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## **MARRIAGE CANNOT BE SLAVERY: AN ANALYSIS ON FORCED MARRIAGES AND GROUNDS FOR NULLITY IN SRI LANKAN CONTEXT**

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### **ABSTRACT**

The divorce and nullity procedures in Sri Lanka are very rigid and cannot be changed easily. As a grave loophole in law there are no direct provisions for the forced marriages as well. According to our law there are only three grounds to get a divorce in the General Law and as per the Section 19 (2) of the Marriage Registration Ordinance such as malicious desertion, adultery and incurable impotence at the time of the marriage. In contrary, in England more flexible grounds for divorces can be observed as unreasonable behavior, adultery, desertion, two years separation with consent and five years separation without consent which may lead to divorce and forced marriages can involve a range of criminal offences as well. Therefore the research problem here is to determine whether the grounds for nullity of marriages, divorces in Sri Lanka are adequate and whether they provide necessary provisions covering all the aspects including the forced marriages as well. The main objective is to review the existing grounds for divorce and the nullity of Sri Lanka, locus standi of the parties and to propose the new grounds for a divorce and the nullity of a marriage along with the remedies for forced marriages. In this research, the doctrinal legal research methodology is used as this topic is based on the various legal propositions and legal principles regarding the nullity of marriage. The research is qualitative in nature where the researcher has used some conventional legal sources. The researcher has used one of the unique cases in Sri Lanka, Harin Hugh Dias v. Ambagahage Tekla Fernando (DDV 00889/15) as a primary legal source which provides inferences for nullity, forced marriages and locus standi. Apart from that researcher has used a theoretical framework consisted of various jurisprudence schools such as positivism, social contract theory, American realism etc. followed by a contextual analysis. As per the research results the researcher could find that there is also another aspect which has limited the functionality of the divorces in Sri Lanka, the deep rooted ethics, culture and social morals where the aggrieved parties are discouraged to file a divorce no matter how much they are suffered from their forced marriage because of the fear to the society and due to the harm that causes to their dignity. And also more flexible grounds for marriage should be declared such as the mere mismatch of the couples and locus standi to declare the marriages null and void should be provided to the external parties other than the contracted parties to the marriage. As per the conclusion since there are no statutes or laws covering this area as per now, the act of forcing to marry must be criminalize and should be included into the Penal Code of Sri Lanka as a separate offence directly and the severe punishments too should be included. And it is high time that the attention of the relevant law making authorities turned towards this lacuna in the law.

**Keywords:** Nullity, Forced Marriages, Locus Standi, Penal Code, Jurisprudence