



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CHANGING DYNAMICS OF HINDU MARRIAGE: A SOCIO LEGAL ANALYSIS OF ITS SACRAMENTAL NATURE

AUTHORED BY - AAKANSHA BHARDWAJ & ANUBHAV BHARDWAJ

Introduction

Marriage has long served as a foundational institution in Indian society, shaping social structures, religious traditions, and moral values. Among the various forms of marriage, Hindu marriage occupies a unique space, historically perceived not merely as a personal union but as a sacred *sanskara*, a religious rite rooted in Vedic texts and Dharmashastras. It embodies a lifelong, indissoluble bond sanctified by rituals such as *saptapadi* and *kanyadaan*, emphasizing duty over desire, permanence over personal choice, and collective harmony over individual autonomy.

Traditionally governed by patriarchal norms and marked by the absence of explicit individual consent, Hindu marriage was viewed as a spiritual commitment transcending the legal domain. However, with the enactment of the Hindu Marriage Act, 1955, the sacred status of Hindu marriage began to change significantly¹. The Act codified Hindu personal law and introduced contractual elements such as monogamy, consent, judicial separation, and divorce, thereby creating a hybrid legal structure that blurs the lines between the sacramental and the secular². These legal reforms, coupled with shifting social values brought about by urbanization, education, globalization, and the rise of women's rights movements, have reshaped the understanding of marriage in contemporary Hindu society.

The problem this paper seeks to address lies in the evolving character of Hindu marriage under the dual influences of its sacramental foundations and emerging contractual principles. While the law formally retains references to religious customs and ceremonies, the increasing relevance of concepts such as individual consent, gender equality, and marital dissolution signals a significant departure from tradition.

¹ Hindu Marriage Act 1955, Act No 25 of 1955.

² Paras Diwan, *Law of Marriage and Divorce* (8th edn, Universal Law Publishing 2011) 27.

This research aims to investigate the extent to which Hindu marriage retains its sacramental essence amidst modern social and legal transformations. Employing a legal sociological approach, it examines the historical foundations of Hindu marriage, analyses statutory provisions and judicial interpretations under the Hindu Marriage Act, and explores how evolving societal attitudes are redefining marital relationships. To supplement the doctrinal and theoretical analysis with empirical insight, the authors also conducted a short survey targeting diverse respondents across age, gender, and educational backgrounds. The purpose of the survey was to capture public perception on whether Hindu marriage is still viewed as a ritualistic essence or has increasingly come to be seen as a legal or contractual arrangement. The purpose of this paper is to provide a comprehensive understanding of the changing dynamics of Hindu marriage, highlight the social and legal issues it presents, particularly in relation to gender roles, consent, and divorce, and offer critical reflections on whether existing laws adequately balance tradition with contemporary realities. Ultimately, the study seeks to contribute to ongoing discourse on personal law reform in India while remaining sensitive to its rich cultural and religious heritage.

Hindu Marriage as a Sanskar: A Sacred Sacrament

In traditional Hindu thought, *Vivah* (marriage) occupies a central position among the sixteen *sanskars* (sacraments or rites of passage) delineated in classical Hindu scriptures. A *sanskar* is not merely a ritual but a spiritual and moral purification process that signifies key transitions in an individual's life. Among these, *Vivah* is particularly significant as it represents not just the union of two individuals, but a sacred alliance of two souls committed to fulfilling the fourfold goals of life: *dharma* (duty), *Artha* (prosperity), *kama* (desire), and *moksha* (liberation).

This conceptualization positions marriage as a divine, lifelong commitment that transcends personal interest and worldly utility. It is viewed as essential for maintaining social order, continuing lineage, and performing religious duties³. The ceremonial elements of Hindu marriage such as *Saptapadi* (seven steps), *Kanyadaan* (ritual of giving the bride), and *Mangalya Dharanam* (tying of the sacred thread) are not simply cultural traditions but are imbued with profound symbolic and spiritual significance. These rites represent the couple's shared responsibility towards spiritual growth and societal obligations.

