

Comments by **Simon Beccle, Family law specialist and partner at Payne Hicks Beach**, first published in The Washington Post on 26 July 2018 and reproduced with kind permission https://www.washingtonpost.com/world/europe/uk-supreme-court-rejects-womans-appeal-in-divorce-case/2018/07/25/d3a5af80-9009-11e8-ae59-01880eac5f1d_story.html?noredirect=on&utm_term=.42a9c9e56601

The Washington Post



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Europe

UK Supreme Court rejects woman's appeal in divorce case

by Danica Kirka | AP July 25 at 1:00 PM

LONDON — The U.K. Supreme Court ruled 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 behavior” by her husband, 80-year-old Hugh Owens, who she claimed was moody, argumentative and disparaging. English law requires a spouse to prove unreasonable behavior, adultery, desertion or a separation of five years unless both parties agree to divorce.

In issuing their ruling, the justices made their unease plain, noting that society's expectations for reasonable behavior 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 lawmakers 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.”

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 percent 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 recognized 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.”

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