
SPOUSAL PROPERTY LAW IN INDIA: A SOLACE TO SPOUSES

Ms Divya Thakur, Research Scholar, Faculty of Law, Himachal Pradesh University,
Summerhill, Shimla, Himachal Pradesh

ABSTRACT

In matrimonial unions, both men and women assume crucial roles, both jointly and individually. However, it is evident that women often shoulder a higher burden of personal and professional responsibilities compared to men. In a progressive society like India, it becomes imperative to adapt laws to reflect the evolving values and dynamics of the community.

This article aims to underscore the significance of granting economic rights in spousal property settlements, thereby necessitating amendments to the existing personal laws. The suggestion put forth is the establishment of a separate Matrimonial Property Act or Disposal of Spousal Property Act. Such a law would ensure a smoother process for spouses to navigate asset distribution, liabilities, childcare matters, and equitable sharing of joint property.

A crucial focal point is to create gender-neutral laws within the spousal property act, recognizing and quantifying the contributions of both homemakers and breadwinners. This acknowledgment of the roles played by each partner will ensure fairness and equality in property settlements.

Furthermore, the article introduces the concept of a pre-nuptial agreement for modern marriages. This step is seen as a means to preserve the sanctity of marriage while accommodating the beliefs of the new generation. By embracing such reforms and adjustments, society can pave the way for a more balanced and harmonious approach to spousal rights and property matters.

Keywords: Spousal property, Homemaker, Women's rights, Pre-nuptial agreement, Gender neutral.

INTRODUCTION

In the context of India and Hinduism, marriage holds a sacred and pure significance, seen as a sacramental union rather than a mere contractual agreement. It is considered a vital institution for family continuity, preserving traditions, and fostering unity within the family.

In Hinduism, a wife is more than just a householder (Grihaspatni); she is also regarded as a companion in righteousness (Dharmpatni) and an equal partner (Sahadharmini). The term "Ardhangini" highlights the belief that a man's life is incomplete without his wife, who gives meaning and purpose to his existence. A fulfilling married life contributes to a man's confidence and success, as he receives love, respect, and happiness from his wife.

Similarly, while modern women have become assertive and financially independent, the value of marriage has not diminished. The concept of interdependence has emerged as a beautiful aspect of post-independence life, recognizing that marriages are a means of realizing the importance of being socially, emotionally, and physically interconnected. Marriage helps establish and strengthen not only the bond between spouses but also within the entire family.

However, it is emphasized that in this union, the space each partner receives should be handled ethically, and both spouses should maintain a set of do's and don'ts to ensure a harmonious matrimonial relationship.¹

Women constitute half of the world's population, with many dedicating their entire lives to maintaining their matrimonial homes, nurturing their families by taking care of husbands, in-laws, and children from birth until they are settled in their lives. In some cases, especially in India, women sacrifice their own dreams and skills for the sake of their children, foregoing financial independence. Being a homemaker is not an easy role; it is akin to a job, but unfortunately, it is often not recognized as a significant contribution to the family's growth. Additionally, women are deprived of economic co-ownership and equal rights with their husbands, largely due to the lack of amendments in the present laws, wherein spouses treat their property as separate.

¹Prof. Jayshree Khandare, "The Concept of Marriage and Its Form: An Indian and Western Perspective", Vol.4, International Journal of Scientific Research, 343-344 (2015)

In the current context, the need for spousal property laws or matrimonial property laws is more pressing than ever, given the rising number of divorce cases in our society. The concept of divorce was not prevalent in ancient India due to the sacred nature of marriage. However, in modern times, unequal asset ownership in matrimonial homes can be attributed to three main reasons.

Firstly, Indian laws do not acknowledge "domestic work" as "productive work," undervaluing the significant contribution of women to their families and households. Secondly, the responsibilities of women concerning nurturing and caregiving are often taken for granted, leading them to forsake their careers. Even when women pursue jobs, they are frequently paid less than their male counterparts, exacerbating the disparity.