³ SN Dube, *Hindu Marriage: A Sociological Study* (Popular Prakashan 1985) 12.

Unlike modern contractual notions of marriage, the Hindu concept of *Vivah* is irrevocable in its spiritual essence. It is not a relationship that can be dissolved at will, but one based on *shraddha* (faith), *tyaga* (sacrifice), and mutual *samarpan* (surrender). This understanding reflects a belief in the continuity of the marital bond across lifetimes, rooted in the doctrine of reincarnation⁴.

The sacramental status of Hindu marriage is reinforced through scriptural references. The Rigveda (10.85) contains hymns that describe the celestial marriage of Surya and Soma, reflecting the divine endorsement of the marital bond. The Manusmriti (Chapter 3, Verses 20–30) explicitly characterizes marriage as a spiritual obligation, essential for fulfilling the duties of a *grihastha* (householder), and asserts that a virtuous wife is vital for religious life. The Yajurveda further provides mantras recited during marriage rituals such as *Saptapadi*, seeking divine blessings and emphasizing spiritual unity. Similarly, the Grihya Sutras and Dharma Shastras, including the *Apastamba* and *Paraskara Grihya Sutras*, outline marriage as a ritual of spiritual purification, central to an individual's religious and social journey. Epics such as the Ramayana and Mahabharata also depict ideal matrimonial unions particularly that of Rama and Sita as models rooted in *dharma*, fidelity, and mutual respect.

Thus, the institution of Hindu marriage as a *sanskar* is deeply embedded in scriptural authority and socio-religious consciousness. It goes beyond the personal or contractual realm and enters the sacred domain of duty and divine order (*rita*). This foundational understanding becomes crucial in evaluating how contemporary legal frameworks such as the Hindu Marriage Act, 1955 interact with and challenge these deeply held traditional values. Analysing this intersection is essential to understanding the shifting dynamics of Hindu marriage in modern India⁵.

Historical Background, Evolution, and the Need for the Hindu Marriage Act, 1955

For centuries, Hindu marriage was seen not as a legal contract but as a sacred and unbreakable bond, a *sanskar* rooted in religious duty and spiritual commitment. It was guided by rituals,

⁴ In Hindu belief, the soul is thought to be eternal and takes birth again and again in different lives. What we do in one life (our karma) affects what happens in the next. In marriage, this belief adds a spiritual meaning suggesting that the bond between husband and wife may not be limited to just one lifetime but can continue across many lives, making the relationship even more sacred and long-lasting.

⁵ Hindu Marriage Act 1955, Act No 25 of 1955.

customs, and religious texts, with little formal legal structure to address issues that arose within the marital relationship. While this sacramental view carried deep cultural and spiritual significance, it also brought certain challenges. Women, in particular, often faced discrimination in matters such as divorce, inheritance, and consent. Practices like child marriage, polygamy, and a lack of legal remedies made their position even more vulnerable.

As India moved toward independence, a wave of social reform began questioning many traditional practices. Reformers such as Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar advocated for the rights and dignity of women, especially within the family. After independence, India adopted a constitution grounded in the values of equality, justice, and personal liberty⁶. There was a growing need to bring personal laws in harmony with these modern constitutional ideals.

It was in this environment that the Hindu Marriage Act, 1955 came into being. The Act aimed to modernize Hindu personal laws and address the imbalance between tradition and individual rights. For the first time, it provided a clear legal structure for Hindu marriages, setting conditions for validity, recognizing grounds for divorce, and offering legal remedies such as judicial separation. While it did not take away the spiritual significance of marriage, it introduced a legal foundation that ensured fairness and protection, particularly for women. In many ways, this Act marked a shift, redefining Hindu marriage as not only a spiritual commitment but also a legal institution that seeks to balance tradition with contemporary social values.

