

Irretrievable Breakdown of Marriage and Access to Dignified Exit from Matrimony: A Critical Study of Indian Family Law

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Abstract—Marriage has traditionally been regarded as a sacred and enduring institution within Indian society. However, social transformation, changing notions of individual autonomy, and evolving constitutional values have led to increased recognition of the need for legal mechanisms that allow parties to exit failed marriages with dignity. The concept of irretrievable breakdown of marriage has emerged as an important ground for divorce in several jurisdictions across the world, reflecting the reality that certain marital relationships may become emotionally, psychologically, and practically unsustainable despite the absence of conventional fault-based grounds. In India, although irretrievable breakdown of marriage has not yet been incorporated as a statutory ground for divorce, the Supreme Court has repeatedly invoked its constitutional powers to dissolve marriages that have completely collapsed beyond the possibility of reconciliation. This paper critically examines the concept of irretrievable breakdown of marriage, traces its judicial development in India, analyses comparative international approaches, and explores its relationship with constitutional values such as dignity, personal liberty, and autonomy. The paper argues that legislative recognition of irretrievable breakdown would promote access to a dignified exit from matrimony while reducing prolonged litigation and emotional suffering associated with dead marriages.

Index Terms—Divorce, Matrimonial Law, Constitutional Morality, Human Dignity, Personal Liberty, Article 21, Access to Justice

I. Introduction

Marriage occupies a central position in the social, cultural, and legal fabric of Indian society. Traditionally viewed as a sacred and lifelong union, marriage has long been regarded as the foundation of family life and social stability. Indian personal laws, influenced by religious traditions and social customs, have historically emphasized the preservation of marriage and the promotion of reconciliation between spouses. Consequently, the legal framework governing divorce developed cautiously, reflecting concerns regarding family integrity and social cohesion. While these considerations continue to remain relevant, contemporary legal discourse increasingly recognizes that preserving a marriage at all costs may not always serve the interests of justice, dignity, or individual well-being.

The institution of marriage has undergone significant transformation in recent decades. Economic independence, urbanization, educational advancement, and changing social attitudes have altered perceptions regarding marital relationships and individual autonomy. Modern marriages are increasingly viewed as partnerships founded upon mutual respect, companionship, trust, and emotional fulfilment. When these

essential elements disappear and the relationship becomes marked by prolonged hostility, separation, incompatibility, or complete emotional estrangement, the continued existence of the legal bond may serve little practical purpose. In such circumstances, compelling parties to remain formally married may perpetuate suffering rather than preserve family values.¹

The concept of irretrievable breakdown of marriage emerged as a response to this reality. The doctrine proceeds on the assumption that where a marriage has completely collapsed and there exists no reasonable possibility of reconciliation, the law should recognize the factual reality of the situation and permit dissolution of the marital bond. Unlike fault-based divorce systems that require proof of matrimonial misconduct such as cruelty, adultery, or desertion, the doctrine focuses on the actual condition of the marriage itself. The central question is not who is responsible for the breakdown but whether the marriage has ceased to function as a meaningful relationship.²

Many jurisdictions have adopted irretrievable breakdown as a ground for divorce in order to reduce adversarial litigation and facilitate amicable resolution of marital disputes. The move towards no-fault divorce reflects broader shifts in family law from fault and punishment towards autonomy, dignity, and practical realities. Such reforms acknowledge that forcing parties to remain in dead marriages may undermine rather than promote the objectives of matrimonial law. The emphasis therefore shifts from assigning blame to enabling fair and dignified termination of relationships that have irreversibly failed.

In India, however, irretrievable breakdown of marriage has not yet been incorporated as an independent statutory ground for divorce under most personal laws. Despite recommendations from the Law Commission of India and repeated judicial observations supporting legislative reform, Parliament has not enacted comprehensive amendments recognizing the doctrine. Nevertheless, the Supreme Court has increasingly invoked its extraordinary constitutional powers under Article 142 of the Constitution to dissolve marriages that have broken down beyond repair.³ Through a series of decisions, the Court has acknowledged that in certain cases the continuation of a purely legal relationship serves no useful purpose and may instead inflict further emotional and psychological hardship upon the parties.

