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How Prenuptial Agreements Are Beneficial For Both Men And Women In Today's Era.

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ABSTRACT

This is a short article about how prenups will be structuring the new era and how such contracts will shape the future generations swaddled together in the sacred bond of marriage. This article carefully studies how it's high time that we consider marriage as a social contract and separation that doesn't hinder future opportunities for both the partners. As we move forward in the article it showcases what steps has the government taken to bring laws introducing prenups in the Indian society and how the society is still contemplating about giving a legal status to Prenuptial Marriage agreements. India is still not ready for such contracts as marriage is a sacrament even though we have thousands of victims suffering from the baggage they carry from their broken marriages. Women have clearly been a victim of broken marriages both on the financial and social front and it's high time we recognise these flaws to actually lift up women in the society. The paper concludes as- the only solution for a happily ending marriage is well drafted prenup!

INTRODUCTION

Marriages, soul-mates and love are sacred concepts related to the Divine but in today's world it is important to understand that Marriage is not a holy relationship but also a legal relationship between two individuals and often their families. Divorces have become very common these days and citizens of today, even before getting married think of what happens if they get separated? That's not something to be shy of! The simple answer to this question is a Prenuptial marriage agreement - a contract signed by the couple before the marriage which contains basic provisions such as division of property, wealth, custody of children and many other specifics in case the couple splits in the future.

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Why are prenups important in India?

- These contracts protect the rights of inheritance of the children and grandchildren that were produced by the split couple and work especially in India because of the firm concept of joint family.
- A premarital agreement can protect interest in business or practice which can't be divided and subjected to the control or involvement of the former spouse upon divorce.
- A premarital agreement can protect the debt free spouse from any obligations for the payment of the debt of the former spouse.
- Not only financial but also many provisions related to children, decision-making and responsibility taking aspects of life can be decided beforehand in the eventuality of splitting.
- Spousal support can be limited through the prenup.
- A premarital agreement can protect the financial interests of older persons, persons who are entering into second or subsequent marriages, and persons with substantial wealth.

Is India ready for such a step?

Many scholars of law have time and again rejected and stated that India as a country is not ready for such agreements as we consider marriage to be a sacrament. To give legality to prenuptial marriage agreements in India it is very important for us to understand that we should stop linking marriage and religion rather than negotiate between the two. Even if the prenuptial marriage agreements are legalised in India there will be a very few takers as we are a country deep rooted into tradition and religion.

At the same time we should not forget that we are a large country and we have cases docked up in the court and if prenups are legalised in India it would save a lot time of the courts at the same time the provisions of the contract would be decided by the parties themselves making it easier to implement at the time of divorce.

Ministry of Women and Child development on prenuptial marriage agreements.

The ministry is keen on legalising the pre-nuptial marriage agreement but has failed to do so as the courts and legal experts have time and again stated that prenups even after being legalised

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will remain nothing but lip service and can be executed only if both the parties involved are equally smart and concise while making such a contract.

In a country where there are vast inequalities of gender prenups wouldn't have quite a feasibility and many women could even lose their rights over Streedhan. It must be taken into consideration that after legalisation of Prenups women mustn't be compelled by law to be deprived of her natural rights under personal laws. The only and only way to get prenups legalised in India is by treating marriage as a contract and not as a sacrament, which is actually not possible as many religions practiced in India do not permit the same.

Why are prenups common in certain sections or classes?

It is often seen prenuptial marriage agreement or common in certain sections or classes of people such as high income grade group the NRIs or simply rich people, this is because financial status of both parties involved are made clear and visible to each other therefore to avoid marital fraud such agreements are prepared so that one party doesn't become rich by harassing the other.

Does a prenup protect women?

Many women don't have any sort of income after separation from the husband or any other property from their parents to sustain. They and the children out of such marriages bear the consequences and no one is responsible for their education and upkeep. In such cases prenups come in handy and help the women to stand-up and sustain a life of dignity. As all these are decided by both the parties there is no option of backing out and majorly helps children born out of such marriages to get all the opportunities. At the same time we shouldn't forget that there are already a lot of laws that govern the concept of family and marriage and introduction of the same can be only done if such laws are as gender neutral as possible.

Conclusion

Most of the unhappy marriages and in domestic violence and forever frowning relationship between the previously married couple but prenuptial marriage agreements can be a way forward so that such marriages not only improve the condition of the parties involved in the unhappy marriage but also at the same time help improving the mental and emotional stability of the children born out of such marriages. Maybe the only way for the future is that the story

ends as - Couple got divorced and due to the presence of good Prenup, they lived happily ever after!



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