



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.

SHORT ARTICLE

THE HINDU MARRIAGE ACT, 1955

BY: CHIYA TUTEJA

Abstract

The Hindu Marriage Act, 1955 is one of the most appropriate form of acts present to govern matrimonial conflicts keeping in mind the requirements of the contemporary society. Earlier, it was an uncoded law but with time, its structure has been evolved to a properly written codified law. It shows rules and regulations regarding marriage, divorce, maintenance and other matrimonial conflicts. This article shows how this act evolved gradually with time, its applicability, objectives and goals, and what all it is meant for along with the landmark cases highlighting the major issues.

Keywords

The Hindu Marriage Act, 1955, Personal Law, Matrimonial Law, Hindu Law, Marriage, Divorce, Women's Rights, Judicial Separation, Codified Laws, Brief Description of the Hindu Marriage Act, 1955

Introduction

Marriage is the essential structural institution of the society. It serves as the most basic and foundational unit in the Indian family and societal system as well. As we all know, India is a huge and diverse country with a population figure of around 140 crore, there exists a distinct number of religions all with their own practices, beliefs, customs and ideologies. Therefore, the concept, thoughts and ways of performing and perceiving marriages are also variant which is why majority of the religions such as Hinduism, Islam, Christianity and the Persians have their own codified laws related to marriage contained in various acts. Here we are, to discuss the matrimonial laws of Hindus, codified in the Hindu Marriage Act, 1955. The objectives of

this act are very evident from the preamble of this act, and according to it, this is *an act to amend and codify the law relating to marriage among the Hindus*. The territorial application and extension of this act is defined in the Section 1(2) of this act which says that it extends to the whole of India and applies to the Hindus in India, as well as to the Hindus residing abroad but domiciled in India.

Historical Evolution

According to ancient Hindu Law, marriage is a holy *sanskara* (sacrament). This sacrament was initially considered permanent and never ending which means Hindu Law did not recognise the concept of divorce earlier. The purposes of marriage are *dharma* - the rightful performance of one's religious duties, *praja* - procreation of children and *rati* - partnership or companionship. It was governed through the smritis. Existence of polygamy was seen in some sections of the society.

In medieval period, this personal law started to be governed religious texts, customs and practices along with the two schools – Mitakshara and Dayabhaga.

Then in British Colonial period there used to be no interference in personal laws but this gradually went under legislative reforms for social welfare. Judicial interpretation and intervention was seen in Hindu Law through enactment of the Hindu Widows' Remarriage Act, 1856, the Age of Consent Act, 1891 and the Child Marriage Restraint Act, 1929.

When loopholes such as polygamy, lack of equality, need of divorce were recognised, then a demand for a modern, uniform Hindu Marriage laws was observed which is why in 1947, the Hindu Code Bill was drafted by the Rau Committee and presented in the legislative assembly proposing amendments relating to marriage, divorce, adoption, succession and maintenance. This proposal faced strong opposition which resulted into the division of the original bill into separate enactments. Finally, the Hindu Marriage Act was introduced enforced on 18th May, 1955 and is the 25th act of that year. At present, it has been amended 8 times ever since it was enforced. The years in which it was amended are 1956, 1964, 1976, 1978, 1999, 2001, 2003, and 2019.

The two maxims “*conunctio maritum peminum est de natura*” and “*viret unus consentur in lege una persona*” which literally mean to keep husband and wife together is the law of nature and husband and wife are considered one in law respectively, flawlessly describe the concept of Hindu marriages.

Objectives of the Act

The major and the most evident objective of this act as already been discussed through the preamble above. However, the act also has other quite significant and required objectives which were a result of the reforms proposed during the formation and drafting of this act. These objectives are solely based on the legal and mindful requirements of married couples in the modern era. The issues faced by Hindu spouses in the older times have now become the objectives of this act which are as follows:

- Codification of the different customs, rules, regulations and ceremonies included in Hindu marriages for their organisation in a proper structure which would be applicable to and for all Hindus equally and in the same manner
- Uniformity of the matrimonial laws as various Hindus used to follow different ceremonies and perceptions regarding marriage. Now this act creates uniformity, similarity and equality in matters of Hindus of all regions. In short, all the Hindus of the country are governed under the same rules through this act.
- Abolition of polygamy and promotion of monogamy among Hindus. This not only protects women from unfair treatment but also creates financial and emotional balance among the spouses and their families which further simplify or resolve the issues related to maintenance, divorce, succession etc.
- Allowance of divorce and provisions related to grounds for the same such as cruelty, desertion, mutual consent and many more. As stated earlier, Hindu Law did not recognise divorce as a concept, but with the growth of the society, provision of divorce is required while keeping in mind the welfare of both spouses.
- Improved condition of women by providing them equal rights and statutory protection from unfair marital practices such as cruelty and adultery.
- Inclusion of provisions such as judicial separation, restitution of conjugal rights, divorce by mutual consent, permanent alimony and maintenance, custody of children for creating an appropriate balance in Hindu families.
- Description of determining the jurisdiction and procedure of moving towards justice in matters related to marriages or families.

