

UNVEILING DIVORCE TRENDS IN KERALA: INFERENCES FROM FAMILY COURTS

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Introduction

The family considered as the basic fundamental unit of society, originates from the institution of marriage. However, various circumstances and factors may force individuals to seek the dissolution of this marital bond, leading to the legal process known as divorce. In the context of India, a country characterized by its vast population of more than 130 billion, variety of cultural practices, and a different of religions, the domain of marriage is governed by a setoff personal laws. These are the Hindu Marriage Act of 1955, the Indian Divorce Act of 1872, the Muslim Personal Law and the Special Marriage Act of 1954.

This variety in legal system accommodates the unique customs, beliefs, and religious practices prevalent across different communities in India. For instance, the Special Marriage Act 1954 gives a unique legal provision for Indian citizens, irrespective of their religious norms. Meanwhile, Muslim personal law, regulated by the Muslim Personal Law (Shariat) Application Act 1937, includes laws governing marriage, divorce, succession, inheritance, and charity among Muslims in country. The Dissolution of Muslim Marriage Act of 1939 permits Muslim women the right to initiate the dissolution of their marriages.

Coming to divorce scenario in the Kerala, Vasudevan et al., 2015 shed light on divorce trends in Kerala has been increasing, uncovering a notable hike among young couples, particularly within the first four years of marriage. The study mentions the intricate interplay of factors such as education, age, social class, and gender role specific reasons, investigating a valuable insight into the evolving dynamics of marital relationships in the Kerala. (Michel, 2013) indicates that almost 46 divorce petitions are filed a day across 28 family courts in the state of Kerala. Comprising fourteen revenue districts, each further divided into taluks, Gramapanchayaths, Corporations, and Municipalities, has witnessed the establishment of family courts since 1992. Currently, 28 family courts are distributed whole over the state, with Trivandrum and Kollam hosting three each, and other districts featuring varying numbers, culminating in an extensive network to address family-related legal matters.

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This study explores the changing divorce trends in Kerala by utilizing collected data from 28 family courts within the state. Moreover, it aims to investigate the divorce rate in Kerala through the lens of different personal laws, such as the Hindu Marriage Act 1955, the Christian Marriage Act 1872, the Special Marriage Act 1954, and the Muslim Personal Law. By finding into the intricacies of these legal frameworks, this research seeks to shed light on the complex interplay between social and legal framework influencing the divorce scenario in the state of Kerala.

Method

The study is based on data collected through the Right to Information Act-2005 from 28 family courts in Kerala. Enacted by the Indian government, the RTI Act-2005 facilitates citizens in seeking appropriate information from the government and public service sectors. The focus of the RTI applications in this research was on collecting data regarding divorce petitions filed under different community categories, it includes the Hindu Marriage Act 1955, Indian Divorce Act 1869, Special Marriage Act 1954, and Dissolution of Muslim Marriage Act, in the 28 family courts of Kerala for the years between from 2016 to 2022.

The data, summarizing statistics on total divorce petitions, was compiled on religious community-wise, district wise and year-by-year basis for subsequent statistical analysis. The RTI applications were submitted, and the collected data from the family courts were facilitated through the Indian postal service. This method allowed for a comprehensive analysis of divorce trends within the specified time period and across different legal and geographical frameworks.

Results

The period from 2016 to 2022 witnessed a substantial surge in divorce cases in the family courts of Kerala, as depicted in Table 1. The data points a consistent annual basis increase, with divorce cases rising from 19,233 in 2016 to 26,976 in 2022, indicating a 40% growth over the seven years of period. Analyzing the geographical district wise distribution, Ernakulam district recorded the highest number of divorce petitions in Kerala which is 3,536, followed by Trivandrum (3,282) and Kollam (3,245). But, Wayanad (538), Kasargode (848), and Idukki (1,092) reported the fewest cases.

Hindu Marriage Act dominated the types of divorce petitions filed in the whole of the Kerala, which are 16,860 cases in 2022. The Indian Divorce Act (Christian) ranked second position, while the Special Marriage Act had the lowest number of petitions filed. Interestingly, despite most Muslim populated Malabar and Malappuram district, divorce petitions filed under the Muslim Marriage Act were notably lower.

