

Comments by **Simon Beccle, Family law specialist and partner at Payne Hicks Beach**, first published in The Sydney Morning Herald on 26 July 2018 and reproduced with kind permission <https://www.smh.com.au/world/europe/uk-supreme-court-says-woman-must-remain-in-loveless-marriage-20180726-p4ztn6.html>

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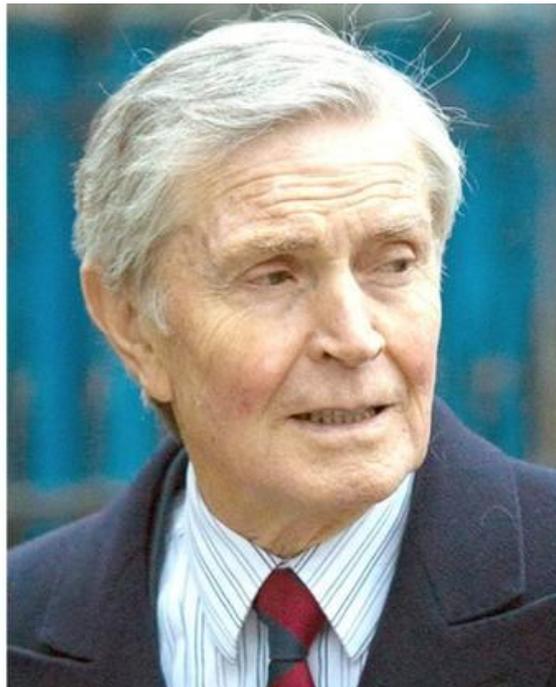
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## UK Supreme Court says woman must remain in 'loveless' marriage

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**London:** The British Supreme Court ruled on Wednesday that a woman must remain married to her husband of 40 years after he opposed her request for a divorce, saying its hands were tied by the country's divorce laws.

The justices upheld a lower court ruling that Tini Owens, 68, failed to prove "unreasonable behaviour" by her husband, 80-year-old Hugh Owens, who she claimed was moody, argumentative and disparaging. English law requires a spouse to prove unreasonable behaviour, adultery, desertion or a separation of five years unless both parties agree to divorce.



The Supreme Court has ruled that Tini Owens, who wants to divorce her husband of 40 years because she says their marriage is unhappy, must stay married to Hugh Owens

In issuing their ruling, the justices made their unease plain, noting that society's expectations for reasonable behaviour have changed since divorce laws were last

updated in 1969 and marriage is now seen as a partnership of equals. The court then opened the door for legislators to rewrite the rules.

"I have found this a very troubling case," Judge Brenda Hale wrote. "It is not for us to change the law laid down by Parliament - our role is only to interpret and apply the law that Parliament has given us."

Owens' lawyer, Simon Beccle, told reporters that his client must now wait until 2020, when the couple will have been separated for five years.

"Mrs Owens is devastated by this decision, which means that she cannot move forward with her life and obtain her independence from Mr Owens," he said, adding that the public would find the court's decision "hard to understand".

Mishcon de Reya family lawyer Antonia Felix said it was inevitable that the decision would offer support to pressure groups who have lobbied for changes in divorce law. But she said reforming the current fault-based system is only part of the issue facing the 110,000 couples who divorced each year in England.

She said for example, that some reports suggest that 61 per cent of the 375,000 or so Islamic couples living in England are not validly married under English law - and thus have no rights before the English courts if divorced. Christian and Jewish religious marriages are valid under English law, but other religious marriages aren't recognised unless they are accompanied by a civil marriage.

"It is likely that significant numbers of married observers of non-Judeo-Christian faiths are also in a similar position to members of the Muslim community," she said.

"So, if Parliament is persuaded to review divorce law there is a far more pressing need to also review our marriage law to make it fit for our multi-faith 21st Century society."