The judicial development of the doctrine has generated important legal and constitutional questions. While courts have sought to provide relief in deserving cases, reliance upon extraordinary constitutional powers creates uncertainty regarding consistency and accessibility. Litigants who cannot approach the Supreme Court may remain bound by statutory limitations despite facing circumstances similar to those in which relief has

¹ Paras Diwan, *Modern Hindu Law* 143-148 (Allahabad Law Agency, Faridabad, 28th edn., 2021).

² P.M. Bromley and N.V. Lowe, *Bromley's Family Law* 205-210 (Oxford University Press, Oxford, 11th edn., 2015).

³ *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558.

been granted under Article 142. This situation raises concerns regarding equality, predictability, and access to justice within matrimonial law.

The debate surrounding irretrievable breakdown of marriage also intersects with broader constitutional principles. The right to life and personal liberty under Article 21 has been interpreted expansively to include dignity, privacy, autonomy, and the freedom to make intimate personal choices. Contemporary constitutional jurisprudence increasingly emphasizes the importance of individual agency and self-determination within personal relationships.⁴ From this perspective, the denial of a legal mechanism enabling parties to exit a hopelessly broken marriage may be viewed as inconsistent with evolving constitutional values that prioritize dignity and meaningful personal liberty.⁵

At the same time, concerns continue to be expressed regarding the possible misuse of the doctrine and its implications for economically vulnerable spouses. Critics argue that unrestricted recognition of irretrievable breakdown could weaken protections available to dependent spouses and undermine the stability of the institution of marriage. These concerns highlight the need for a balanced legal framework that facilitates dignified exit while ensuring adequate safeguards relating to maintenance, child welfare, and financial security.

Against this backdrop, the present study examines the concept of irretrievable breakdown of marriage and its significance within Indian family law. It analyses the evolution of the doctrine, explores judicial approaches, evaluates comparative international practices, and considers the constitutional dimensions of access to a dignified exit from matrimony. The paper argues that legislative recognition of irretrievable breakdown, accompanied by appropriate safeguards, would better align matrimonial law with contemporary social realities and constitutional values while promoting fairness, efficiency, and human dignity.

II. Evolution of the Concept of Irretrievable Breakdown of Marriage

The concept of irretrievable breakdown of marriage emerged as a response to the limitations of traditional fault-based divorce systems that dominated matrimonial law for centuries. Historically, marriage was viewed not merely as a personal relationship but as a social and religious institution whose preservation was considered essential for maintaining family stability and public morality. Divorce was either prohibited altogether or permitted only in exceptional circumstances involving serious matrimonial misconduct such as adultery, cruelty, desertion, or conversion. Consequently, parties trapped in unhappy or dysfunctional marriages often found it difficult to obtain legal dissolution unless they could establish one of the recognized

⁴ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368.

⁵ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

fault grounds. This approach frequently compelled spouses to engage in adversarial litigation and allegations of wrongdoing, thereby intensifying conflict rather than facilitating resolution.⁶

The inadequacies of fault-based divorce gradually became apparent as social attitudes towards marriage and individual rights evolved. Courts and scholars increasingly recognized that marital relationships could collapse for reasons that did not necessarily involve identifiable fault on the part of either spouse. Emotional incompatibility, loss of affection, prolonged separation, communication breakdown, and irreconcilable differences could render a marriage effectively dead even though traditional grounds for divorce remained unavailable. In such situations, legal insistence upon proving fault often resulted in artificial allegations, prolonged litigation, and unnecessary emotional suffering. These concerns contributed to the development of alternative approaches that focused upon the actual condition of the marriage rather than assigning blame for its failure.⁷

The movement towards recognizing irretrievable breakdown of marriage gained momentum during the twentieth century, particularly in Western jurisdictions. Family law scholars argued that the primary objective of divorce law should not be the punishment of matrimonial misconduct but the fair resolution of relationships that had ceased to function. This shift reflected broader social changes emphasizing personal autonomy, individual happiness, and mutual respect within marriage. The idea gradually emerged that when a marriage had completely collapsed and reconciliation was no longer possible, the law should acknowledge the factual reality rather than preserve a purely formal legal relationship.