Table 1- YEAR-WISE TOTAL DIVORCE PETITIONS

Sl . No	Districts	Family Courts	2016			2017			2018			2019			2020			2021			2022									
			HMA ²	MMA ³	IDA ⁴	SMA ⁵	HMA	MMA	IDA	SMA	HMA	MMA	IDA	SMA	HMA	MMA	IDA	SMA	HMA	MMA	IDA	SMA	HMA	MMA	IDA	SMA				
1	Trivandrum	Trivandrum	942	304	671	176	1002	259	773	158	1308	307	971	158	1337	354	877	229	873	108	311	201	936	91	372	173	991	179	365	175
		Nedumangad	474	84	144	49	525	58	147	37	540	73	166	44	596	92	177	55	549	73	164	78	539	90	179	77	685	87	213	51
		Attungal	647	44	37	35	714	81	43	47	1052	145	71	61	947	183	75	56	199	35	7	14	207	71	17	12	401	85	28	22
	Kollam	Kollam	633	50	198	59	657	65	219	56	708	97	255	69	737	105	209	91	488	71	45	68	622	78	191	75	633	78	215	94
		Kottarakkara	495	58	198	36	482	62	195	43	661	126	238	60	670	142	95	51	568	99	161	66	744	140	259	66	928	215	293	93
		Chavara	562	30	121	26	432	25	58	15	504	35	64	23	492	52	72	26	393	60	48	19	439	57	68	25	537	61	63	35
		Pathanamthitta	135	3	197	14	144	2	193	12	173	2	182	21	164	2	195	33	123	0	143	21	211	3	311	35	207	6	260	24
		Pathanamthitta	379	2	268	14	377	1	309	21	498	22	309	27	546	26	326	60	390	22	230	46	524	12	422	65	591	36	410	73
	Kottayam	Ettimanoor	450	14	404	75	504	15	419	65	570	24	496	97	583	16	460	95	432	28	312	33	568	29	451	115	709	21	623	134
		Pala	175	11	192	44	235	15	249	30	252	17	242	51	291	20	290	68	237	34	209	22	199	35	269	32	277	47	316	20
		Alapuzha	404	17	65	26	482	13	247	25	261	15	150	15	500	29	225	29	421	40	184	27	582	50	235	68	706	61	276	64
		Mavelikara	716	16	154	15	865	36	149	42	932	32	167	63	877	41	63	38	775	50	129	37	985	47	169	57	1071	69	208	60
		Thodupuzha	127	10	139	20	133	14	111	40	98	10	138	45	129	16	179	37	79	9	80	15	154	15	133	17	134	23	172	39
		Kattappana	118	2	98	26	119	7	123	41	146	9	127	37	123	4	152	47	187	19	219	38	206	31	232	41	288	29	344	63
		Ernakulam	1002	86	730	161	1014	88	634	180	1088	106	671	179	1061	133	767	170	892	122	569	145	1065	157	800	221	1275	201	887	281
		Muvattupuzha	224	28	204	36	240	18	260	58	270	17	211	46	301	32	231	72	246	52	224	46	293	44	291	84	385	43	372	92
		Thrissur	700	25	200	30	475	26	132	21	920	57	227	47	1015	28	155	45	484	31	79	12	1246	119	381	74	1436	199	485	45
		Irinjialakula	425	23	158	18	475	28	89	33	486	33	105	43	404	63	184	44	328	46	241	4	223	42	91	9	93	11	32	3
		Palakkad	697	17	25	16	555	56	38	48	700	35	32	27	703	42	34	33	123	5	2	0	198	5	28	1	409	8	12	0
		Ottapalam	393	17	29	7	414	17	22	11	429	39	32	12	485	31	27	14	377	24	16	7	440	39	19	9	516	26	30	8
		Kozhikode	403	115	68	45	549	141	63	21	519	141	63	30	652	160	62	29	649	129	99	31	785	150	100	36	947	160	85	40
		Vatakara	378	74	31	5	380	48	14	9	443	55	18	7	572	84	23	11	526	79	15	9	386	39	17	16	483	60	19	12
		Malappuram	159	53	33	4	190	51	38	8	246	79	50	10	270	95	56	13	366	116	54	20	348	99	45	15	401	129	66	14
		Tirur	222	64	2	0	213	89	3	1	271	127	0	7	245	91	6	4	229	104	1	7	318	127	5	10	328	135	6	8
		Kalpetta	117	81	4	23	135	97	32	46	187	123	62	81	211	137	83	90	200	60	60	50	217	50	123	45	265	59	159	55
		Kannur	581	63	109	18	664	64	123	27	684	79	101	27	730	124	118	29	570	98	91	30	658	95	166	50	873	101	172	32
		Thalassery	332	66	68	17	355	51	84	13	472	71	75	15	544	90	99	21	410	98	74	14	586	97	137	3	626	74	140	22
		Kasaragod	358	49	32	4	384	64	43	9	439	71	49	9	516	90	41	16	405	92	45	12	517	110	70	17	665	103	74	16
		Category wise divorce petition	12248	1406	4580	999	12720	1491	4812	1117	14857	1948	5272	1311	15700	2282	5281	1506	11519	1704	3812	1122	14197	1944	5581	1448	16860	2216	6325	1575
		Total divorce petition filed	19233				20140					23388			24770				18157				23170				26976			

