



# Matrimonial Causes & Choice of Law under Private International Law

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**ABSTRACT:** The institution of marriage is succumbed to yield many causes giving birth to legal action arising from this single relation called 'marriage'. From time immemorial people have been interacting across the border and hence there have been marriages between individuals crossing the territorial boundary of country. Every country has its own legal system usually different from the legal system based on distinguish cultural, religious or political identity. In this situation if a dispute out of marriage will arise wherein parties are from different legal systems, the court will have to decide about according to which particular law and legal system such conflicting situation relating to marriage would be adjudicated. Private international law is a path to guide judicial courts encountering such situations and this paper is all about how judges have to exercise jurisdiction and private international law and further according to which set of law/s such matrimonial disputes/causes should be addressed.

Person having different domicile, residence or nationality may enter into matrimonial relationship. At the time of marriage no one speculate any matrimonial dispute but emotion, relation and compatibility between emotion and relation is quite different things. Therefore, there is always risk/chance of fractions in every marriage. If parties to marriage are from the same legal system, then their dispute will be adjudicated according to their local substantive and procedural laws of their land. But, if such parties to marriage belong from different legal systems and further if they have married away from their own place viz. a third country, then the jurisdiction and the law to be applied in matrimonial disputes would be looked from the lenses of the private international law.

Thereafter these relations can also culminate into matrimonial disputes which take its legal effect through various matrimonial causes. This research paper mainly aims to analyse the various matrimonial causes present in a matrimonial dispute involving a foreign element which shall come under private international law and various choices of law rules, with special emphasis on nullity of marriage. This paper shall also briefly discuss the concept and validity of marriage. This paper shall analyse the concept of matrimonial causes in conflict of law through the Indian perspective. As India is a common law country which is of a shared British heritage and developed in England so the various concepts as aforementioned shall also include comparison with the English law. This paper shall conclude with authors' observations and suggestions.

**KEYWORDS:** Private Law, International law, Choice of Law, Matrimonial Causes, Rule of Choice of Law

## 1. INTRODUCTION

The institution called 'marriage' creates many legal rights and duties of parties towards and against each other. The 'marriage' as an institution has an universal character because irrespective of caste, creed, race, religion, culture or any other identity like nationality,

citizenship or domicile, marriage is common among all human societies. Matrimonial rights are considered intrinsic to the institution of marriage in India. However, when a foreign element aspect found in any marriage whether directly or indirectly, Courts exercises jurisdiction not as per the domestic procedural laws of

the forum rather according to the jurisdiction given under private international law of that country and for that matter the substantive law/s are also as per rules of choices of law which is are subject matters of private international law.

The majority of concerns in family relations are eminently personal in nature and so affect (personal) status issues. As a result, the majority of them fall squarely within the purview of "personal laws," the resolution of which obviously impacts the interests of the individual or persons whose status is at stake. Furthermore, it should be stressed that family law and other disciplines involving capacity are among the most significant parts of personal law.

The dissolution of a marriage often results in the breaking of the spouses' matrimonial ties, particularly patrimonial links. Its primary consequences include the duties towards each other to care and be available for each other whenever they seek their partner and then the other aspects of this matrimonial relation is to bear the burden parenthood over children taking birth from marriage, to care each other's parents, to maintain and live a dignified life in each other society, so on and so forth. The non-observance of matrimonial duties may ignite the causes for matrimonial disputes culminating to the dissolution of marriage.

These all concepts become even more complicated when foreign nationals are involved which involves various concepts when deciding about validity of marriage and capacity to marry. Thereafter it is important to know the legal sanction of various matrimonial causes.

There are three aspects of private international law i.e. jurisdiction, choices of law and recognition and enforcement of decrees/judgements/orders passed by foreign courts.

