

# WOMEN NEWS



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## FOR BETTER OR FOR WORSE - TILL DEATH DO US PART

### Christian Women Speak Out Against Oppressive Divorce Laws

Belinda, aged 23 was working as a steno in a reputed firm, way back in '72 when her parents decided that it was time she 'settled' down in life. A 'suitable' match was arranged and she was married off to the son of a rich plantation owner from Mangalore. Belinda resigned her job and was all set to become the dutiful Indian wife. But right from the beginning there were problems. Within a fortnight she discovered that Alfred had a weakness. He was an alcoholic and often turned violent under its influence. The alcoholism also affected their sex life. Belinda was eager to have a child and feels that she would have continued with the marriage, if only she had conceived. She approached marriage counsellors, psycho-analysts, doctors, priests, alcoholic annonymus groups, but nothing changed. Finally, at the end of five years she quit. Fortunately for her, she had the support of her parents.

On their advice, she started the lengthy procedure of annulling the marriage. She contacted the Parish Priest, and explained her situation. He directed her to the Diocese' tribunal. After a series of meetings, interviews, formal hearings, recording of evidence from reliable authorities like the marriage counsellors and doctors, the Church heirarchy accepted her plea for the annulment. Details of her case were then sent to Rome and finally the dispensation from the Vatican annulling the marriage came through.

By now Belinda was 32. Her chances of remarriage were dwindling. And suddenly, to her dismay she realised that the Church annulment was not legally valid. She still had to get a civil divorce to be eligible for remarriage. The annulment only dissolved the spiritual bond between the couple. While the Church dealt with the sacramental aspect, the contractual aspect of the marriage contract could be dealt with only in a civil court. Belinda was frantic. But the worst was yet to come. She discovered that the grounds under which she had obtained the annulment-chronic and incurable alcoholism and cruelty - were not valid for a civil divorce !

She consulted a lawyer and was told that she and her husband together would have to fabricate a mutually acceptable ground for a legal divorce. And the grounds were very few. Non-consummation of marriage was one such ground. But this was not acceptable to her husband. Alfred, whose ego was hurt by Belinda's action was at his worst behaviour. He was ready to divorce her only on one ground. Adultery - on Belinda's part! This was his last weapon, his way of getting back at her and he



would use it. Belinda was shattered. How could any man stoop so low ? Talks and negotiations from friends and well wishers had no effect. Alfred would not budge. Belinda was desperate. Finally she gave in. She went through the humiliation of being accused of adultery in an open court room. Three years after the Church annulment, the civil divorce came through. Belinda was free atlast - but there was no meaning left in this freedom.

Belinda now works as a Secretary in a private firm. She draws a good salary. But at the age of 37 she is a lonely and bitter person. Talking about the lengthy and complicated divorce proceedings, she says: "My youth has been wasted away in church offices and court corridors. There were good chances of remarriage when the annulment came through. But now, with a stamp of adultery, who will marry me ? No one believes that it was a false ground that had to be cooked up in order to get the divorce. People say, 'a court document cannot be false, and why should anyone lie about such a serious matter ?' What can I reply ? Very few people are aware that a Christian couple who wants a divorce has no option but commit perjury. I don't know what I have done to deserve this.

Why should Christian women have to pay this price, when a marriage breaks down for no fault of theirs ? Do you think Jesus Christ wanted Christian women to be degraded in this manner ? If only I had a child I wouldn't feel so bad. Now all my dreams of getting a child have been shattered. You know, I can't even adopt one because I am not married ? The problems of Christian women don't seem to bother anyone - not the Church authorities nor the State."

As I listened to the pain in her words, I become tongue-tied. I can't find the right words to express my sympathy. So, I talk about myself. And she finds that there is a common bond between us. We are both about the same age. Both of us are living apart from our husbands. I reach out and hold her hand. And at this point there is no need for words of sympathy.