One of the earliest and most influential developments occurred in England through the recommendations of the Law Commission and subsequent legislative reforms. The concept of irretrievable breakdown was incorporated into matrimonial law through the Divorce Reform Act, 1969, which treated the breakdown of marriage as the sole ground for divorce.⁸ The legislation represented a significant departure from traditional fault-based approaches by emphasizing the failure of the marital relationship itself rather than the conduct of the parties. Similar reforms were subsequently adopted in numerous jurisdictions including Australia, New Zealand, Canada, and several states within the United States. These developments contributed to the emergence of no-fault divorce systems designed to reduce hostility and facilitate dignified dissolution of failed marriages.

The intellectual foundation of the doctrine rests upon the recognition that marriage is fundamentally a relationship based upon mutual trust, companionship, emotional support, and shared life objectives. When these essential elements disappear and the relationship ceases to function in any meaningful sense, legal

⁶ H.K. Saharay, *Family Law in India* 312-318 (Eastern Law House, Kolkata, 2018).

⁷ P.M. Bromley and N.V. Lowe, *Bromley's Family Law* 211-216 (Oxford University Press, Oxford, 11th edn., 2015).

⁸ The Divorce Reform Act, 1969 (U.K.), s. 1.

preservation of the marriage may become inconsistent with both practical realities and individual well-being. The doctrine therefore seeks to balance respect for the institution of marriage with recognition of the realities of human relationships. Rather than encouraging divorce, it acknowledges that certain marriages may have deteriorated beyond repair and that legal mechanisms should exist to address such situations fairly and efficiently.⁹

The concept entered Indian legal discourse through academic writings, judicial observations, and recommendations of expert bodies examining matrimonial law reform. As matrimonial litigation increased and courts encountered cases involving prolonged separation and complete marital collapse, concerns emerged regarding the inadequacy of existing divorce provisions. In many instances, parties remained legally married despite having lived apart for several years and despite the absence of any realistic possibility of reconciliation. Courts were frequently confronted with situations in which continuation of the legal relationship served no practical purpose and merely prolonged conflict and suffering.

Recognizing these difficulties, the Law Commission of India examined the issue in detail. The Seventy-First Report of the Law Commission recommended the incorporation of irretrievable breakdown of marriage as an independent ground for divorce under the Hindu Marriage Act, 1955.¹⁰ The Commission observed that when a marriage has broken down beyond repair, compelling parties to remain tied to a legal bond that no longer reflects social reality serves neither justice nor public interest. The report emphasized that the law should not insist upon maintaining a marriage that exists only in form and not in substance.

Subsequent Law Commission reports reiterated similar concerns and highlighted the growing need for legislative reform. The Two Hundred and Seventeenth Report again recommended statutory recognition of irretrievable breakdown, noting that existing grounds for divorce often failed to address situations involving complete marital collapse without provable fault.¹¹ These recommendations reflected an increasing recognition that matrimonial law should respond to social realities rather than adhere rigidly to outdated assumptions regarding family relationships.

Indian courts also played a significant role in shaping the discourse surrounding irretrievable breakdown of marriage. Judicial decisions increasingly acknowledged that certain marriages become incapable of restoration despite prolonged attempts at reconciliation. In several cases, courts observed that forcing parties to continue in a relationship marked by bitterness, hostility, and prolonged separation may amount to injustice.

⁹ Rebecca Probert, *Cretney's Principles of Family Law* 174-180 (Sweet & Maxwell, London, 9th edn., 2015).

¹⁰ Law Commission of India, *71st Report on the Hindu Marriage Act, 1955 – Irretrievable Breakdown of Marriage as a Ground of Divorce* 8-15 (1978).

¹¹ Law Commission of India, *217th Report on Irretrievable Breakdown of Marriage – Another Ground for Divorce* 12-20 (2009).

These observations laid the foundation for later developments in which the Supreme Court invoked its constitutional powers to dissolve marriages that had effectively ceased to exist in substance.¹²

The evolution of the doctrine in India has therefore been characterized by a gradual shift from strict adherence to fault-based divorce towards greater recognition of practical realities and individual dignity. While legislative reform has remained elusive, judicial recognition of the concept has continued to expand. The doctrine has increasingly been viewed not merely as a mechanism for terminating failed marriages but also as an instrument for protecting personal autonomy and reducing unnecessary suffering. The growing acceptance of irretrievable breakdown reflects broader transformations in family law, where emphasis has shifted from preserving legal forms at all costs to ensuring fairness, dignity, and meaningful access to justice.