To address these issues, a threefold solution is proposed. Firstly, it is crucial to recognize and acknowledge "domestic work" as productive, valuing the immense efforts put forth by homemakers. Secondly, efforts should be made to encourage women's participation in managerial and remunerative work, empowering them to pursue their careers while fulfilling their family responsibilities. Lastly, marriage should be viewed as an equal partnership, with the wife's contribution to acquiring assets acknowledged and protected through suitable legal processes. By implementing these measures and adopting a more equitable approach, we can foster a society where women's contributions are rightfully appreciated, and their economic co-ownership and rights are upheld, leading to greater gender equality and prosperity for all.²

With the advent of divorce laws, Hindu women often find themselves deprived of their rightful marital assets and forced to leave the home they have tirelessly worked to turn into a warm and loving space. Unfortunately, their efforts in creating and maintaining the matrimonial home are often ignored and underappreciated. Divorced women may be forcibly removed from the matrimonial home, stripped of their marital assets, and isolated from their joint family.

Traditionally, Indian wife's property rights have been centered around concepts such as maintenance, Stridhan, and alimony. Stridhan, which exclusively belongs to the woman and may come from her parents or relatives, is considered her property, and her husband has no claim over it. Maintenance and alimony are intended to empower women economically,

²Vijender Kumar, Matrimonial property law in India, Vol.57, The Indian Law Institute 501, (2015)

prevent them from becoming homeless or destitute after divorce, and are distinct from property division.

However, the concept of joint matrimonial property or matrimonial property laws is notably lacking in Indian personal laws. The prevalent dominance of separate property governance is the reason for the absence of clear laws regarding post-divorce property division between couples. In Indian culture, spouses are seen as having a unified identity, and the notion of a separate property regime, as seen in English doctrine, does not traditionally exist.

In the past, divorce was extremely difficult to obtain in England, as marriage was regarded as a sacrament by the Church. Instead, judicial separation was possible in limited circumstances, such as cases involving adultery, cruelty, or unnatural offenses. Nullity of marriage could occur due to factors like consanguinity, affinity, mental incapacity, impotence, or the existence of a prior marriage.

The lack of clear and comprehensive laws regarding matrimonial property in India creates significant challenges for women seeking fair and equitable treatment after divorce. There is a need for the recognition and protection of joint matrimonial property rights, ensuring that women receive their rightful share of assets and acknowledgment for their contributions to the family and matrimonial home.³

This article highlights the significance of introducing and amending spousal property laws to incorporate the concept of matrimonial property as an essential aspect of marriage and family. It emphasizes the need for clear guidelines on the division of joint and self-acquired property, particularly to facilitate smoother divorces. The proposed solution involves empowering couples to proactively address ownership issues through pre-nuptial agreements, both before and after marriage, ensuring an easier resolution of property-related matters. By making pre-nuptial agreements a common practice, couples can take charge of their assets and decide how to distribute them in case of divorce, reducing potential conflicts and complexities. This approach aims to create a more equitable and transparent framework for handling property matters within marriages and promotes a hassle-free process during separation.

³Jhuma Sen, *Matrimonial Property Rights: Is India ready for the law?* (30/11/2022), <http://docs.manupatra.in/newslines/articles/Upload/F2587F8B-1162-415A-8E76-6F4019530939.pdf>.

CONCEPT OF SPOUSAL PROPERTY

In the past, the responsibility of providing the matrimonial home was primarily placed on the husband. However, as times have changed, women are now equally contributing to the creation and maintenance of the matrimonial home. This shift calls for the recognition of the matrimonial home as jointly owned by both spouses, holding it as joint tenants.

Within the context of Hindu law in India, the concept of the matrimonial home raises a unique issue concerning how a joint family house (dwelling house) can be treated as a matrimonial home. This situation becomes particularly complex when women seek their right to live in the matrimonial home during or after divorce proceedings. The existing rules, rights, and laws related to spousal property are scattered across various acts in Hindu Law, leading to confusion and uncertainty.