Conditions for a Valid Marriage

The Hindu Marriage Act, 1955, lays out specific conditions under Section 5 that must be fulfilled for a marriage to be considered valid. Firstly, both parties must be Hindus⁷. The Act applies to Hindus, Jains, Buddhists, and Sikhs, and a marriage under this law is only valid if both the bride and groom fall under one of these religious categories⁸. Secondly, monogamy is mandated neither party should have a living spouse at the time of marriage, thus outlawing practices like polygamy or bigamy⁹.

⁶ The Constitution of India 1950, Preamble, arts 14–15, 21.

⁷ Hindu Marriage Act 1955, s 5.

⁸ *ibid*, s 2.

⁹ *ibid* s 5(i).

Mental capacity is another important condition. Both individuals must be of sound mind and capable of giving valid consent¹⁰. They should not suffer from any mental disorder that could render them unfit for marriage or the procreation of children. The Act prescribes the legal age for marriage 21 years for the groom and 18 years for the bride. Marriages below this age are considered invalid under the Act¹¹.

To prevent incestuous or closely related unions, the Act prohibits marriages between individuals who fall within the degrees of prohibited relationship, unless a custom or usage permits such unions. Similarly, individuals who are *sapindas* (related within a certain number of generations on the maternal or paternal side) are also barred from marrying, unless allowed by tradition. Lastly, the marriage must be solemnized in accordance with customary rites and ceremonies. The *saptapadi*, or the ritual of taking seven steps around a sacred fire, is a common example. Completion of these steps marks the marriage as legally binding.

Grounds for Divorce and Judicial Separation

One of the most revolutionary aspects of the Hindu Marriage Act, 1955, is its recognition of the right to divorce and judicial separation. This marked a clear departure from the earlier view of marriage as indissoluble. Under Section 13 of the Act, a spouse can file for divorce on specific grounds such as adultery, cruelty, desertion for two years or more, conversion to another religion, mental disorder, or communicable diseases¹². Renunciation of the world where a spouse becomes an ascetic or sanyasi and the presumption of death if a spouse has been missing for seven years are also considered valid grounds.

Judicial separation, defined under Section 10, allows spouses to live apart without ending the marriage. While the grounds for judicial separation are largely similar to those for divorce, the legal outcome is different. Judicial separation maintains the marital bond but provides a legal remedy for those who cannot continue cohabiting. It can also serve as a precursor to divorce if the couple fails to resume cohabitation for one year after the decree of judicial separation, either party can file for divorce.

¹⁰ *ibid* s 5(ii).

¹¹ *ibid* s 5(iii).

¹² Hindu Marriage Act 1955, s 13.

Gender-Specific Grounds for Women

Recognizing the historical and social vulnerabilities of women, the Act also includes specific provisions that empower wives to seek judicial relief in certain circumstances. For instance, if the husband engages in bigamy marrying another woman without legally dissolving the first marriage the wife has a legal right to seek judicial separation or divorce. In the landmark case of *Harmohan Senapati v. Smt. Kamala Kumari (1978)*, the wife successfully petitioned for judicial separation on the ground that her husband had taken another wife while the first marriage was still in force¹³.

Further, if the husband is convicted of heinous acts such as rape, sodomy, or bestiality, the wife is entitled to seek separation. These provisions were included to protect the dignity and bodily integrity of women, acknowledging that marriage should not bind a woman to continued suffering or endangerment. By including such gender-specific grounds, the Act moved beyond general equality and acknowledged the practical needs of justice in a patriarchal society. The Hindu Marriage Act, 1955, represents a monumental shift in the conceptual understanding of marriage in Hindu society. It introduced a legal framework that coexists with religious values, thereby preserving tradition while embedding constitutional values like equality, justice, and individual freedom. By codifying the conditions of marriage, enabling divorce and judicial separation, and safeguarding the rights of women, the Act transformed Hindu marriage from a sacred, indissoluble duty into a legal institution grounded in mutual consent and legal accountability.

From a sociological lens, the Act has played a significant role in altering family structures, empowering women, and promoting individual agency in personal matters. It recognizes that while traditions are important, they must evolve to reflect the values of a modern, democratic society. In doing so, the Hindu Marriage Act has not only modernized matrimonial law but has also contributed meaningfully to the broader project of social justice in India.