Whenever a suit comes before a judicial court having foreign element in the dispute, the court enquires into whether the forum court has the authority to determine the question of law and facts under the private international law. If the court finds that the private international law of the forum country gives authority to the court to adjudicate the facts in hand, the court will take the notice of the matter and then would think over the specific law applicable to the matter in hand under the private international law. The next challenge concerns the courts' capacity to recognize and enforce a decision issued by an external/foreign court.

## 2. RESEARCH METHODOLOGY

This research work makes extensive use of non-doctrinal and comparative legal sources. These methodologies include socio-legal research, which examines how the law and legal institutions shape and influence society, as well as comparative analysis of legal concepts, legislation, and foreign laws. It emphasizes the cultural and social dimensions of law and how it operates in a variety of contexts. In secondary words, this research work is also performed using conceptual

legal research, which is described as a process that involves observing and evaluating previously collected data on a specific subject. The author has utilized information provided in various books along with articles, research papers and information published online.

## 3. CONCEPT OF MARRIAGE

According to Tomlin's Law Dictionary, " 'Marriage' is a civil and religious compact in which a man joins and unites with a woman for the aim of establishing a civilized community." It is usually defined as, "the union of a man and a woman in a stable society and their commitment to live together; until the contract is broken by death, violation of faith or some other renowned misbehaviour that is detrimental to the aim for which it was meant." Marriage is one of the human natural rights and was instituted to preserve it. Under English law nothing more is required for a complete marriage than full, free and mutual consent between parties who are not prevented from entering that state by their near relation to one another infancy, pre-contract or impotency.

Marriage is defined under English domestic law as, "a consensual lifelong relationship between one man and one woman to the exclusion of all others." Monogamy is the fundamental characteristic of the type of marriage over which English courts will exercise civil jurisdiction.<sup>i</sup>

In *Sowa v. Sowa*<sup>ii</sup> a Ghanaian promised his wife that he would attend another ceremony after the marriage to change his possibly polygamous marriage to a monogamous one. However, he did not keep his pledge. According to the English Court, the marriage remained polygamous.

In the *Brinkley* case it was found that a marriage solemnised in Japan according to local customs between a British person and a Japanese lady was legitimate in England upon showing that marriage in Japan is defined as "the union of one man and one woman to the exclusion of all others."

In the *Sinha Peerage Claim*<sup>iii</sup> an English court found that a marriage contracted by a Hindu in Bombay according to the *Arya Samaj* faith was monogamous for the purposes of English law, despite the fact that he may afterwards convert to orthodox Hinduism with the right to marry a second wife.

Each religious or quasi-religious group in India has its own set of personal laws. India has no national or regional legislation governing personal or family affairs. There is no national legislation governing family in India. Hindus, Muslims, Christians, Parsis, and Jews all follow their own unique set of personal laws. There are two schools of Hinduism: *Dayabhaga* that is prevalent in Bengal, Assam, Tripura and Manipur, and *Mitakshara*, which contains four sub schools and is prevalent across the rest of India. There are two sects of Muslims: Sunnis and Shias. The Christian, Parsi, and other faiths do not have schools or sub-schools.<sup>iv</sup>

Personal rules vary by society, and it is inevitable that there is no universal definition of marriage in India. India is also a country where several forms of marriage are prevalent and where a person's personal law is decided not by his or her domicile or nationality, but by his or her membership in the society to which he or she belongs.

Hindus regard marriage as a sacrament and regard it as everlasting, irreversible, and eternal. However, in contemporary Hindu law, marriage has devolved into a monogamous, irreversible partnership, and has ceased to be a sacred union.

Marriage is viewed as a contract among Muslims. Muslim marriage (Nikah) is defined as "a civil contract for the purpose of procreation and child legalization." Shia Muslims distinguish between two sorts of weddings: permanent and temporary marriages (Muta). The wife under a Muta marriage would not be entitled to maintenance or inheritance from her husband. A Shia Muslim is prohibited from entering into a legal permanent marriage with a non-Muslim. Muta marriage is not recognized by Sunnis.