To address these challenges, there is a need for a comprehensive and specific law related to spousal property. This law should provide clarity and remove ambiguities regarding the ownership and rights concerning the matrimonial home. By enacting a well-defined and inclusive law, the rights of both spouses can be protected, and any disputes or confusion surrounding the matrimonial home can be effectively resolved. This will ensure that both partners are recognized as joint owners and can have a fair say in the distribution and use of the matrimonial property, promoting a more equitable and harmonious approach to spousal property rights within the Indian legal system.⁴

Marital property encompasses all the assets and liabilities acquired during the duration of the marriage. These assets can include items such as cars, furniture, shares in a company, rental income, and savings. Liabilities may consist of debts like mortgages, loans, leases, and responsibilities related to child care.

The term "spousal property" is synonymous with marital property, and the definition of separate property can sometimes be unclear. However, it generally refers to movable or immovable property that belongs jointly to both the husband and wife, acquired through their combined or individual earnings. This includes all proprietary rights held by both spouses, as

⁴ B. Sivaramayya, *Matrimonial Property Law in India*, 83 (Oxford University Press, 1999).

well as custody and welfare responsibilities for the children, which are financed using their combined earnings after marriage or through gifts received jointly during their marriage.

Over time, the concept of separate property has evolved to include assets inherited individually or received as gifts from parents or relatives before the marriage. It can also encompass property exclusively purchased with one's own hard-earned money and used solely by that person. In essence, marital property comprises the assets and debts accumulated during the marriage, while separate property refers to assets acquired individually before or during the marriage, often through inheritance or gifts. Clarity in distinguishing between these types of property is essential to ensure fair division and protection of each spouse's rights in case of divorce or separation.

CONTRIBUTION OF THE HOMEMAKER –

The division or disposal of property at the time of divorce is guided by four fundamental concepts: title, fault, need, and contribution. Among these, the theory of contribution acknowledges the non-monetary household work performed by women in the context of an equal partnership. Unfortunately, in Indian families, there is often little recognition or importance given to the contributions made by homemakers.

General Recommendation Number 17 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) addresses the measurement and quantification of women's unremunerated domestic activities and advocates for their recognition in the Gross National Product (GNP). The committee recognizes that measuring and quantifying women's unpaid household duties, which contribute to the country's development, will reveal their significant economic role.

State parties are encouraged to support and promote research in experimental studies that measure and value women's unpaid domestic work. This can be achieved by organizing surveys as part of their national household survey programs and collecting gender-disaggregated statistics on the time spent on various activities both at home and in labor institutions.

By acknowledging and valuing the contributions of women in household activities, society can take steps towards achieving gender equality and recognizing the vital role played by women

in the overall economic development of the country.⁵

MODELS OF MATRIMONIAL PROPERTY ACROSS THE WORLD

Different countries around the world follow two main types of property regimes concerning the division and disposal of matrimonial property. One of these is the Community of Property regime, wherein each spouse is entitled to a share of the other spouse's property, irrespective of the nominal title. This regime considers marriage as an economic partnership. States like California, Washington, Idaho, and New Mexico adopt the Community of Property regime.

Conversely, there is the Separate Regime Partnership, where spouses do not have a share in each other's property. India follows the concept of a "separate regime partnership." Many countries with laws governing the division of matrimonial property ensure the right to equality and apply the principle of equal distribution of matrimonial property during divorce proceedings. Various factors, such as child custody and the spouses' respective incomes, are taken into account when dividing the property.

In the United States, both the Community of Property and Separate Regime Partnership regimes coexist in different states. The Separate Property regime is followed in 41 major states, while Puerto Rico and Guam adhere to the Community Property regime.

In the case of *Miller v. Miller*⁶ the House of Lords emphasized the necessity for a clear rationale behind the redistribution of resources between parties in divorce proceedings. The court identified three main rationales for such redistribution—need (with a broad interpretation), compensation, and sharing.

