

Divorcing over the Change of Gender Status and its Consequences: A Proposal to Amend the Divorce Law of Sri Lanka

M.P.S. Kaushani Pathirana

Department of Private and Comparative Law, Faculty of Law, University of Colombo, Sri Lanka

Marriage is usually based on inseparable natural and social attributes. The natural attributes of marriage are formed and reflected in all aspects of the legislation while the social attributes are determined by certain social and cultural norms. This dichotomy of attributes echoes the same way in the question of whether marriage continues to be valid after gender change. In Sri Lanka, a marriage is considered as the pioneer social union and further an ‘emotional and legal bond’ between a man and a woman. Nevertheless, according to the modern principles of family law, the main basis of marriage is probably no longer gender but emotional basis, common rights, obligations, and so forth. From this point of view, a simple change of gender will not lead to the dissolution of marriage, however, causes the breakdown of the couple’s feelings and emotions, and it can become the legal cause of divorce based on no-fault grounds. The key problem is that Sri Lanka has fault-based divorce laws that require individuals to establish specific grounds for divorce which makes the process complex and discouraging. This research analyzes the significant challenges of Sri Lankan law in obtaining a divorce based on the transformation of gender after marriage as a no-fault ground and discusses the consequences with special reference to the rights of the parties, child support, and custody. The black letter research method is used to conduct this research with a comprehensive analysis of primary and secondary sources. The research finds it significant and essential to highlight the no-fault grounds for the dissolution of marriage mostly in modern relationships and it requires a balanced approach, open dialogue, and legal reforms to simplify the divorce process, and supportive mechanisms to safeguard individual rights and well-being.

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