At the same time, debates regarding the doctrine continue to raise important questions concerning the balance between marital stability and individual freedom. Supporters argue that recognition of irretrievable breakdown promotes humane and realistic legal solutions, whereas critics caution against weakening the institution of marriage or undermining protections available to economically vulnerable spouses. These competing considerations have shaped the trajectory of legal reform and continue to influence discussions concerning the future of matrimonial law in India.

The evolution of the concept ultimately demonstrates the changing relationship between law, society, and personal autonomy. As family structures and social expectations continue to evolve, legal systems increasingly face the challenge of reconciling traditional values with contemporary understandings of dignity and individual choice. The doctrine of irretrievable breakdown of marriage represents one such effort to align matrimonial law with social realities while preserving fairness and justice for all parties involved.

III. Judicial Recognition of Irretrievable Breakdown of Marriage in India

The doctrine of irretrievable breakdown of marriage has acquired significant importance in Indian matrimonial jurisprudence despite the absence of express statutory recognition. While personal laws governing divorce continue to rely primarily upon fault-based grounds such as cruelty, adultery, desertion, and conversion, the judiciary has increasingly acknowledged that certain marriages may collapse beyond the possibility of restoration. In such circumstances, courts have been confronted with the difficult task of balancing legislative limitations against the demands of justice, fairness, and human dignity. The judicial development of the doctrine reflects an effort to reconcile legal formalism with social realities and to provide relief in cases where continuation of the marital relationship serves no meaningful purpose. The Supreme Court's engagement with the doctrine emerged gradually through cases involving prolonged matrimonial disputes, failed reconciliation attempts, and complete emotional estrangement between spouses. Courts

¹² *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558; *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511.

frequently encountered situations in which parties had lived separately for many years and had become locked in bitter litigation, yet statutory grounds for divorce were either difficult to establish or inadequate to address the reality of the relationship. The persistence of such cases exposed the limitations of existing matrimonial laws and prompted judicial reflection upon the need for more flexible approaches to marital dissolution.¹³

A landmark development occurred in *Naveen Kohli v. Neelu Kohli*¹⁴, where the Supreme Court explicitly recognized the concept of irretrievable breakdown of marriage and strongly recommended legislative reform.¹⁵ The Court observed that the marriage between the parties had become emotionally dead and that prolonged litigation had destroyed any possibility of reconciliation. It emphasized that compelling parties to remain tied to a legal bond that had ceased to function in substance would serve no useful purpose. The Court further urged the Union Government to consider incorporating irretrievable breakdown of marriage as a statutory ground for divorce. This decision marked a turning point in Indian matrimonial jurisprudence by bringing the doctrine into mainstream legal discourse.

The issue was further examined in *Samar Ghosh v. Jaya Ghosh*¹⁶, a case primarily concerned with mental cruelty.¹⁷ Although the Court did not directly dissolve the marriage on the basis of irretrievable breakdown, it acknowledged that prolonged separation and complete collapse of marital relations may constitute important indicators of matrimonial failure. The judgment adopted a realistic approach towards understanding marital relationships and recognized that courts must consider the practical realities of the parties' lives rather than focusing exclusively upon formal legal obligations. The decision contributed significantly to the evolution of family law by emphasizing substance over form in matrimonial disputes.

Over time, the Supreme Court increasingly invoked its extraordinary powers under Article 142 of the Constitution to dissolve marriages that had irretrievably broken down. Article 142 empowers the Court to pass such decrees or orders as may be necessary for doing complete justice in any cause or matter pending before it.¹⁸ This constitutional provision enabled the Court to provide relief in exceptional circumstances where strict adherence to statutory requirements would result in injustice. The exercise of Article 142 in

¹³ Paras Diwan, *Modern Hindu Law* 325-331 (Allahabad Law Agency, Faridabad, 28th edn., 2021).

¹⁴ (2006) 4 SCC 558.

¹⁵ *Supra* note 3.

¹⁶ (2007) 4 SCC 511.

¹⁷ *Supra* note 11.

¹⁸ The Constitution of India, art. 142- Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

matrimonial cases reflected judicial recognition that certain disputes require equitable solutions beyond the confines of conventional legal doctrines.