This means that when dividing assets and resources, the court should consider the financial needs of each party, ensuring that they are adequately provided for. Additionally, compensation may be awarded to one party to address any economic disadvantages or sacrifices they made during the marriage, such as giving up a career to care for children or support the other spouse's career. Finally, the concept of sharing entails a fair and equitable distribution of assets acquired during the marriage, reflecting the notion that both parties contributed to the family's welfare and should share in its benefits.

⁵ Id.at Genera; recommendation no 17 ,10th session,1991

⁶ 160 N.J.408 (N.J.1999)

By considering these rationales, the court seeks to arrive at a just and balanced outcome when redistributing resources between the divorcing parties. In India only its smallest state that is Goa has its uniform civil code and they also encouraged the civil nature of marriage by considering it to be a form of contract between two persons they are, a community property regime, absolute separation of property, separation of assets existing before marriage and communion of the property after the marriage.⁷

The issue arises from the fact that The Hindu Marriage Act of 1956 primarily focuses on joint property, and it lacks clear provisions or guidelines for the division of property during divorce. As a result, the disposal of property upon divorce is left entirely to the discretion of the court, without any specified criteria or limits.

This lack of clarity and specific guidelines can lead to uncertainties and inconsistencies in property division cases. The absence of defined criteria may result in subjective decisions by the court, potentially leading to disputes and dissatisfaction among the divorcing parties.

To address this problem, there is a need for the legislation to be amended or supplemented with clear provisions that establish criteria and principles for the fair and equitable division of matrimonial property during divorce. Such amendments could include factors like the financial needs of each party, contributions made during the marriage, compensation for sacrifices or disadvantages, and the welfare of any children involved.

By incorporating specific criteria into the law, the court can make more objective and consistent decisions, ensuring that property division is conducted in a just and reasonable manner, protecting the interests of both parties involved in the divorce.⁸

WOMEN'S PROPERTY RIGHTS

In India, the existing matrimonial property rights of women are outlined in three main categories:

⁷ Payal Bhatia , “Right to Matrimonial Home as a Property Right: Need for the Law is the Need of the Hour”vol-3, International Journal of Law Management & Humanities (2020)

⁸ Section 27 of The Hindu Marriage Act, 1955,Section 27- Disposal of property. In any proceeding under this Act, the court may make such provisions in the decree as it deems just and proper with respect to any property presented, at or about the time of marriage, which may belong jointly to both the husband and the wife.

1. Stridhan:

Stridhan refers to the woman's property, which she brings with her at the time of marriage or receives during the marriage. This property can include movable assets such as jewelry, clothes, or cattle, and in some cases, even immovable property like land. However, it's important to note that despite having stridhan, a woman was not considered the absolute owner of it, as traditional Hindu law often regarded her and her property as belonging to her husband.

2. Maintenance and Alimony:

Maintenance and alimony are provisions to support the financial stability of a woman after divorce. Maintenance refers to the financial support provided by the husband during the marriage, while alimony is the financial support given to the wife after divorce. These provisions are intended to ensure that the woman does not suffer financial hardships and can maintain a decent standard of living.

3. Coparcenary Rights:

In the recent past, there have been significant legal reforms regarding women's property rights in India. The Hindu Succession (Amendment) Act of 2005 granted women equal coparcenary rights in joint family property. This means that daughters now have the same rights as sons in ancestral property, and they can be coparceners and inherit a share in the family property.

Despite these legal advancements, there are still challenges and disparities in the practical implementation of these rights. Many women continue to face obstacles in asserting their property rights, particularly in traditional and patriarchal societies. Efforts are being made to raise awareness and empower women to claim their rightful share of matrimonial property and inheritance.⁹

ENUMERATION OF WOMAN'S PROPERTY INCLUDES VARIOUS CATEGORIES:

1. Gifts and bequests from relatives: Property received as gifts or inheritance from family

⁹ Debarati Halder and K. Jaishankar, PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA,(Journal of Law and Religion , 2008-2009, Vol. 24, No. 2 (2008-2009), pp. 663- Published by: Cambridge University Press. also see *Manusamriti* chapter 9(dependency of wives on husband) pg. 26-30

members.