Source: family courts (RTI Act -2005)

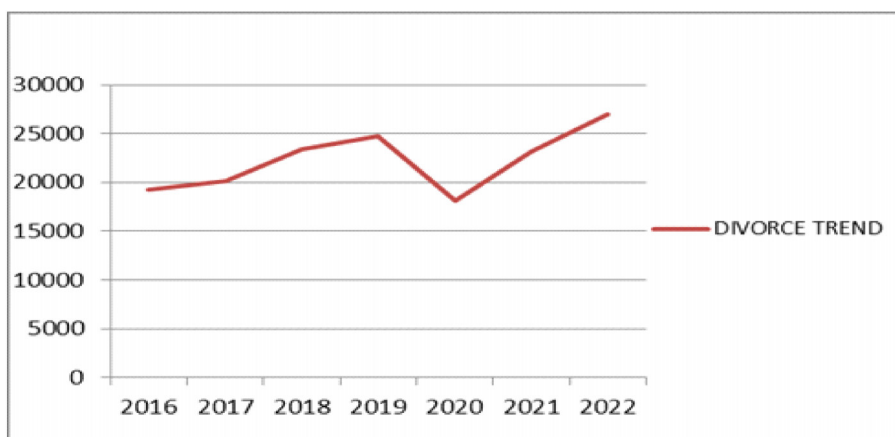
Table 2- year wise divorce petitions filed per day in Family courts

no	Year	The average number of divorce petitions filed per day
1	2016	53
2	2017	56
3	2018	64
4	2019	69
5	2020	51
6	2021	64
7	2022	75

Source: family courts (RTI Act -2005)

Table 2 depicts average number of divorce petitions are significantly raising in each year; in 2022 alone an average of 75 divorce petitions was filed daily in Kerala, which means approximately three divorce petitions are filing every hour Kerala.

Figure 1- Graphical representation of year wise total divorce petitions



Source: family courts (RTI Act -2005)

Figure 1 shows a temporary slowdown in divorce petitions in years of 2020 and 2021, caused by the impact of the Covid-19 pandemic. However, the trend in divorce is reversed in 2022, inferring a resilient increase in divorce cases as total. Consequently, the overall divorce rate and community-wise divorce rate in Kerala are showing exponential growth in each yearwise. The annual rise in divorce rates, it demands further exploration and attention in dynamic factors affecting marital stability in Kerala society.

Discussion

The current divorce scenario in Kerala put forward interesting questions about the social changes and complexities that contribute to this phenomenon. The data, as mentioned by various studies (Vasudevan et al, 2015; Rajasenan et.al, 2022), reveals a remarkable

hike of 350 percent in divorce rates over the last decade in the state, driving Kerala to the forefront as the "divorce capital of India." This surge is particularly quite significant, given the traditionally low overall divorces of 13 cases per 1000 marriages in India. According to (Michel, 2013), there are approximately 46 divorce petitions filed daily in Kerala's 28 family courts. But, in 2022 divorce petitions are reached 75 in a day. Exploring into the complexities, it becomes notable that Kerala's divorce surge is a subtle narrative, involving multifaceted factors. Incompatibility, gender roles, generation gap, westernization, apathy, lack of communication, and a loss of mutual trust emerge as key contributors, with specific emphasis on the challenges faced by illiterate women in the after divorce (Kaneez, 2015). Ramachandrappa (2012) studies in Bangalore further underlies the importance of understanding as a major catalyst for divorce, alongside issues such as dowry harassment and the impact of modern lifestyles.

The state capital, Trivandrum is notable for being a center for divorce cases, with Ernakulam taking the lead in year of 2022. The statistics draws a vivid picture, with 16,860 Hindu divorce petitions filed, revealing a significant concentration under the Hindu Marriage Act and Hindu divorce community.

Interestingly, there are fewer divorce applications listed in the Muslim Marriage Act, which suggests that Muslim communities tend to use extrajudicial forms like Talaq more frequently. The absence of consistent coordination in recording these divorces as statistical format, however, documenting these divorces raises questions about the accuracy of these figures, urging for a more comprehensive approach in data collection of these divorce cases.