Sociological Aspect of Hindu Marriage in the Present Era

Hindu marriage in contemporary India is no longer confined to the age-old sacred framework it has become a dynamic institution shaped by changing social realities, aspirations, and values. While traditional beliefs still hold a strong presence, especially in rural and conservative

¹³ Harmohan Senapati v Smt Kamala Kumari Senapati and Anr, AIR 1978 Ori 122.

settings, the modern Hindu marriage reflects a subtle but steady evolution. One of the most noticeable transformations is the way young people now approach marriage. No longer is it simply a societal duty or a ritual-bound sacrament arranged by elders; it is increasingly seen as a personal choice, a partnership based on mutual respect, emotional connection, and shared goals.

With rising levels of education and urban exposure, individuals especially women are exercising greater autonomy in deciding when and whom to marry. Delayed marriages are becoming common, driven by a focus on career, financial independence, and self-growth. This marks a significant shift from earlier generations where early marriage, especially for women, was a social norm. Today, many women choose to marry later or remain single, not because they reject marriage, but because they value compatibility and self-fulfillment over societal timelines.

Inter-caste and inter-religious marriages, once considered taboo, are gradually gaining acceptance, particularly among the educated urban middle class. However, large-scale studies indicate that their prevalence remains limited. The Indian Human Development Survey (2011) found that only about 5.82% of marriages were inter-caste, with little change over decades.¹ Public opinion surveys further reveal deep resistance: a 2025 India Today poll showed that 61% of respondents opposed interfaith marriages, while 56% opposed inter-caste unions.¹⁴ While resistance and stigma still exist, especially in rural and semi-urban areas, legal recognition and individual agency have empowered many couples to cross traditional boundaries.

The influence of education, women's empowerment, and economic independence cannot be overstated in this transformation. Educated women today are less willing to accept unequal marriages or tolerate abuse under the guise of duty or sacrifice. They seek relationships where their voices matter and where they are treated as equals, not as subordinate partners bound by the rituals of obedience and silence. This has also contributed to an increase in divorce cases although still low compared to the West, the divorce rate in India is gradually rising, signaling that people are choosing dignity and happiness over the mere preservation of a broken

¹⁴ Tridip Ray, Arka Roy Chaudhuri and Komal Sahai, 'Whose education matters? An analysis of inter-caste marriages in India' (2020) Indian Human Development Survey 2011 https://www.isid.ac.in/~tridip/Research/IntercasteMarriage_18February2020.pdf accessed 19 September 2025.

marriage.

Despite these changes, the idea of Hindu marriage as a religious sanctity still resonates deeply in the cultural psyche. Rituals such as *Saptapadi* (the seven steps) and *Kanyadaan* (giving away the daughter) continue to be central to most Hindu weddings, preserving a link with tradition. However, these rituals are now being reinterpreted by many as symbolic gestures rather than rigid duties. Some couples choose to modify rituals to make them gender-neutral or more inclusive, reflecting a desire to blend tradition with personal values.

Media and pop culture have played a huge role in shaping how marriage is viewed today. Bollywood films, social media influencers, and web series frequently portray themes of love, heartbreak, companionship, and gender equality. These narratives often challenge traditional family roles and highlight individual choice, encouraging open conversations around relationships, gender expectations, and mental health in marriage. Globalization has also exposed Indian youth to diverse cultural values, leading to greater openness toward concepts like prenuptial agreements, co-parenting, or choosing not to have children.

In sum, the sociological landscape of Hindu marriage today is a tapestry of contradictions and coexistence where tradition and modernity walk hand in hand. While the sacred and sacramental aspects remain deeply cherished, legal and social reforms have allowed room for individual autonomy, equality, and flexibility. The institution is no longer static; it is evolving constantly negotiating between inherited values and contemporary realities. This evolution is not a sign of decline but of resilience, showing how marriage can adapt to remain meaningful in an ever-changing world.