2. Gifts and bequests from strangers: Property received as gifts or inheritance from non-relatives.
3. Property acquired by hard work and struggle: Property earned or acquired through personal efforts and labor.
4. Property purchased with Stridhan: Property bought using the woman's stridhan (assets brought into the marriage).
5. Property acquired by compromise: Property obtained through legal settlements or compromises.
6. Property obtained instead of Maintenance: Property received in lieu of maintenance or financial support.
7. Property obtained by inheritance: Property inherited from ancestors or family members.
8. Share obtained in partition: Property received as a share during the partition of joint family property.

Maintenance and alimony are financial support provided by the husband to the wife. Alimony is given after divorce, while maintenance is provided during ongoing divorce proceedings. The purpose of these provisions is to assist the financially dependent wife in meeting her economic needs and covering the expenses of the legal proceedings until a final court order is issued.

Justice Krishna Iyer's reasoning in the case of *Bai Tahira v. Ali Hussain Fissalli* highlights the significance of providing maintenance to prevent destitution and moral degradation for divorced women. However, the author believes that courts have not always been consistently protective of women's rights. Some courts have limited maintenance to the lifetime of the husband, which can lead to financial hardships for divorced women beyond their spouse's death.¹⁰

¹⁰ *Supra* note 12 at 811-812

BIRTH RIGHTS OR COPARCENARY RIGHTS-

The Hindu Succession (Amendment) Act of 2005 was introduced to eliminate gender discriminatory provisions in the original Hindu Succession Act of 1956. This amendment brings significant changes to the property rights of daughters in Hindu families.

According to the amendment, a daughter, upon her birth, becomes a coparcener in her own right, just like a son. This means she now has equal rights in the coparcenary property, which includes ancestral property of the Hindu undivided family, similar to her male counterparts.

Moreover, the amendment does away with Section 23 of the Hindu Succession Act, which previously prevented a female heir from seeking partition of a dwelling house fully occupied by the joint family, unless any of the male coparceners initiated the division of their respective shares in the joint family property.

Additionally, Section 24 of the Act, which previously denied a widow the right to inherit her deceased husband's property if she remarried, has also been repealed.

The most significant aspect of this amendment is that it applies uniformly across all state governments, ensuring that daughters' property rights are protected and equalized in Hindu families throughout the country. This amendment marks a progressive step towards gender equality and provides daughters with the same inheritance rights as sons in coparcenary property.¹¹

We can see that there are many rights given to women but still, there are some loopholes into it and now over the period she needs ownership of her spousal property for her empowerment and for the time when she wants to end the marriage she can easily dispose of the spousal property, that consists of joint property and self-acquired property without any hassle.

LEGISLATIVE PROVISIONS REGARDING DISPOSAL OF SPOUSAL PROPERTY

There are several pre-independence and post-independence acts in India that directly or indirectly deal with the disposal of matrimonial property and are applied by the courts during

¹¹ Also see the The Hindu succession Act,1956 (39 of 2005) and The Hindu Succession (Amendment Act, 2005, Also see Section 27 and section 23 of The Hindu Succession Act,1956

divorce proceedings or other related matters. Some of the important legislative provisions include:

1. Hindu Marriage Act, 1955: This act governs Hindu marriages and provides provisions for divorce, judicial separation, and annulment of marriage.
2. Hindu Succession Act, 1956: This act deals with the inheritance and succession of property among Hindus and has been amended to provide equal rights to daughters in coparcenary property.
3. Hindu Adoption and Maintenance Act, 1956: This act deals with adoptions and the maintenance of dependents, including wives and children.
4. Indian Divorce Act, 1969: This act governs the divorce and matrimonial matters of Christians in India.
5. Hindu Women's Right to Property Act, 1937: This act was a significant step in granting women limited property rights in certain situations, mainly concerning agricultural land.
6. The Protection of Women from Domestic Violence Act, 2005: This act provides protection to women against domestic violence and enables them to seek relief and remedies from the court.
7. The Code Of Criminal Procedure, 1973: While not specific to matrimonial property, this code includes provisions for legal procedures in criminal matters, including those related to domestic violence and matrimonial disputes.
8. Code of Civil Procedure, 1908: This code lays down the procedures for civil matters, including those related to the division of matrimonial property during divorce proceedings.

