to navigate this challenging time effectively. Seeking legal advice from an experienced family law attorney is highly recommended to ensure a fair and informed outcome.



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