I too have experienced the oppression by these antiquated Divorce Laws but on a totally different plane. I didn't approach the church for an 'annulment' of the marriage. The Roman Catholic Church does not recognise divorce. But since it had to deal with the reality of an increasing number of marriages breaking down, it has tried to provide liberal grounds for annulling the marriage. And today, the term 'consent' is interpreted in a very broad sense. A marriage can be annulled if the woman was unaware of certain character traits like alcoholism, violence, mental problems in a man. Her

'consent' is then considered invalid and the marriage can be annulled. This dictum is contrary to the doctrine of the Roman Catholic Church, where one marries 'for better or for worse - till death do us part'. Instead of recognising the need for divorce the Church has tried to circumvent the problem by finding loopholes in the existing laws.

But how can the 13 long years of my marriage with all the suffering and the struggle be wiped away and considered 'null and void' by a dispensation from Rome ? And specially when there are three living witnesses to this union! Since remarriage was not on my agenda (I had enough experience of one marriage to last a life time!) I was more concerned with practical and monetary aspects of the dissolution of marriage. The Church has no say in these matters. So the Church 'annulment' didn't make much sense in my situation.

The Petition for legal separation was filed in the High Court in Feb. '81. This is the procedure for dissolving a Christian Marriage. (Since our British rulers considered their marriages to be more sacred than those of the 'natives' the dissolution of such marriages was a serious affair and only the higher courts had jurisdiction over them. The same procedure continues today although it is the 'native' Indian Christians who are governed by these laws now. But if the case is contested it has to be transferred to the lower courts for hearing. In this process valuable time is lost.) The case went through many ups and downs. In between there was a brief period of reconciliation. But since it didn't work out, I was back again in the courts to ask for interim alimony, access to the children and later custody of minor daughters and child support. Since my husband was contesting the legal separation, the case was transferred to the City Civil Court. It has now become M.J. (Matrimonial Jurisdiction) Petition of '83 and is still pending final hearing. So my experience is only of interim reliefs.

I filed for interim custody of minor daughters aged 11 and 13 and alimony for myself. I got the alimony at least on paper but lost the case for custody of the girls. Although I had records of my husband's investments amounting to nearly four lakh rupees, only the salary slip was taken into account while granting the alimony and based on this I was granted Rs. 500/- interim alimony, so that it does not exceed 1/5 of the take home pay. Here for the first time, I came to know of this clause that a Christian woman is entitled to only 1/5 of the husband's income. (As though Christian women live in a separate world where cost of living is cheaper than the world at large!).



The girls were at a tender age and there was no other female member in the 'matrimonial' home to look after them. The girls were called to the court and interviewed where they clearly expressed their desire to come and live with me - but inspite of all this I lost the case. I appealed to the High court against this order. Here after months of battle, I got the custody and a meagre amount of Rs. 150/- per child as maintenance. At this juncture my husband resigned his job and hence his salary could not be attached. So the alimony and child support ordered by both the courts remains just on paper. My losing custody in the lower court, my husband resigning his job when he had to pay maintenance and the non-payment of alimony and child support is in it the exclusive experience of a Christian woman. It is the general experience of most women who approach the courts with high hopes of justice !

But there was a very interesting paragraph in the order delivered at the High Court. According to this I was supposed to reach the 'matrimonial home every Sunday by 8.45 a.m. so that the whole family can attend the 9.30 a.m. Church service. The fact that I was living nearly 40 km. away from the 'matrimonial' home or that there was a long history of violence not just on me but also the children, didn't seem to matter to the 'learned judge' of the High Court. Would a court of law in this secular country order a Hindu woman separated from her husband to go through a religious rites like performing the 'Satya-Narayan' Pooja along with her husband ? But where the minority women are concerned, they are not only oppressed by the outdated laws, but also by the individual judge's misconcepts and biases against minority communities. Perhaps the judge had the old-world notion that a 'family that prays together, stays together' or carried in his mind a beautiful vision of a family going to Church dressed in their Sunday best from his public school days in London! And this judgement was delivered by a judge considered to be progressive. So much for secularism of our country and our courts! No doubt such a ridiculous order could only remain on paper. But the fact remains that in this day and age our judges can pass such orders for minority women!