In *R. Srinivas Kumar v. R. Shametha*,¹⁹ the Supreme Court dissolved a marriage that had become completely unworkable due to prolonged separation and irreconcilable differences between the parties. The Court observed that where a marriage exists only as a legal fiction and all efforts at reconciliation have failed, continuation of the relationship may merely prolong suffering. The judgment reinforced the view that matrimonial law should respond to social realities and facilitate resolution rather than perpetuate conflict. The Court recognized that maintaining a dead marriage often undermines rather than protects the objectives of family law.

Judicial reliance upon Article 142 continued in several subsequent cases where courts confronted situations involving lengthy separation, multiple rounds of litigation, and complete emotional estrangement. These decisions reflected a growing awareness that matrimonial disputes should be resolved in a manner that promotes dignity, fairness, and emotional well-being. Courts increasingly emphasized that the law should not compel parties to remain trapped in relationships that have irreversibly failed. Such observations demonstrated an evolving understanding of marriage as a partnership based upon mutual trust and companionship rather than a purely formal legal status.²⁰

The most significant development in this area occurred through the Constitution Bench decision in *Shilpa Sailesh v. Varun Sreenivasan*.²¹ The Court authoritatively held that the Supreme Court possesses the power under Article 142 to dissolve marriages on the ground of irretrievable breakdown even in the absence of a statutory provision expressly recognizing such a ground. The judgment clarified that this power must be exercised with caution and only in exceptional cases where the Court is satisfied that the marriage has completely collapsed and that continuation of the legal relationship would result in injustice. The decision represented the strongest judicial endorsement of the doctrine and provided much-needed clarity regarding the scope of Article 142 in matrimonial matters.

The Constitution Bench emphasized that the purpose of family law is not merely to preserve marriages in form but to promote justice and human dignity. Where a marriage has ceased to function and reconciliation is impossible, insisting upon continuation of the legal bond may amount to an unnecessary burden upon the parties. The Court acknowledged that prolonged and bitter matrimonial litigation often inflicts substantial

¹⁹ (2019) 9 SCC 409.

²⁰ Kusum, *Family Law Lectures: Family Law I* 214-220 (LexisNexis, Gurugram, 7th edn., 2022).

²¹ (2023) 14 SCC 1.

emotional, psychological, and financial hardship. Consequently, access to a dignified exit from marriage may in certain circumstances constitute an essential aspect of justice.²²

The judicial recognition of irretrievable breakdown has also been influenced by constitutional values. Modern constitutional jurisprudence increasingly emphasizes autonomy, privacy, dignity, and individual choice in matters relating to personal relationships. Courts have recognized that individuals possess a legitimate interest in determining the course of their personal lives and that legal institutions should not unnecessarily interfere with such choices. The inability to exit a marriage that has completely collapsed may therefore raise concerns regarding personal liberty and human dignity. Judicial decisions have gradually reflected this constitutional perspective by acknowledging the importance of providing meaningful relief in cases of marital breakdown.²³

Despite these developments, judicial recognition of irretrievable breakdown remains subject to certain limitations. The power to dissolve marriages on this basis is primarily available through the Supreme Court's exercise of Article 142 and is not generally available to subordinate courts. This creates an uneven legal landscape in which similarly situated litigants may receive different outcomes depending upon their ability to access the Supreme Court. Critics argue that such dependence upon extraordinary constitutional powers highlights the need for legislative reform rather than continued reliance upon judicial intervention.²⁴

The jurisprudence relating to irretrievable breakdown therefore reflects both the strengths and limitations of judicial innovation. On one hand, courts have demonstrated sensitivity towards the realities of failed marriages and have sought to provide equitable solutions in deserving cases. On the other hand, the absence of statutory recognition continues to create uncertainty and inconsistency. The growing body of judicial decisions nevertheless underscores the increasing acceptance of the principle that access to a dignified exit from matrimony forms an important component of contemporary family law. These developments have laid the foundation for broader discussions regarding constitutional values, personal autonomy, and the future direction of matrimonial law reform in India.

IV. Constitutional Dimensions and the Right to Dignified Exit from Matrimony

The debate surrounding irretrievable breakdown of marriage extends beyond the confines of family law and increasingly engages fundamental constitutional principles relating to liberty, dignity, autonomy, and access to justice. Contemporary constitutional jurisprudence recognizes that personal relationships occupy a central place in an individual's life and significantly influence emotional well-being, identity, and human development. Marriage undoubtedly remains an important social institution, but constitutional democracy requires that legal regulation of marriage be consistent with individual rights and human dignity. The question

²² *Ibid.*

²³ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1; *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368.