Salient Features of the Act

The act also shows the following features:

- Application of the act to Sikhs, Jains and Buddhists as well
- Concept of void and voidable marriages
- Monogamy
- Conditions for a valid Hindu marriage
- Ceremonies for a Hindu marriage
- Registration of Hindu marriages
- Restitution of conjugal rights
- Judicial separation and divorce
- Remarriage after divorce
- Nullity of marriage
- Punishment of bigamy
- Jurisdiction and Procedure
- Alimony and maintenance
- Custody of children

All these features are contained in around 35 sections of this act which are a result of timely intervention and mindful judicial amendments by the legislature and the Indian judiciary.

Landmark Cases

Below are a couple of landmark cases which have majorly contributed in the interpretation and amendments of this act leading to its best present versions:

SARLA MUDGAL V. UNION OF INDIA¹

This case highlights the same issue of four women:

- Meena Mathur
- Sunita Narula
- Geeta Rani
- Sushmita Ghosh

The issue was that all their husbands had converted to Islam not because of any religious faith but to marry another woman in order to escape monogamy rules of Hindu Personal Law as bigamy is a punishable offence under Section 494 of the Indian Penal Code (now Bharatiya

¹ (1995) 3 SCC 635 (India)

Nyaya Sanhita) whereas Islam permits polygamy. This became a negative yet popular trend in the late 1980s and early 1990s in India under which men started converting to Islam only to marry again as they thought that by changing their religion, they would be permitted for bigamy or polygamy. Therefore, Kalyani, an organisation lead by Smt. Sarla Mudgal, which stood for women facing such issues filed a writ petition in the Supreme Court under Article 32 of the constitution. The Supreme Court faced a common question:

Can a married Hindu man married under the Hindu Marriage Act, 1955 convert to Islam just to marry another woman without legally ending the subsisting marriage?

The Supreme Court denied this practice and held that mere conversion to Islam does not dissolve a valid Hindu marriage or allow the man for bigamy. If a Hindu husband does so without legally dissolved his first marriage, then the second marriage will be declared void and the husband would be liable for the offence of bigamy under Section 494 of the Indian Penal Code. This case also made the court observe a need for a Uniform Civil Code under Article 44 of the constitution because existence of different personal laws often gives rise to conflicts like these.

NAVEEN KOHLI V. NEELU KOHLI²

Naveen Kohli and Neeli Kohli got married to each other on 20th November, 1975 as per Hindu rituals and had three sons together. The husband was a successful businessman. He built a bungalow for the family and three factories for one son each. But in May, 1994 he left the home and started living in a rented accommodation because he was fed up of the frequent quarrels by Neelu with him and his parents. He also stated that Neelu, with the help of her parents had transferred business and property interests to her own name. However, Neelu denied these allegations. The matter reached the trial court where both spouses kept on levelling serious civil and criminal allegations on each other. Naveen also filed for divorce under Section 13 of the Hindu Marriage Act, 1955 primarily on the ground of cruelty on which the court ordered a decree of divorce and a payment of Rs 5 lakh by Naveen to Neelu as maintenance which he deposited.

Neelu, not being satisfied with the decision of the Family Court, reached the Allahabad High Court. The High Court refused to grant divorce. Naveen then appealed to the Supreme Court

² (2006), 4 SCC 558 (India)

where it was observed that the marriage was completely broken and there was no chance of reconciliation and continuous allegations caused mental cruelty. Therefore, the Supreme Court granted divorce, and directed Naveen to pay a total of Rs. 25 lakh as maintenance out of which Rs. 5 lakh was already paid.

The court observed that there is no chance of reconciliation in some cases where there is irretrievable breakdown of marriage and recommended legislative reforms to make it a separate ground for divorce.

Suggestions and Recommendations

Although, this act is at its most effective position right now but with the growth and widespread of feminism and women's rights, some innocent men also get trapped in the web of injustice by women and suffer lifelong, therefore, decisions must be made fairly after listening to both spouses and not only relying on the laws made in favour of men. On the other hand, husbands should also respect their wives and the law as well through which their accountability emerges. Furthermore, no individual should try to make use of such laws for their own pleasure or to escape from one law and benefit from the other as the judicial system looks at both sides of the coin in parallel.

Conclusion

It would be fair to say that the Hindu Marriage Act, 1955 has shown flexibility over the years and has gone under multiple amendments to reach the appropriate and fair position at which it is at present. With the rising of new and complex family and marriage related cases each day, the judiciary refers to such acts for justice and also fills the loopholes when recognised. It is also important to note that not all conflicts are meant for divorce or separation, the general public should try to save the marriage through attempts of reconciliation if possible. Also, when there is existence of unfair treatment or injustice among the spouses, they must not hesitate and directly seek for justice through the judicial system. The courts not only use this act but also refer to other laws, provisions and statutes for delivering justice whenever required but at the same time, people should also keep in mind that such laws are made for social welfare and not for moulding them in ways which are for their own benefit as seen in the Sarla Mudgal case. At the end of the day, the righteousness of this act lies in the co-existence of law with tradition ensuring that marital laws remain just and fair as per the prerequisites of the social fabric.