JUDICIAL RESPONSE ABOUT SPOUSAL PROPERTY-

Under the Hindu Marriage Act, 1955, Section 27 solely talks about the disposal of property, where the court has the power to make proper orders concerning any property presented at the time of marriage or afterward, which may belong jointly to both the husband and the wife. The objective of this section is to prevent multiple litigations in respect of property between the

parties involved in any proceeding under the Act. This section specifically deals with joint property to be disposed of during divorce proceedings.

Courts have interpreted the phrases mentioned in Section 27 differently while dealing with cases related to the Hindu Marriage Act, 1955. Here are some significant case laws:

1. *Surinder Kaur v. Madan Gopal Singh*: The Punjab and Haryana High Court, in the context of Section 27, held that the disposal of property should be done during the pendency of marriage proceedings in court and before the judgment has been pronounced. The court has the option to admit such a operation, and the decree must be just and proper, considering the acceptance of the share of the parties. The property that was given or presented around the time of marriage or after marriage is included, provided it is related to the marriage context. The concerned property may be given to either or both spouses jointly.

2. *Hemant Kumar v. Laxmi Devi*: The Allahabad High Court held that property possessed by either the husband or the wife would be covered under this section if it was presented at or around the time of marriage. The term "may" suggests that the property simply possessed by one of the spouses isn't barred.

3. *Balkrishna Kamchandra Kadam v. Sangeeta Balkrishna Kadam*: The Supreme Court held that property under this section would not be confined to property given to a partner only at the time of marriage but would also include property given before as well as after marriage. The property must be given in relation to the marriage.

4. *Pratibha Kaniv. Suraj Kumar*: The Supreme Court observed that neither Section 27 of the HMA nor Section 14 of the Hindu Succession Act, 1956 go to the extent of abolishing a woman's claim based on stridhana. Section 27 of the HMA does not affect the right of the woman to file a criminal complaint if her property is criminally used by her husband.

The need for a fair law in marital property is essential to provide solace to the spouses. India's diverse nature has made it challenging to implement a uniform civil code for personal laws such as marriage, property, and divorce laws. A fair law should avoid gender bias and consider both the husband's separate property and the wife's property while dividing assets during divorce proceedings. The current court proceedings can be time-consuming and emotionally and economically draining for both parties, and a separate law specifically addressing spousal

property disposal cases could streamline the process and facilitate mutual agreements. Such a law should aim to recognize the contributions of both spouses and ensure a just distribution of assets.

INTRODUCTION OF AGREEMENTS IN INDIA-

A prenuptial agreement is a legally binding contract that is typically signed by a couple before they get married. It outlines the distribution of assets, property, and financial responsibilities in the event of divorce, separation, or the death of one spouse. The purpose of a prenup is to provide clarity and certainty regarding the division of assets and financial matters, ensuring that both parties understand their rights and obligations in the marriage. Prenuptial agreements are especially important for couples with significant assets, businesses, or family inheritances that they want to protect in the event of a divorce. It allows them to establish their own rules for property division rather than relying on the default laws of their jurisdiction, which may not align with their preferences. The content of a prenuptial agreement can vary widely depending on the couple's specific needs and circumstances. Common provisions in a prenup may include:

1. **Division of assets:** The agreement can specify how the couple's assets, including real estate, investments, and personal belongings, will be divided in case of divorce or separation.
2. **Alimony or spousal support:** The prenup can outline whether alimony or spousal support will be provided and the terms under which it will be given.
3. **Debts and liabilities:** The agreement can address how the couple's debts and financial responsibilities will be handled during and after the marriage.
4. **Inheritance and family assets:** Prenuptial agreements can protect family inheritances or assets that are intended to remain within a specific family line.
5. **Business interests:** If one or both partners own a business, the prenup can outline how the business will be valued and divided in case of divorce.

