

## LAW AND YOU: Marriage and Divorce

I have been requested by the Editors of this paper to discuss with you various areas of law which could affect one and all, from time to time. It is important to note that the information provided in this column should not be treated as legal advice. Needless to say, neither this journal nor I can accept any responsibility for anyone who acts on such information. Obviously if you need specific advice in any of these areas, you should consult your solicitor.

In this first issue I deal with marriage and divorce. In one famous case, marriage is described as “the union of a man and a woman to the exclusion of all others voluntarily entered into for life”. In a traditional Indian setting, it may be accurate to say that most of the marriages are arranged. Obviously when a marriage between a young bride and a groom is arranged by their respective families, there is sometimes a debate as to whether the marriage was voluntarily entered between parties. It has been said that the Indian man generally does not marry a girl he loves, but he loves the person he marries.

In addition to the requirement that the marriage is to be a voluntary union between a man and a woman, there is the expectation that it will last for life. However, although divorces are not common in Indian society, given the change in values that is prevalent in the Indian community with the impact of values for the West, marital breakups are now on the increase so that the expectation of a marriage lasting for life is not always met.

The Australian law provides that certain requirements must be fulfilled before a marriage ceremony can take place. Firstly a Notice of Intention to Marry must be given and secondly, evidence of age and marital status must be provided and thirdly the marriage has to be performed by an authorised celebrant. Ministers of religion from most religions or denominations are authorised to perform marriages. However, unfortunately a Hindu priest is not regarded as an authorised celebrant in accordance with the Australian law. Consequently, you will find that apart from the Hindu religious ceremony, there will be a separate civil marriage, either conducted at the Registry or by an independent civil celebrant. This appears incongruous when one considers that a Minister of religion of the Ananda Marga is authorised to solemnise marriages. Likewise a Minister of religion of Islam or the Victorian Spiritualists union can also perform legal marriages. This dilemma should be addressed by the leaders of our community and a solution found at the earliest convenience. However, if the Federal Government were persuaded to include the Hindu priest as having a right to solemnise marriages in accordance with the Australian law, then there could be some debate as to who is qualified to be called a Hindu priest.

There were 14 grounds for divorces and these grounds included adultery, desertion, cruelty and insanity. However, since 1975 there is only one ground for dissolution of marriage, which is that the marriage has broken down irretrievably and that the parties have been separated from each other for a period no less than 12 months. It is possible for parties to be separated notwithstanding that they are living under one roof. However, it is important to note that Courts are more investigative when an application is made for separation whilst the parties are still living under one roof. When granting a divorce, the Court will have to be satisfied that proper arrangements have been made for the welfare of the children of the marriage which is a subject I shall address in a future issue.

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