Marriage among Indian Christians is governed by the Christian Marriage Act, 1872. Under this enactment, a marriage may be solemnised and contracted before a marriage registrar or by a minister of religion registered under the said Act. If a Christian in India wishes to marry a non-Christian, the marriage should be performed in accordance with the Special Marriage Act.

Among Parsis marriage is regarded as a contractual relationship. Parsis are adherent of the Zoroastrian faith. The act of marriage among Parsis is monogamous to the extent that a Parsi who changes her/his domicile or religion is forbidden from solemnising second marriage under Parsi Law during the lifetime of his/her spouse, whether Parsi or not. *The Parsi Marriage & Divorce Act, 1936* as amended in 1988 regulates marriage and matrimonial causes among Parsis. A marriage may be performed under the Act only between two Parsis, and each such marriage requires the religious ritual of 'ashirbad' [Section 3(b)].

Marriage is a contract under the laws of all cultures in India. Whatever shape marriage may take or whatever understanding of marriage may exist wherever, the status and duties emanating from marriage should be recognized globally, unless they conflict with certain stated public policy values.

#### 4. NATURE OF MARRIAGE UNDER PRIVATE INTERNATIONAL LAW

The question 'what constitutes a marriage' is not solely an issue or subject matter of private international law rather it's primarily as well as frequently connection is with the municipal or domestic law of any country. Further, over the globe all countries have their different system and set of personal laws dealing with public private affairs called rights and duties. For example; in India it is not the State law governs the personal affairs

of Indian citizens rather it is the community or religious-class personal laws that governs matters like marriage, divorce, parenting-issues like guardianship, custody or adoption of child. The majority population of India i.e. Hindus marriage and matrimonial causes are governed according to Hindu Marriage Act, 1955 but the same issues among Muslims are governed according to Muslim Personal Laws i.e. Quran, Hadis, Izma, Qyas etc. But, in countries like Canada, Germany, France or Italy such matters are governed as per the State laws.

Actually marriage is a subject matter of an individual social and legal status. That's why it is highly pertinent under the international private law that when individuals from different legal system will enter into matrimonial relationship, then in the case of conflict arising out of such marriages how could be redressed. Therefore, redressal of matrimonial causes under private international law is always a subject matter of study under the area of law. Marriage has been statutorily defined in some of the nations as, "the voluntary union of a man and a woman intended to continue for the duration of their joint lives." In many nations, marriage is not officially defined by legislation; yet, one may argue that accurate and correct interpretations of relevant statutes envision only unions between man and woman.<sup>v</sup>

Therefore; marriage law in India is almost a personal law. The law governing marriage related legal disputes is not Indian State law rather it is the law of the religious group to which the couples belong regardless of their residence, domicile or country. Hindus, the dominant population, and Muslims, the largest minority community, each have their own family law. Other religious minority, such as Christians, Parsis, and Jews, have their own distinct personal law based on their faith as well. As a matter of historical fact, the Old Portuguese Civil Code applies to all residents of Goa, Daman, and Diu, with few exceptions for residents of Pondicherry. Special regulations have been implemented to safeguard some ethnic peoples' traditional customs and practices in the North East.

Inter-communal and interreligious marriages are uncommon in India, and as a result, no conflict between the rules of various groups exists. However, a dispute might arise indirectly as a result of inter-communal legislation. When one of the marriage's partners changes to another faith, a dispute occurs between the implementation of pre- and post-conversion legislation.

There is a legislation called 'Special Marriage Act, 1954', which allows for the performance of a 'civil marriage' between any two individuals irrespective of their religious identity. If the parties to a marriage chose to marry as per the Special Marriage Act, the validity of such marriages is interpreted under the said Act, regardless of the parties' nationality, domicile or residence. There is another enactment called the Foreign Marriage Act, 1969 that deals with marriages solemnised in any foreign country between parties where at least one of them is an Indian citizen. Section

11 of this Act has an effect on the provisions governing choices of law at the time of exercising jurisdiction under conflict of law arising under Indian law. It provides that the marriage officer may refuse to solemnize any such marriage which is against the local laws of the place dealing with marriages where such marriage is to be registered or solemnised. It's is termed as '*lex loci celebrationis*'.