The disparities between religious communities and districts underlie the need for a deep and research-oriented approach to comprehend the root reasons behind the escalating divorce rates. Rather than analyzing this trend only through a statistical lens, the discussion should extend to exploring the socio-cultural and legal dynamics, modernization, westernization, evolving gender roles, and the impact of changing norms on marital relationships. In light of the rising divorce cases in Kerala, a comprehensive government intervention is suggested, considering the implementation of new family courts to expedite these cases. Such measures could provide a platform for couples to navigate the complexities of divorce proceedings more efficiently and time consuming, creating a supportive and cooperative atmosphere.

Ultimately, the rise in divorce rates in Kerala invites us to engage in a compassionate and comprehensive study that goes beyond statistical numbers. By analyzing the intricacies of individual stories and societal shifts, we can work towards fostering a more empathetic, compassionate and supportive community, where the challenges of marital relationships

are met with understanding and constructive solutions.

Conclusion :

The remarkable hike in divorce rates in Kerala over the past seven years of time framedemands a thoughtful analysis of the multifaceted key factors contributing behind this phenomenon. The data, as presented by various studies, indicates a significant departure from the traditionally less divorce rates in India, particularly emphasizing the challenges faced by uneducated women in the aftermath of divorce. Incompatibility, apathy, lack of communication, and a loss of mutual trust emerge as key contributors, with Trivandrum and Ernakulam standing out as focal points for divorce cases in Kerala.

District and religious community differences highlight the need for a more complex, evidence-based approach to understanding the underlying causes of this growing trend. Investigating the socio-cultural and legal dynamics, westernization, family structural shift, changing gender roles, and shifting norms that affect married relationships is important rather than just depending on data. Moreover, the varying patterns of divorce petitions under different marriage acts. There is a significant observation that, in comparison to other religious communities, the divorce rate under the Hindu Marriage Act is notably high and on the rise. This warrants an in-depth study to understand the underlying factors contributing to this phenomenon. The Muslim Marriage Act, warrant a more comprehensive approach to data collection. The widespread occurrence of extra-judicial practices such as Talaq within Muslim communities underscores the need to assess the accuracy of documented figures regarding Muslim divorce. The absence of a unified and coordinated approach in data collection of Muslim divorces raises questions about the reliability of the information available. It is imperative to advocate for a more comprehensive methodology that involves collaboration between judicial records, Muslim organizations, and MahallJamaats. Only through unified coordination and a collective effort can we hope to obtain a more accurate and deep understanding of Muslim divorces. This approach would not only enhance the reliability of the data but also contribute to a more informed and comprehensive analysis of the prevailing dynamics within these communities.

In the scenario of the rising divorce cases, proactive government intervention is recommended, including the establishment of new family courts to expedite proceedings of divorce caseload within time consuming frame. Such measures could create a platform for couples to navigate the complexities of divorce more efficiently, fostering an environment of resolution and support. To obtain a more accurate representation of the divorce trend in Kerala, it is essential to include statistics on remarriages of divorced individuals. The state government should establish a unified system to track and document this aspect, ensuring

a more comprehensive and deep understanding of the evolving marital landscape in Kerala. Ultimately, the rise in divorce rates in Kerala calls for a compassionate and comprehensive dialogue that extends beyond the divorce numbers, encouraging understanding and constructive solutions for the challenges faced by individuals in marital relationships.

Data Availability Statement

The data supporting the findings of this study are available from the Family courts in Kerala, upon submission of a prescribed format RTI Ac-2005 application. Access to the data is subject to the guidelines outlined by the RTI Act 2005.

References :

1. drajasenan, anastharakan, &rajeev b. (2023). muslim women protection of rights on marriage act and divorce of muslim women in malappuram district. *journal of polity and society*, 14(2). retrieved from <https://journalspoliticalscience.com/index.php/i/article/view/238>
2. kaneez,salma.(2015).perception of subjective well-being among divorced women: a comparative study of hindus and muslims.pakistan journal of social and clinical psychology vol.13 no.2 67-71
3. michael, elizabeth lovely mary.(2013).a study on the psychological wellbeing and quality of life of divorced muslimwomen.<http://hdl.handle.net/10603/42079>.
4. s, ramachandrappa. (2012). causes and consequences of divorce in bangalore city - a sociological approach. *iosr journal of humanities and social science*. 4. 6-9. 10.9790/0837-0440609.
5. vasudevan, bindhu& m, geetha&bhaskar, anitha&areekal, binu&lucas, anupa&chintha, chintha. (2015). causes of divorce: a descriptive study from central kerala. *journal of evolution of medical and dental sciences*. 04. 3418-3426. 10.14260/jemds/2015/494.