



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

FROM SACRAMENT TO CONTRACT: A SOCIO-LEGAL ANALYSIS OF THE HINDU MARRIAGE ACT, 1955

Khushi Sharma

ABSTRACT:

The Hindu Marriage Act of 1955¹ is an important law for the Hindus in India. This law transform the concept of Hindu Marriage from a sacrament to religious duty and as well as a contract. This law introduced legal framework that regulates marriage, divorce & maintenance. It shows a balance b/w traditional Hindu values and modern principles. Hindu Marriage Act gave protection especially to women related to marriage, divorce & financial stability. This law replaced many old laws & unwritten customs by making it into a single, official framework. By codification and reformation traditional practices, the Act has helped align Hindu marriage with modern legal principles of equality, justice & individual rights. This law set some conditions for a marriage (for example – age & consent) to make it valid.

It also explains the laws related divorce which before was never a concept. This law introduced the legal ways to end a marriage. If the compatibility between the couples does not work properly. Even though it is written in 1955, it still gave recognition & importance to the cultural & religious ways to marriage. Through an analysis by landmark judicial interpretations, this act highlights that how judiciary acted as a catalyst in the evolution of the Act to meet the societal needs. This article mainly highlights that the Hindu Marriage Act is not a static document by a dynamic instrument which shapes the Indian socio-legal norms.

KEY WORDS :- Hindu Marriage Act, 1955, Sacrament, maintenance, divorce, codification.

¹ Hindu Marriage Act, 1955(Act 25 of 1955).

INTRODUCTION:

The concept of marriage² holds a position in Hindu culture not as a social duty but as a sacrament. It is considered as a permanent bond which could not be broken. There was no concept of divorce was present in Hindu Culture. Hindus Believe that “the marriages are arranged in heaven, but are solemnized on earth”³. In Hindu culture, the marriage is a sacrament which must be done in the presence of Vedic Mantras & rituals to attain “Moksha”. Ancient scholars like Manu, Kautilya, Yajnavalkya write their rules by making the Vedas basis to build stable society where husbands and wives worked together to keep & running families smoothly. In this context, the marriage was a religious duty, & it was meant to last forever. By the changes in society such as industrialisation, urbanisation, women empowerment etc. changed the concept of marriage. The Hindu Marriage Act, 1955 was enforced & implemented with the aim to change this from ancient unwritten religious traditions to a modern, standardized legal system. This act changes the concept of marriage from a religious duty to a legal relationship. It was necessary to align with India’s constitutional values of equality & justice. This act covers all Hindus including Buddhists, Jains & Sikhs. One of the most important change is the introduction of the concept of divorce. Certain grounds like (on the grounds like cruelty, desertion, adultery),(Section- 13)⁴ were introduced on which an spouse can seek a divorce. One more important aspect of divorce is the divorce by mutual consent (Section 13B)⁵. This section dealt with when the parties agreed that the marriage is no longer working, then they can choose this section to end their marriage after a period of separation. Not only the concept of divorce is introduced but also the important part (i.e. maintenance) also traces its value. Section 24 & Section 25⁶ are the two important sections which provides financial support to “a spouse who needs it after a divorce”. While this Act was an important step towards equality but there are still some challenges left to get resolved. For example, the process of getting divorce is too long and expensive. Sometimes, the maintenance amount decided by the court is too low.

² THE CONCEPT OF MARRIAGE UNDER HINDU LAW AND ITS CHANGING DIMENSIONS,2022
Harsimran Kaur Bedi, https://ili.ac.in/pdf/5_Harsimran_Bedi_F.pdf.

³ Bajpai, A. (2016). Custody and maintenance of children under Hindu law: A critical study Journal of Indian Law, 42(3), 123–145.

⁴ Section 13 of the Hindu Marriage Act,1955.

⁵ Section 13-B of the Hindu Marriage Act, 1955.

⁶ Section 25 and 25 of Hindu Marriage Act,1955.

HISTORICAL CONTEXT⁷ :-

Before the enactment of Hindu Marriage Act, 1955, Marriage was seen as a sacred, holy & eternal union and it can not be ended. It was not considered as a legal contract. There was no availability of the concept of divorce and separation. The women before this act didn't have a social status in comparison to men. Ancient texts stated that the women should be obedient to their fathers, husbands & sons. If some women get mistreated, then she didn't have many legal rights, they were forced to stay in that unhappy marriage. Also, they didn't have many rights like property or financial support.

By the 19th & early 20th centuries, reformers like Raja ram Mohan Roy & Ishwar Chandra Vidyasagar worked for the rights of the women. They fought against many harmful traditions like child Marriage, Sati Pratha, & polygamy. After these campaigns, the British government passed some laws like Hindu widow's Remarriage Act, 1856⁸ and child Marriage Restraint Act, 1929⁹.