The section 23 of the above said Act envisages procedures for the recognition of marriages solemnised in accordance with the laws of any other country. The rules and norms of international private law have not been codified rather such provisions are just integral part of the domestic law almost in every country. For example in India the Code of Civil Procedure 1908 [C.P.C.], the Foreign Marriage Act, the Special Marriage Act, the Indian Divorce Act 1869, the Indian Succession Act, 1925, and many more are laws that encompasses provisions dealing with legal issues having foreign element.

Additionally, while Indian courts have developed various principles throughout time, their overall approach to marriage issues involving foreign components has been heavily influenced by English conflict of laws standards, whether common law or statute. In certain instances, Indian courts have attempted to construct norms governing the recognition of foreign judgements in marriage matters by employing novel interpretations of the applicable statutes.

## 5. MATRIMONIAL CAUSES& PRIVATE INTERNATIONAL LAW

Matrimonial causes include divorce, judicial separation, nullity of marriage, restoration of conjugal rights, and marriage jactitation.<sup>vi</sup> The English ecclesiastical judicial system recognised six types of matrimonial causes, which are as follows:

- i. Malevolent jactitation [only under old English conflict of laws];
- ii. Suits for nullity of marriage, incest or any other cause arising from marriages;
- iii. Suits for restitution of conjugal right of spouse;
- iv. Suits for dissolution of marriage on grounds like cruelty or adultery, desertion, etc. and
- v. Suits for matrimonial alimony.
- vi. Children's legitimacy/custody/adoption/guardianship etc.

Matrimonial causes for action generally includes suits for nullity of marriage, dissolution of marriage, judicial separation, presumption of death, inheritance and succession of the property of spouse, etc. The laws containing provisions relating to court's jurisdiction, choices of laws and recognition as well as enforcement of decrees passed by foreign courts for dissolution of marriage, judicial separation, alimony, succession, inheritance, guardianship, custody of children or

adoption etc. are essentially not same under different legal system of different countries and therefore, issues relating to matrimonial causes under international private law is highly complicated. It can be observed under Indian legal system that matrimonial causes, its governing laws and redressal are quite different from the issues, law and redressal under Muslim, Christian and Parsi laws of India.

Under English law the Matrimonial Causes Act 1857 was enacted by the United Kingdom's Parliament. The Act reformed the law of divorce by transferring litigation from the ecclesiastical courts to the civil courts, establishing a model of marriage based on contract rather than sacrament and expanding access to divorce beyond those who could afford to bring annulment proceedings or promote a private Bill. It was one of the 1857-1878 Matrimonial Causes Acts.<sup>vii</sup>

The Matrimonial Causes Act 1937 is the United Kingdom's divorce legislation. It expanded the grounds for divorce from adultery to unlawful desertion for three years or more, cruelty, incurable insanity, incest, or sodomy.<sup>viii</sup>

Almost every country has a laws defining and dealing with matrimonial causes. However, in India it is not a single law for the same rather here matrimonial disputes are governed according to the community law of the parties which has been sanctified by the parliament of India. India has given freedom to every individual to live with their own personal laws which were being practiced among their community prior to independence of India in 1947. Because in India there is a huge diversity in its demography, that's why it is almost impossible to enact a single law for all Indian population. However, a legislation called the Matrimonial Causes (War Marriages) Act 1948 applies to Indians wedded to particular foreign domiciles or nationals. In other circumstances, the woman is without recourse unless she is able to file procedures in the nation where her husband resides. Thus, a compelling case exists on the merits for the enactment in India of a counterpart to the United Kingdom's Matrimonial Causes (War Marriages) Act, 1944, providing that in the case of a marriage celebrated during the war period, where the husband was domiciled outside India at the time of the marriage and the wife was domiciled in India immediately before the marriage, the Indian Courts exercising jurisdiction under the Indian Divorce Act should be able to exercise jurisdiction. Obviously, such legislation would apply solely to circumstances in which the petitioner or respondent is a Christian.<sup>ix</sup>