²⁴ *Supra* note 10.

therefore is not merely whether a failed marriage should be dissolved, but whether the denial of a meaningful legal mechanism for exiting a hopelessly broken marriage is compatible with constitutional values.

The right to life and personal liberty guaranteed under Article 21 of the Constitution has undergone remarkable expansion through judicial interpretation. Originally understood in a narrow sense, Article 21 has gradually evolved into a source of numerous substantive rights essential for meaningful human existence. The Supreme Court has repeatedly held that the right to life encompasses not merely physical survival but also dignity, autonomy, privacy, mental well-being, and the freedom to make personal choices concerning intimate aspects of life.²⁵ This broad constitutional understanding provides an important framework for evaluating the issue of marital breakdown and access to divorce.

Human dignity occupies a particularly significant position within constitutional jurisprudence. The concept of dignity recognizes that every individual possesses inherent worth and is entitled to live with self-respect and autonomy. A marital relationship that has completely collapsed may, in certain circumstances, become a source of continuous emotional distress, humiliation, psychological suffering, and social conflict. Where spouses have lived separately for prolonged periods and reconciliation is impossible, compelling them to remain legally bound may undermine rather than promote their dignity. The law must therefore consider whether preservation of a purely formal marital relationship serves any legitimate purpose when the substance of the relationship has ceased to exist.²⁶

The constitutional principle of autonomy further strengthens the argument in favour of recognizing access to a dignified exit from matrimony. Autonomy refers to an individual's ability to make decisions concerning personal relationships, family life, and matters affecting personal identity. Modern constitutional jurisprudence increasingly emphasizes that adults possess the freedom to make choices regarding marriage, association, and family relationships without unnecessary State interference. In *Shafin Jahan v. Asokan K.M.*, the Supreme Court recognized that the choice of a life partner forms an integral component of individual liberty and dignity.²⁷ If constitutional protection extends to the freedom to enter a marital relationship, it may reasonably be argued that individuals should also possess meaningful legal avenues for exiting relationships that have irreversibly failed.

The recognition of privacy as a fundamental right has added another important dimension to this discussion. In *Justice K.S. Puttaswamy v. Union of India*²⁸, the Supreme Court affirmed that privacy protects decisional autonomy and individual control over intimate personal choices. Marriage and family relationships fall within the sphere of personal life that is entitled to constitutional protection. While the State may regulate marriage

²⁵ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

²⁶ Upendra Baxi, *The Future of Human Rights* 118-124 (Oxford University Press, New Delhi, 3rd edn., 2008).

²⁷ *Supra* note 20.

²⁸ (2017) 10 SCC 1.

for legitimate social purposes, such regulation must remain consistent with individual dignity and liberty. The inability to terminate a marriage that has completely broken down may therefore raise concerns regarding personal autonomy and privacy, particularly where continuation of the relationship serves no meaningful social or personal objective.

Constitutional morality also provides a valuable lens through which the doctrine of irretrievable breakdown may be examined. Constitutional morality requires that legal institutions prioritize constitutional values such as liberty, equality, dignity, and justice over rigid adherence to traditional social norms. Indian constitutional jurisprudence has increasingly relied upon this principle when addressing issues involving personal relationships and individual freedoms. The emphasis upon constitutional morality suggests that matrimonial law should evolve in a manner that reflects contemporary understandings of human dignity and autonomy rather than relying exclusively upon historical conceptions of marital permanence.²⁹

Another important constitutional consideration relates to access to justice. Matrimonial litigation in India frequently involves prolonged proceedings extending over several years. Parties may engage in multiple rounds of litigation concerning cruelty, desertion, maintenance, custody, and other related issues. Where a marriage has already collapsed beyond repair, continued litigation may impose substantial emotional, financial, and psychological burdens upon the parties. Access to justice requires not merely the availability of legal remedies but also the existence of procedures capable of providing effective and timely relief. The recognition of irretrievable breakdown as a statutory ground for divorce may therefore contribute to a more efficient and humane system of matrimonial justice.³⁰

At the same time, constitutional values require careful balancing of competing interests. The institution of marriage continues to possess social significance, and the State retains a legitimate interest in promoting family stability and protecting vulnerable family members. Recognition of irretrievable breakdown must therefore be accompanied by safeguards ensuring protection of economically dependent spouses and the welfare of children. Constitutional commitments to equality and social justice require that legal reforms do not operate in a manner that disadvantages weaker parties within matrimonial relationships. Consequently, any legislative framework recognizing irretrievable breakdown should incorporate provisions relating to maintenance, alimony, property distribution, and child welfare.

