

Divorce, Widowhood & Remarriage

Up until now divorce has been considered an anathema in most Hindu societies. Although there are many sub-castes and tribes that have always allowed divorce and remarriage, particularly in South India. Most Hindu pandits and indeed most orthodox Hindus do not realize that provision has been made in the sacred law for such occurrences. Although in medieval and up to recent times it was never an option and no provision was made for it, and subsequently untold suffering resulted from couples being forced by social pressure to stay together. One of the strongest holding factors for remaining in dysfunctional families was the financial dependence of women and the social stigma and isolation from being a divorcee and of course the matter of children and custody.

Nowadays in the west, women have complete financial independence and there is absolutely no stigma attached to divorce. Women are usually given a generous percentage of the estate, awarded custody and generally well-taken care of under current laws. Divorce in western marriages occurs at about the rate of 50% and amongst Hindus too it is on the rise all over the world as well as in India.

Divorce in the Dharma Shastras

vidhivat pratigṛhyāpi tyajet kanyāṃ vigarhitām |
vyādhitām vipra-duṣṭām vā chadnanā copapāditām ||

Though a man may have formally accepted a damsel [in marriage], he may abandon her if she be blemished, diseased, or deflowered, and if she have been given with something concealed. (Manu 9;72)

yastu doṣavatīṃ kanyāṃ anākhyāyopapādayet |
tasya tadvitathaṃ kuryāt kanyā-dātur durātmanaḥ ||

If anybody gives away a maiden possessing blemishes without declaring them, the bridegroom may annul that contract with the evil-minded giver. (Manu 9;73)

When a faultless maiden has been married to a man who has a blemish unknown before the marriage, and does not take to another man after discovering it, shall be enjoined to do so by her relatives. If she has no relations living she may go to live with another man of her own accord. (Narada 12;96)

The bound of marriage can be dissolved if subsequent to the marriage either party is found to be afflicted by a condition which was not declared before the marriage. The blemishes are:—

In both parties;

1. Affliction with a chronic or disgusting disease
2. deformity
3. mental illness
4. inability to have sexual relations

and in a woman;

5. loss of virginity that was not previously declared. (The assumption is that men are never virgins when they get married!)

N.B. Loss of virginity does not preclude a woman from marrying but it must have been declared beforehand.

and in a man;

6. conviction of a crime.
7. alienation or abandonment of his family.

proṣito dharma kāryārthaṃ pratīkṣye'ṣṭau naraḥ samāḥ |
vidyārthaṃ ṣaṭ yaśo'rthaṃ vā kāmārthaṃ trīṃstu vatsarān ||

If the husband went abroad for some religious duty, the wife should wait for him eight years, if he went for acquiring learning or fame six years and if he went for pleasure three years. [Thereafter she may remarry with incurring any sin or guilt.] (Manu 9;76)

In the days before mail, telephones, skype, email etc. it was common for men to travel abroad and not be heard from for years. The law-makers therefore had to address the issue of families who have been left by the breadwinner. All the law-givers endorse and support the idea of remarriage for women who had been thus abandoned.

saṃvatsaraṃ pratīkṣet dviṣantīm yoṣitaṃ patiḥ |
ūrdhvaṃ saṃvatsarāttvenām dāyaṃ hr̥tvā na saṃvaset ||

For one year let a husband bear with a wife who hates him; but after that let him deprive her of her share of the property and cease to live with her. (Manu 9;77)

madyapā'sadhuvṛttā ca pratikūlā ca yā bhavet |
vyādhitā vā'dhivettavyā hiṃsrārthaghnī ca sarvadā ||

A spouse that is an alcoholic, badly behaved, rebellious, diseased, violent, or wasteful of money, may at any time be superseded by another. (Manu 9;80)

anyasyām yo manuṣyaḥ syād amanuṣyaḥ svayoṣiti |
labheta sānyaṃ bhartāraṃ etat kāryaṃ prajāpateḥ ||

If a man is unable to have sexual relations with his wife then she may divorce him and take another husband. This is the law promulgated by Prajapati [the Lord of procreation] (Narada 12;18)

naṣṭe mṛte pravrajite klībe ca patite patau |
pañcāsvāpatsu nārīnām patir anyo vidhīyate ||

If the husband has disappeared, died, because a renunciate (sanyasi), has become impotent, has committed a crime resulting in disgrace, in all these five cases of adversity remarriage is ordained for women. (Parashara Smṛti 4:30)

Summary

The Dharma Shastras clearly prescribe divorce and remarriage for both men and women.

The reasons for divorce & remarriage for women are:—

- a. disappearance of the husband.
- b. abandonment by the husband
- c. husband becomes a monk.

- d. the husband becomes impotent or unable to have sexual relations.
- e. the husband is convicted of a crime which entails social disgrace.
- f. domestic violence
- g. alcoholism
- h. squandering of money

The reasons for divorce & remarriage by men:—

- a. If the wife squanders his property.
- b. If she procures an abortion.
- c. If the wife makes an attempt on the husband's life.
- d. If the wife continually shows him malice.
- e. If the wife slanders her husband.
- f. domestic violence by the wife
- g. alcoholism
- h. abandonment by the wife.

Both widows and widowers can remarry.

In the cases of remarriage (*punar-vivaha*) all the same Vedic ceremonies can be performed but without the “kanya-dana” — giving away of the bride.

Once is the division (of the inheritance made), once is a maiden given in marriage, A man says "I will give" once, each of these three acts is done once only by the good people. (Manu 9;47)

Let no intelligent man, after having given his daughter to one man, give her again to another; for he who gives and then gives again is guilty of deceit. (Manu 9;71)