In India, matrimonial causes have recently grown in popularity. While Muslim law recognizes divorce, it has never included anything like additional marital issues. By custom, divorce is not recognized in some Hindu groups, as they view Hindu marriage as a sacred union. Prior to the establishment of British rule, India lacked anything resembling matrimonial reasons. In 1869, the Indian Divorce Act was enacted, introducing marital proceedings for divorce, nullity of marriage, judicial



separation, and limitation of conjugal rights, as well as ancillary reliefs like as alimony and child custody. This conduct is exclusive to Christians. Additionally, the Parsi Marriage and Divorce Act, 1865 was enacted which recognized Parsi matrimonial cases. Later on in 1936, the Parsi Marriage & Divorce Act was amended and it envisaged for many matrimonial causes grounds such as nullity and dissolution of marriages, judicial separation of marriage, restitution of conjugal rights. Later on another legislation called the Dissolution of Muslim Marriages Act, 1939 was enacted to provide for the Muslim wife's right to divorce. This enactment empowers the Muslim wife to petition for divorce on her own. The 1954 Special Marriage Act provides for all four marital grounds of action, namely divorce, nullity of marriage, judicial separation, and restitution of conjugal rights. Additionally, it has supplementary reliefs. Additionally, the Hindu Marriage Act of 1955 established all four matrimonial reasons for Hindus. Thus, by 1955, India had recognized all four marital reasons for all its citizens except Muslims, who receive only divorce.

## 6. CHOICE OF LAW

Once the forum court [the court where the petition is filed] get convinced that in the impugned petition this court has appropriate jurisdiction, next question before the court would be choices of law to be applied over the disputed facts. Therefore, after jurisdiction choices of law is the second subject matter of private international law. The question of choices of law is determined according to the Rule adopted by the particular legal system of the forum country. For example; in matter of matrimonial causes, for deciding the material validity of a marriage most of the countries generally applies the *Lex Domicilli* Rule of choices of law while for determining formal validity of a marriage, *Lex Loci Celebrationis* Rule of choices of law is applied by the countries under private international law.

Though private internal law is not a codified law, it does not mean under this set of laws judges can exercise their discretionary power vehemently or arbitrarily. There are set of rules, doctrines and many legal principles that guide judges about how to choose or to make decision that under which particular law or legal system this matter has to be adjudicated. Therefore, there are different rules dealing with matters of matrimonial causes that is applied by forum court at the time of determining the particular rule of choices of law to adjudicate a matrimonial cause. India is one of the Common Law countries. There is minute or sometimes nil difference in the application of the rule of choices of law in matters of matrimonial causes.

### 5.1 Rule of Choice of Law: England & India

If a civil suit relating to matrimonial causes is filed before English court, the court will firstly look into the question of appropriate jurisdiction and if the question of jurisdiction is settled and court get convinced that it has appropriate authority to hear the matter in hand

then next to it this English court generally adjudicate the dispute according to the English domestic law irrespective of the fact that what is the parties national law for the same situation. This is true even if it is that certain grounds are not found as a cause to seek divorce under English law. For example; marital misbehaviour does not provide a ground for divorce under English law while it may be grounds in many other foreign countries. Another example that earlier jactitation has been considered as a matrimonial cause under English law but it is not so in other countries; even in the Common Law countries like India.