Susan, whom I met during a conference brought out yet another aspect of the Christian Divorce Laws, Susan is from Madras and belongs to the Church of South India (Protestant). She is full of anger and frustration against these laws. She was married three years ago. She wants to get a divorce on the grounds of non-compatibility. When she was told that such a ground does not exist for a Christian couple, she was shocked. She could not understand the logic behind it. She says, 'My cousin Sara, who lives in U.K. could get a divorce without any difficulty. After all, we belong to the same religion.

Why should I have a problem, just because I live in India ? Our church is not opposed to divorce the way Roman Catholic Church is. We are not governed by the Canon Laws. And the British Laws on which Indian Christian Personal Laws were based have undergone such drastic changes in U.K. Why haven't there been a corresponding change in our Personal Laws. How can I be governed by the attitude of the Roman Catholic Church when I am a Protestant. How can you tell me that my religion is opposed to divorce, when millions, of Protestant women in the Western countries can get a divorce at the drop of a hat ?'

Susan is right. The protestant women in India are in a peculiar situation. While the Protestant Church itself has quite a liberal viewpoint regarding matters of divorce, contraception, abortion etc. they are affected by the rigid and traditional attitude of the Roman Catholic Church. In India, all Christians - Roman Catholics, Syrian Christians and all denominations of Protestants are governed by the same laws although the viewpoint of individual churches regarding divorce are quite different. The Protestant and Syrian Christian women are oppressed under the pretext of religion when their own religion doesn't prescribe it. This is an ironic situation.

The Christian Personal Laws, which were framed exclusively for the benefit of our colonial rulers, reflect a rigid Victorian code of morality. What is baffling about them is that they have remained unchanged in our statute books for over a century and what is more significant - 40 years after Independence ! Indian Christian men continue to derive the same benefits from these unconstitutional laws as the British rulers did.

Some of the glaring discrimination against women in the Christian Personal Laws are:-

1. The grounds for divorce are different for the husband and the wife. While the husband can get a divorce on the grounds of adultery on the part of the wife, the wife has to prove adultery coupled with desertion, cruelty or incestuous adultery. A woman cannot get a divorce merely on the ground of cruelty or desertion.

The colonial rulers so wisely protected all their privileges. When they came out to India without their wives, they could commit adultery, but their wives could not divorce them on this ground.

2. The maximum amount of alimony a woman can get should not exceed 1/5 of the husband's income.



This provision was intended to put an economic restraint on a woman seeking divorce as well as to ensure that the man would have enough resources left after divorce to contract another marriage.

3. In case of adultery on the part of the wife, the co-respondent has to pay damages to the husband.

This ridiculous and outdated law may not be actually enforced today. But the fact that it remains in the statute books explainst the whole concept behind these laws: 'The woman is the property of the man'. By committing adultery, another man violates these property rights and hence he is liable to pay damages to the husband.

Additionally, the Roman Catholic women are also governed by the Canon Law or Church Laws. The grounds of annulment are quite different under both these laws. And a divorce is not legally valid unless a woman goes through both the procedures, as we saw in Belinda's case.

The Hindu Code Bill which came into effect in '55 has since been amended several times, to suit the changing needs of women. While the State recognises that women are oppressed and are in need of legal reforms, it almost seems that the only women who need such changes are Hindu women. And reference to minority communities is made as though they are communities of men only. This is true for all minority religions. Minority womens' right to be covered by progressive laws is denied on the pretext of 'communal harmony' and 'secular status' of the country.

A slogan coined by Black women in the U.S.A. regarding the issues taken up by the White Women's Movement and the Black Movement says, "All women are White, All Men are Black, But some of us are Brave." This statement is applicable to Minority women in India as well We could very well rephrase the slogan and says: "All Women are Hindus, All Minorities are Men, But .... Some of us are Brave."

- Flavia