Empirical Reflections: Perceptions of Hindu Marriage in Contemporary Society

To explore the real-world perceptions of Hindu marriage among youth and adults in modern India, a survey was conducted by the authors among 50 respondents of diverse age groups, educational backgrounds, and marital statuses. The primary objective was to gauge whether Hindu marriage is still viewed as a sacred sacrament or increasingly seen as a legal or contractual relationship. The findings offer a valuable sociological snapshot, aligning with the theoretical aspects of this paper.

1. Understanding of Hindu Marriage

A majority of respondents (approx. 60%) described Hindu marriage as both a sacred and legal union, reflecting a dual perception where rituals remain important, but legal aspects like rights and divorce are also acknowledged. Around 30% continued to see marriage primarily as a sacred and lifelong spiritual bond, while a small portion (about 10%) viewed it mainly as a legal contract or even a social formality.

2. Rituals and Sacramentality

When asked whether modern Hindu marriages still follow sacramental values such as rituals and lifetime commitment, most participants agreed that these are "sometimes" followed, especially among urban youth. Only a few believed they are "always" followed, indicating a dilution in ritual observance, though not a complete abandonment.

3. Changing Influences in Partner Selection

Respondents cited a mix of factors influencing marriage decisions today—love, personal compatibility, family approval, and community norms. This reflects a shift from arranged marriages based purely on social and caste considerations to mutual consent and personal choice becoming central.

4. Legal Awareness and Role of the Hindu Marriage Act, 1955

Over 75% of respondents claimed to be either fully or somewhat aware of the Hindu Marriage Act. Many agreed that legal rights (like divorce, alimony, and maintenance) should prevail over rituals in case of conflict, highlighting growing legal consciousness.

5. Marriage: Contract or Sacrament?

A recurring theme was the recognition of Hindu marriage as both a legal and sacred institution. While the spiritual and emotional aspects were still valued, there was significant acceptance of marriage as dissoluble, especially when rights are violated. The idea of marriage as an unbreakable bond is no longer absolute in the minds of many young respondents.

6. Gender Dynamics and Social Change

Numerous responses mentioned the growing role of women in marriage decisions, suggesting increased agency and independence. Comments such as "*women are becoming decision-makers*" and "*marriages are no longer forced or imposed*" indicate a positive shift toward gender equality, although traditional expectations still linger.

7. Media and Pop Culture Influence

More than half the respondents acknowledged that films, OTT platforms, and social

media have influenced their views on love, relationships, and marriage. For some, it created romanticized expectations, while others reported valuing love over tradition. Interestingly, a few felt that media had a negative impact, promoting unrealistic ideas of marriage.

The survey responses affirm that Hindu marriage is no longer viewed through a purely sacramental lens. While rituals and religious symbolism remain culturally significant, the institution is increasingly shaped by legal awareness, personal autonomy, gender equality, and media narratives. The lived experience of marriage today reflects a hybrid model that is sacred in symbolism yet pragmatic and flexible in practice. Based on the survey conducted as part of this study, it is evident that the perception of Hindu marriage in contemporary society has shifted from being solely a spiritual bond to being equally recognized as a legal and personal partnership. Many respondents, particularly younger individuals, emphasized values such as mutual consent, emotional compatibility, and individual choice over traditional family or caste expectations. This suggests a growing trend toward individual autonomy within the institution of marriage. Moreover, the influence of media, OTT platforms, and global cultural shifts has reshaped societal views, portraying marriage more as a journey of love and partnership than a rigid, ritual-bound sacrament. The study suggests Hindu marriage is undergoing a necessary transition, one that maintains its spiritual roots while adapting to the legal, emotional, and social needs of contemporary life. This balance between sacred tradition and evolving realities reflects a complex but vital evolution, where dignity, equality, and freedom are becoming just as central to marriage as ritual and cultural continuity.