To be legally valid, a prenuptial agreement must meet certain requirements, such as being in writing, signed by both parties voluntarily, and executed with full disclosure of each spouse's

financial situation. It is essential for each party to have their own legal representation to ensure that their rights and interests are adequately protected.

Critics of prenuptial agreements argue that they may undermine the idea of marriage as a lifelong commitment and may create an atmosphere of distrust between spouses. However, proponents of prenups argue that they provide a level of transparency and financial security, especially for individuals entering into marriages with significant financial disparities.

It is important to note that prenuptial agreements are not meant to encourage divorce but to provide a fair and agreed-upon framework for handling financial matters should the marriage end. They can be a valuable tool for couples to have open discussions about their financial expectations and goals before entering into marriage, ultimately promoting greater understanding and communication between partners.

CONCLUSION AND SUGGESTIONS

In conclusion, it is evident that India urgently needs a separate and comprehensive matrimonial property act to address the disposal of spousal property. This act should also encompass the regulation of prenuptial and postnuptial agreements, similar to how same-sex relationships and live-in relationships have been accepted and protected under the fundamental rights of individuals.

The new matrimonial property act should be designed as a gender-neutral law, promoting the principles of gender equality. While the recent amendment bill related to women's property rights is significant, a comprehensive act should consider the interests and rights of both spouses equally.

The inclusion of pre and postnuptial agreements in the act would enable spouses to decide their liabilities, responsibilities, assets, and child custody in advance. This proactive approach can help couples avoid the emotional turmoil and time-consuming process of divorce proceedings, ultimately benefiting both parties involved.

The current concept of matrimonial property or joint ownership is ambiguous, and Section 27 of the Hindu Marriage Act is inadequate in defining spousal property matters. Hence, the act should be amended to include all properties acquired during the marriage, regardless of joint title and co-ownership.

Another essential aspect to consider in the act is the quantification of the homemaker's contribution. The invaluable role of women in establishing and maintaining a matrimonial home is often overlooked, which can lead to economic dependence and toxic relationships. Recognizing and quantifying the homemakers' contributions will empower women and create a more equitable society.

In the face of changing social norms and evolving concepts of marriage and divorce, it is crucial to critically examine and update the existing legal framework to ensure fairness, justice, and protection for all parties involved. The introduction of a comprehensive and progressive matrimonial property act will be a significant step towards a more inclusive and harmonious society.

SUGGESTIONS

1. **Gender-Neutral Law:** The new spousal property act should ensure equal treatment and protection of the rights of both spouses, irrespective of gender. It should promote gender equality in matters of property and financial matters within the marriage.
2. **Valuing Homemaker's Contribution:** The act should explicitly recognize and quantify the contribution of homemakers in the family. Their efforts in maintaining the household and caring for children should be acknowledged and considered in matters of property division.
3. **Revisiting the Uniform Civil Code:** The concept of the Uniform Civil Code should be reexamined in the parliament to strike a balance between promoting uniformity in personal laws and respecting the diverse cultural and religious values of the Indian society.
4. **Pragmatic Decision-Making:** The formulation of the new law should be based on a rational and practical approach, taking into account the present societal dynamics and the evolving nature of relationships and marriages.
5. **Regulating Prenuptial Agreements:** Prenuptial agreements should be given legal validity and should be effectively regulated to allow couples the freedom to plan and decide their financial matters in advance, while ensuring fairness and transparency.
6. **Expanding Scope of Section 27:** Section 27 of the Hindu Marriage Act, 1955 should be broadened to provide clearer guidelines for the disposal of matrimonial property during divorce

proceedings. The concept of matrimonial property should be defined comprehensively to avoid ambiguity.

7. Comprehensive Proprietary Rights: The new law should encompass all proprietary rights and duties of spouses, including matters related to child custody, care, and responsibilities. It should prioritize the best interests of the children involved in divorce cases.

8. Marriage as an Economic Partnership: The act should recognize marriage as an equal economic partnership, acknowledging the financial contributions and responsibilities of both spouses throughout the marriage.

.