However; in India once jurisdiction is assumed and justified by Indian judicial courts under the Code of Civil Procedure, 1908, thereafter the courts applies the parties' personal law of marriage and matrimonial causes. For example; if parties to a matrimonial cause are Parsis, the Parsi Marriage & Divorce Act, 1936 would govern their matrimonial disputes. The Special Marriage Act, 1954 is applicable even if both spouses are members of the same faith but in their marriage a foreign element lays viz. the marriage has been solemnised in any foreign country. Hence it seems that the issues of such types are adjudicated not according to the parties' *lex domicilii* but their *lex for* under the international private law.

To be valid, a marriage must be valid both formally and materially. If either of the two requirements is not met, the marriage is null and void. The most perplexing issue regarding the validity of marriage is the issue of characterization: Which law is to be used to determine the marriage's formal and material validity? A court in one country may view a matter involving marriage as a matter of formal validity, while another country's court may view the same matter as a matter of material validity.

In *Ogden v. Ogden*<sup>x</sup> French law defined parental permission as having material validity, whilst English law defined it as having formal validity, with the unfortunate result that the woman was considered married in England but divorced in France.

The reality is that in early English cases, the courts made no distinction between the material and formal legitimacy of marriage, with both being decided by the *lex loci celebrationis*.

When the court needs to adjudicate whether a marriage is legitimate, foreign components may be involved: one or both of the spouses may be foreign, or the marriage may have been celebrated in a foreign nation. There are several faults which may make a marriage invalid. These, and the regulations that properly define them, will differ amongst the various laws. For example, the question may be whether the required formalities for the celebration of the marriage were complied with, or if one of the couples was below the minimum permissible age, or whether they are too closely related. On such topics, clearly, various countries have different rules.

For purposes of choice of law, laws governing the validity of marriage are classified into two categories:

- i. The parties to the marriage must be capable of marrying. This is referred to as the question of marriage's essential or material legality in private international law.
- ii. The parties must have conducted all essential marital rituals and rites. This is referred to as the formal legitimacy of marriage in private international law.

Rules of formal validity lay down the way in which a marriage must be celebrated. Rules of essential validity are concerned with the substance of the marriage relationship itself. Formal validity is governed by the law of the country where the marriage is celebrated (*lex loci celebrationis*), while essential validity is governed by the personal laws of the parties at the time of, or immediately after, the marriage. It is a well-established rule of English Private international law that a marriage to be formally valid must comply with the local law, *locus regit actum* i.e. that an act is governed by the law of the place where it is done. What ceremonies should be performed is entirely for the local law to indicate. Thus, if Local Law recognizes marriages by cohabitation or repute or of it is constituted per verb a de praesenti<sup>xi</sup>, or proxy, or if religious ceremony is essential, then a marriage performed according will be recognized as valid.

It is a well-established principle of Indian Private International Law that a marriage must comply with the *lex loci celebrationis* in order to be formally valid.

In India, there are two types of marriages available:

- a. Under the community's personal law; and
- b. Under the 1954 Special Marriage Act. Personal law marriages may be performed in accordance with the ceremonies prescribed by the parties' personal law.

For the first time, a distinction was made in *Brook v. Brook*<sup>xiii</sup> appears to be established that the material validity of each party's domicile at the time of marriage, i.e. the pre marriage domicile, is decided by the *lex loci celebrationis*, while the formal legality of the marriage is determined by the *lex loci celebrationis*. It is contended that each country's legal policy should lean toward the legitimacy of every marriage, and that courts in each country should proceed cautiously when enforcing a statute that invalidates the marriage.

## 7. CONCLUSION

To deal with the large number of foreign divorce decrees in matrimonial cases, India, like other countries, requires a well-developed body of international private law rules on the solemnization and recognition of marriages, the recognition of foreign divorce decrees, the nullity of a marriage, the legitimacy and custody of children, and so forth. The Hague Conventions have already established certain fundamental principles of

marriage. However, India has yet to ratify the convention.