The Supreme Court's exercise of powers under Article 142 reflects an attempt to achieve this balance between legal formalism and substantive justice. Through various decisions, the Court has acknowledged that continuation of a dead marriage may in certain circumstances constitute as a denial of justice.³¹ These

²⁹ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

³⁰ M.P. Jain, *Indian Constitutional Law* 1568-1574 (LexisNexis, Gurugram, 9th edn., 2023).

³¹ *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558; *R. Srinivas Kumar v. R. Shametha*, (2019) 9 SCC 409; *Shilpa Sailesh v. Varun Sreenivasan*, (2023) 14 SCC 1.

judgments demonstrate an emerging constitutional recognition that access to a dignified exit from matrimony may be necessary to protect individual liberty and human dignity. However, reliance upon extraordinary constitutional powers cannot substitute comprehensive legislative reform. Constitutional values would be better served through a clear statutory framework that provides predictable and accessible remedies to all litigants rather than a limited category of cases reaching the Supreme Court.

The constitutional dimensions of irretrievable breakdown therefore reveal that the issue is not merely a matter of matrimonial policy but one that implicates fundamental questions concerning personal freedom, dignity, and justice. As constitutional jurisprudence continues to evolve, increasing emphasis is being placed upon the rights of individuals to shape their personal lives in accordance with their own choices and aspirations. Within this framework, access to a dignified exit from a failed marriage emerges as an important aspect of human dignity and meaningful liberty. Legislative recognition of irretrievable breakdown would therefore not only modernize family law but also align matrimonial jurisprudence more closely with the constitutional values that underpin the Indian legal system.

V. Conclusion and Suggestions

The doctrine of irretrievable breakdown of marriage represents one of the most significant developments in contemporary family law. Its emergence reflects a broader shift in legal thought from rigid fault-based approaches towards a more realistic and humane understanding of matrimonial relationships. Modern legal systems increasingly recognize that marriage is not merely a formal legal status but a relationship founded upon companionship, mutual respect, trust, emotional support, and shared life objectives. When these essential elements disappear and the relationship becomes incapable of restoration, the continued existence of the legal bond often serves little practical purpose. In such circumstances, compelling spouses to remain married despite prolonged separation, irreconcilable differences, and complete emotional estrangement may undermine rather than promote the objectives of matrimonial law.

The Indian legal position presents a unique situation. Although irretrievable breakdown of marriage has not yet been incorporated as an independent statutory ground for divorce, judicial developments reveal increasing acceptance of the doctrine. The Supreme Court has repeatedly acknowledged that certain marriages become incapable of restoration and that continuation of such relationships may amount to injustice. The exercise of powers under Article 142 of the Constitution has enabled the Court to dissolve marriages that have broken down beyond repair and to provide relief in exceptional circumstances. These decisions reflect judicial recognition of the realities of marital failure and the importance of substantive justice.

The constitutional analysis further demonstrates that the issue extends beyond family law and engages fundamental principles of dignity, autonomy, privacy, and personal liberty. Contemporary constitutional

jurisprudence increasingly recognizes that individuals possess the right to make meaningful choices concerning personal relationships and family life. The right to live with dignity under Article 21 cannot be interpreted in a manner that ignores the emotional and psychological consequences of forcing individuals to remain trapped in marriages that have ceased to function. Access to a dignified exit from matrimony therefore represents an important aspect of individual freedom and human dignity within a constitutional democracy.

At the same time, concerns regarding the protection of vulnerable spouses and preservation of family stability cannot be ignored. Any reform recognizing irretrievable breakdown must be accompanied by safeguards ensuring adequate maintenance, fair financial settlements, protection of children's interests, and equitable distribution of matrimonial responsibilities. The objective should not be to weaken the institution of marriage but to provide a fair and realistic mechanism for addressing situations in which the marriage has already ceased to exist in substance.