Contemporary Challenges and Emerging Issues

Despite the evolving nature of Hindu marriage in India, several challenges continue to hinder its progressive transformation. The social stigma around divorce remains a significant barrier, particularly for women. While the Hindu Marriage Act, 1955, recognises divorce as a legal right, society often continues to view divorced individuals especially women as having failed morally or socially. Families frequently discourage legal separation, urging women to "adjust" for the sake of familial honour, children, or social reputation. The emotional toll of such stigma can be severe, making it harder for individuals to exit toxic or abusive marriages.

Similarly, inter-caste and inter-religious marriages, although legally permitted and often

celebrated as symbols of progressive India, still encounter deep-rooted opposition. Cases of honour-based violence, social boycott, and emotional estrangement remain distressingly common. While the Special Marriage Act was created to facilitate such unions, procedural hurdles, including mandatory public notice requirements, often act as deterrents¹⁵. The paradox between legal facilitation and societal rejection points to the gap between constitutional promises and lived realities.

Another major challenge is the clash between personal laws and constitutional rights. Hindu marriage law, like other religious personal laws in India, operates within a faith-based framework. However, questions arise when these laws conflict with the fundamental rights guaranteed by the Constitution such as the right to equality (Article 14), non-discrimination (Article 15), and personal liberty (Article 21). For example, practices rooted in patriarchy such as unequal rights in matrimonial property or expectations of female obedience may be constitutionally questionable but still survive under the guise of religious custom.

This ongoing conflict continues to drive the discourse on the Uniform Civil Code (UCC). Advocates argue that a UCC would harmonise personal laws across religions, ensuring gender justice and legal uniformity. Opponents, however, fear it may erode religious freedoms and homogenise India's pluralistic fabric¹⁶. Within the Hindu context, this debate raises critical questions: Can marriage be both a sacrament and a secular contract? Should religious rituals override constitutional principles in determining matrimonial rights and responsibilities? A related concern is whether the state maintains true neutrality in regulating religiously rooted institutions like Hindu marriage. While the state has intervened to outlaw harmful practices (e.g., child marriage, sati), its reluctance to amend gender-discriminatory aspects of religious personal laws points to a cautious, and sometimes inconsistent, approach. The line between respect for tradition and abdication of reform is thin and contested.

Thus, Hindu marriage today stands at the intersection of law, faith, and social evolution. Navigating this complex terrain requires a balance between respecting cultural identity and upholding individual rights, especially for women, who are often the most affected by systemic imbalances.

¹⁵ Special Marriage Act 1954 (India), Act No 43 of 1954.

¹⁶ Government of India, Ministry of Women and Child Development, *Handbook on Family Laws in India* (MWCD 2021) <https://wcd.nic.in/handbook-family-laws-india> accessed 19 September 2025.

Conclusion

In conclusion, Hindu marriage today stands at a crossroads between its time-honoured identity as a sacred sacrament and its evolving role as a modern legal institution. While deeply rooted in spiritual and cultural traditions, the institution has been significantly reshaped by legal reforms, constitutional values, rising individual autonomy, and changing gender roles. The introduction of the Hindu Marriage Act, 1955 marked a turning point by codifying marriage, allowing for divorce, and ensuring basic marital rights. Social developments such as the rise in love marriages, delayed unions, and increasing legal awareness have redefined the expectations and responsibilities within marital life. At the same time, sacred rituals and spiritual beliefs still retain emotional and symbolic importance for many, reflecting an ongoing negotiation between tradition and transformation.

Moving forward, there is a pressing need to revisit personal laws with a balanced approach that respects cultural heritage while aligning with constitutional ideals of dignity, equality, and freedom. Legal reforms should focus on ensuring gender justice, simplifying procedural hurdles in marital disputes, and offering uniform access to marital rights irrespective of religion or caste. Public awareness campaigns and educational programs are also essential to bridge the gap between legal rights and social realities. Moreover, state institutions must maintain neutrality in regulating religious practices and ensure that personal laws do not override individual freedoms. Ultimately, the evolving nature of Hindu marriage must be seen not as a loss of tradition, but as a step toward a more inclusive, just, and human-centered interpretation

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