To consider "Uniform Private International Law Rules" is a pipe dream, and hence there is a need to consider more viable possibilities, such as bilateral agreements between states on matrimonial concerns, as Britain has done. The British Parliament enacted the Foreign Judgments (Reciprocal Enforcement) Act, 1933, to tackle the issue of conflict of laws in nuptials. Section 1 of the aforementioned Act discusses bilateral treaties between nations relating to the recognition of foreign marriages.

If a wedding celebration is to be performed overseas, parties should first accept the court's jurisdiction and hence the jurisdiction is recognized by the use of specific norms of jurisprudence, which serves as the linking rules that helps courts in ascertaining which law should be applied to adjudicate the case in hand before the court. Once the court makes decision for exercising jurisdiction over the matter, being a foreign court, such court must recognize it in order to dispense justice to the parties. In almost every country's domestic laws there are certain and specific legal provisions for recognition and enforcement of order/judgments//decrees passed by foreign courts for example in India it is section 13 of the C.P.C. 1908.

There is need of time to make some international covenant containing uniform norms for all member countries so that uncertainty and ambiguity in adjudication of matrimonial cause's matters may be removed. Keeping in consideration the diversity of different national systems and distinguish internal laws an international accord should be instrumentalised by international community. The Institute's current policy of increasing geographical diversity among its Associates may contribute to a more adequate consideration of non-Western legal systems in the future; however, there is an urgent need to improve the working conditions of the commissions between sessions; one might expect members of the commissions to address written contributions to the Rapporteur on matters of private international law.

Given the existing state of affairs, it is extremely impossible to predict the existence of any "Uniform Private International Law Rules." Disputes governed by Private International Law can be settled solely by the conclusion of 'bilateral agreements' between the parties. Because marriage is regarded as sacred under both English and Indian law, marital disputes resulting from such laws must be handled through an effective judicial procedure in order to protect the sanctity of marriage. India's present statute, the 'Foreign Marriage Act,' is very untrustworthy since it has several gaps on which India has yet to clarify its position. Today, the world has unanimously agreed that the '*lex loci celebrationis*' is the greatest cure for solemnizing marriage between two private persons. The Hague Convention on Marriage has handled several difficulties concerning marriage and marital disputes, but its sole shortcoming is that it is only

ratified by a few nations, therefore limiting its authority. India is also one of the nations that have not signed the Hague Convention and is now revising its laws to ensure that they do not impinge on the country's sovereignty. However, given India's troubles with NRI issues, the Indian Parliament has to act quickly and find a way to decrease such matrimonial crimes against NRIs. The Supreme Court of India has specifically said that 'the foreign court's jurisdiction, as well as the grounds for relief, must be consistent with marital law. At the same time, it has stated that 'exceptions have been established,' weakening the status of Private International Law in the country. It is also unjust to blame the apex court, because if the legislature is unable to pass any legislation, we cannot expect the apex court to issue any specific judgement, as this is a matter of international relations, and any such incorrect judgement could have a negative impact on India's relations with foreign countries. Matrimonial disputes are a common source of fear, and it is essential to remember that in order to resolve such disputes, one must analyse the laws of other nations and gain the confidence of people worldwide.

## 8. SIGNIFICANCE OF THIS RESEARCH WORK

Conflict of laws in matrimonial cases is a major concern in India. Due to the significant disparity

in personal laws, courts in the International Regime are having a difficult time establishing sufficient jurisdiction and rules to resolve disputes arising out of marriage reasons. In India, personal laws have been codified, and any disagreement emerging from them can be addressed to the best of one's ability using the codified personal laws accessible in the country. The issue occurs when two nations disagree on personal laws and there is no effective remedy accessible to the states of two private people. Additionally, a conflict develops when the marriage is solemnized in India or a certain nation and both spouses want to take the foreign country's domicile. According to the world population review online portal divorce rates are increasing day by day especially in and after the pandemic<sup>1</sup>. So it becomes of utmost importance to understand the complexities with the matrimonial causes in private international law, which this paper aims to analyse.

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