After the Independence of India, the government realized that there was a need of proper rules and laws to govern Hindu Marriages & families. After that, the "Hindu Code Bill" was introduced. There were many barriers came in between but after crossing all the barriers this bill got passed. And the Hindu Marriage Act of 1955 was finally came into force for Hindus, Buddhists, Sikhs, Jains.¹⁰

LEGAL RECOGNITION OF MARRIAGE UNDER HINDU LAW: -

The Hindu Marriage Act 1955¹¹ brings the clarity to the essentials of valid marriage. Section 5¹² of the Act states the specific rules which required for the valid marriage.

⁷ EVOLVING-PERSPECTIVES-ON-DIVORCE-AN-ANALYSIS-OF-THE-HINDU-MARRIAGE-ACT-1955-IN-THE-CONTEXT-OF-CONTEMPORARY-LEGAL-NORMS, by Dr. Shivani Chauhan, Dr. Amita Rathi Dr Piyush, Maharishi University of information technology, Lucknow, Uttar Pradesh, India <https://ijirl.com/wpcontent/uploads/2025/03/EVOLVING-PERSPECTIVES-ON-DIVORCE-AN-ANALYSIS-OF-THE-HINDU-MARRIAGE-ACT-1955-IN-THE-CONTEXT-OF-CONTEMPORARY-LEGAL-NORMS.pdf>.

⁸ Hindu widow's Remarriage Act, 1856.

⁹ Child Marriage Restraint Act, 1929.

¹⁰ THE HINDU MARRIAGE ACT, 1955: A CRITICAL ANALYSIS OF DIVORCE AND MAINTENANCE PROVISIONS, Arshita Tyagi, Amity University Lucknow, Uttar Pradesh
Dr. Axita Srivastava, Amity University Lucknow, Uttar Pradesh, https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_ea7c7cf631740c594a0ccfd82399558.pdf.

¹¹ The Hindu Marriage Act, 1955 (Act 25 of 1955).

¹² Section 5 of the Hindu Marriage Act, 1955.

Age Factor: - This act defined the age of both bride and groom should be (21 years for men and 18 years for women).

- **Single status:** - Neither the husband nor the wife have any living partners at the time of wedding because the Bigamy is illegal.
- **Proper Procedures:** -The marriage must be performed with the traditional Hindu customs & rituals like “seven pheras” & many other.
- **Prohibition on certain Relationships:** -This Act prohibits the marriage between very close relatives (“sapinda relationships”).
- **Registration:** -The marriage must be legally registered. The registration gave official & legal validity to the marriage.

Introduction of the Concept of Divorce & Maintenance:

One of the most important contribution of this Act was the introduction of divorce & legal separation related provisions.

- **Provisions of Divorce Under Hindu Marriage Act, 1955:** -

Grounds for Divorce (Section 13)¹³ :-

This Section defines the grounds on which any spouse can seek divorce. The grounds are: -

1. **Adultery:** - If any of the spouse engage in voluntary sexual intercourse with another person outside the marriage, the aggrieved party can seek divorce.
2. **Cruelty:** - Severe mental and physical torture or cruelty which makes it impossible to live together.
3. **Desertion:** - If one of the spouse without reasonable cause deserted the other for a continuous period of 2 years. The deserted spouse can seek divorce.
4. **Conversion:** - If one spouse converts themselves into other religion & leave Hindu religion, then the other spouse can seek divorce.
5. **Mental Disorder:** - If one of the spouse is this much mentally unstable that living with that person become impossible, then divorce can be granted.
6. **Leprosy:** - The incurable form of leprosy can be a ground to seek divorce.
7. **Venereal Disease:** - If one of the spouse is suffering from venereal disease, then the other can seek divorce.

¹³ Section 13 of the Hindu Marriage Act, 1955.

8. **Renunciation of the world:** - If one of the spouse become “Sanyasi” and renunciate the world, the other can seek divorce.
9. **Presumption of Death :-**If one of the spouse is missing for a period of 7 years, then, the other can seek divorce.

Divorce By Mutual Consent (Section -13-B)¹⁴ :-

This concept was introduced by the Marriage laws (Amendment) Act, 1976¹⁵. If both the spouses have living separately for at least 1 year and they have reason to believe that the marriage is no longer working then both the spouses mutually seek divorce under section 13B of the Hindu Marriage Act, 1955. The Court gave a period of 6 months before granting final divorce. (Amardeep Singh v. Harveen Kaur, 2017)¹⁶.

• Introduction of the Concept of Maintenance Under Hindu Law: -

The concept of maintenance is really an important step to support the unstable spouse in aspects of finance. It was also benefit especially to the women who can't be able to bear their expenses on their own. Maintenance provide financial security to the economically weaker spouse.