Certain reforms may significantly strengthen the existing framework. First, Parliament should amend matrimonial laws to recognize irretrievable breakdown of marriage as an independent ground for divorce. Such reform would provide clarity, consistency, and accessibility while reducing dependence upon the extraordinary powers of the Supreme Court. Second, statutory provisions should prescribe objective criteria such as prolonged separation, failed reconciliation attempts, and absence of reasonable prospects of cohabitation to establish irretrievable breakdown. Third, comprehensive safeguards relating to maintenance, permanent alimony, child custody, and financial security should be incorporated to protect economically weaker spouses. Fourth, family courts should be empowered to adopt mediation and counselling mechanisms aimed at facilitating amicable resolution wherever reconciliation remains possible. Fifth, procedural reforms should be introduced to ensure expeditious disposal of matrimonial disputes and reduce prolonged litigation that often aggravates emotional and financial hardship.

The recommendations of the Law Commission of India have consistently emphasized the need for legislative recognition of irretrievable breakdown of marriage. Despite repeated judicial observations and expert recommendations, statutory reform has remained incomplete. The increasing reliance upon Article 142 illustrates both the necessity of relief in deserving cases and the limitations of the present legal framework. A comprehensive legislative response would ensure that access to justice does not depend upon the ability of litigants to approach the Supreme Court but becomes available through ordinary judicial processes.

Suggestions

- Statutory Recognition of Irretrievable Breakdown of Marriage- Parliament should amend the relevant matrimonial laws, particularly the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954, to recognize irretrievable breakdown of marriage as an independent ground for divorce. Such recognition

would provide certainty, uniformity, and accessibility while reducing excessive reliance upon the extraordinary powers of the Supreme Court under Article 142 of the Constitution.

- **Prescription of Objective Standards-** The legislation should prescribe objective criteria for determining irretrievable breakdown, such as prolonged separation for a specified period, repeated failure of reconciliation efforts, and the absence of any reasonable possibility of resumption of cohabitation. Clear standards would minimize arbitrariness and ensure consistency in judicial decision-making.
- **Protection of Financial Rights of Vulnerable Spouses-** Any reform must incorporate adequate safeguards relating to maintenance, permanent alimony, residence rights, and equitable financial settlements. Particular attention should be given to protecting economically dependent spouses who may otherwise suffer hardship following dissolution of marriage.
- **Priority to Child Welfare-** The interests of children should remain a paramount consideration in all cases involving matrimonial breakdown. Statutory provisions should ensure effective arrangements concerning custody, visitation rights, education, maintenance, and overall welfare of children before granting divorce on the ground of irretrievable breakdown.
- **Strengthening Mediation and Counselling Mechanisms-** Family Courts should be encouraged to utilize professional mediation and counselling services at an early stage of matrimonial disputes. While dead marriages should not be unnecessarily prolonged, genuine possibilities of reconciliation should be explored before dissolution is granted.
- **Expeditious Disposal of Matrimonial Cases-** Special procedural measures should be introduced to reduce delays in matrimonial litigation. Time-bound disposal of family disputes would prevent unnecessary emotional and financial hardship and promote effective access to justice.
- **Uniform Application Across Personal Laws-** Legislative reform should strive for greater consistency in the treatment of irretrievable breakdown across different personal law systems while respecting religious diversity and constitutional principles of equality and justice.
- **Promotion of Constitutional Values-** Matrimonial laws should increasingly reflect constitutional principles of dignity, autonomy, privacy, equality, and personal liberty. Legal recognition of irretrievable breakdown would align family law with contemporary constitutional jurisprudence and social realities.

In conclusion, the doctrine of irretrievable breakdown of marriage reflects an attempt to align matrimonial law with contemporary social realities, constitutional values, and principles of human dignity. Marriage undoubtedly remains an important social institution deserving legal protection and respect. However, the preservation of marriage should not come at the cost of individual liberty, dignity, and well-being where the relationship has completely and permanently failed. A legal system committed to justice must recognize not only the right to enter into marriage but also the right to exit a marriage that has irretrievably broken down. Legislative recognition of this doctrine, coupled with appropriate safeguards, would represent a significant

step towards creating a more humane, equitable, and constitutionally consistent framework of family law in India.

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