Provisions of Maintenance:

1. Interim Maintenance (Section 24):

Section 24 of Hindu Marriage Act, 1955 stated the provision of maintenance. This section states that either the spouses can seek interim maintenance during the pendency of divorce. In the case of “Anju Garg v. Shashi Bhushan, 2014”¹⁷, the right to get interim maintenance is absolute.

2. Permanent Maintenance & Alimony (Section 25):

This Section of this Act states that the court can give order to provide permanent maintenance and alimony to the weaker spouse at the time of divorce. In the case of “Bhuwan Mohan Singh v. Meena (2014)”¹⁸, the Supreme Court held that the right to maintenance is important to ensures dignity & financial security of the economically weaker spouse.

#LEGAL PRECEDENTS:

¹⁴ Section 13-B of the Hindu Marriage Act, 1955.

¹⁵ Marriage laws (Amendment) Act, 1976.

¹⁶ Amardeep Singh v. Harveen Kaur, 2017 8 SCC 746.

¹⁷Anju Garg v. Shashi Bhushan, 2014, CRM-M No.25624 of 2013.

¹⁸ Bhuwan Mohan Singh v. Meena, AIR 2014 6 SCC 353.

The Indian Judiciary has significantly widened the scope of divorce provisions by giving some legal Precedents: -

- **Cruelty as a Ground: -**

In cases like *V. Bhagat v. D. Bhagat* (1994)¹⁹ and *Shivashankarappa v. Neelamma* (1981)²⁰ the court stated that the cruelty is not limited to physical violence only. The court stated that severe emotional abuse, constant humiliation or torture and insults are “mental cruelty”. The court said this type of behaviour makes the living impossible for spouses. The aggrieved spouse can apply for divorce in court.

- **Right to Maintenance: -**

In the case of *Nagendrappa Natikar v. Neelamma* (2013)¹⁸, the court stated that the maintenance should be determined by two factors mainly.

1. The financial resources of the paying spouse.
2. The needs of the recipient.

These principles and factors stated that maintenance is not just a survival but it is intending to protect the dignity & financial security of the dependent spouse.

- **Marriage as Irretrievable Breakdown: -**

In the case of “*Naveen Kohli v. Neelu Kohli* (2006)”²¹, the court said that the marriage can be dissolved if it is suffering from irretrievable breakdown the view of marriage as an unbreakable sacred bond to relationship as contract.

CONCLUSION: -

The *Hindu Marriage Act, 1955*²² is a milestone step in the history of Hindu laws and concept of marriage. This law changed the ancient traditional concept of marriage where the marriage considered as the unbreakable sacred bond & can't be dissolved. This law officially recognized the status of marriage as a legal relationship which can be ended if it is troubling the spouses.

¹⁹ *V. Bhagat v. D. Bhagat* AIR 1994 1 SCC 337

²⁰ *Nagendrappa Natikar v. Neelamma* AIR 2013, SC, 1541

²¹ *Naveen Kohli v. Neelu Kohli* (2006), 4 SCC 511

²² The Hindu Marriage Act, 1955 (Act 25 of 1955)

In ancient laws, there was no concept of divorce and legal separation. This law mainly supported the women who were forced to stay in a marriage where they are unhappy or they are getting ill-treated by the husband & his family. This law shifted the status of society from patriarchal (male-dominated) to equal treatment between men and women which established rule of law, promotes justice and equality. It introduced many grounds like cruelty or “fault based”, desertion, leprosy etc. to end the marital relationship. One important step is mutual divorce. The spouse, if thinks that the marriage is no longer working then they can apply for divorce by mutual consent. The concept of maintenance was also introduced to ensure financial stability to the economically weaker spouse.

Either of the spouse can claim for maintenance if they are dependent on another for money. They can apply for interim maintenance during the pendency of divorce, if one of the spouse is unable to bear the financial burden of the case, usually the wife. They can also claim for permanent maintenance and alimony which aims to protect the dignity and financial security of the dependent spouse. Even after the law made to protect dignity, there are still some challenges remaining to worked upon. The current focus on proving “fault” forces couples to follow a long bitter procedure which can be prevented if “irretrievable breakdown” were only a ground for seeking divorce. If the spouses got too low maintenance, then it will become difficult for them to survive on that maintenance amount alone. A gap in Indian law is the lack of system for fair division of property or assets. Homemakers, usually wives, who continuously contributed through domestic labour left without a share of the family property after a divorce. Ultimately, the law also needs further updates especially regarding property division. The ultimate goal of the law must be the balance the sanctity of family with their fundamental rights, dignity & autonomy of the individuals in it.