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## HINDU MARRIAGE: FROM SACRED SACRAMENT TO MODERN SOCIAL CONTRACT

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### ABSTRACT

Marriage within the Hindu legal framework has traditionally been perceived as a sacred and permanent bond, deeply embedded in religious philosophy, customary practices, and ritual observances. In classical Hindu jurisprudence, marriage was not regarded as a mere civil agreement but as a sacrament (sanskara), symbolizing a spiritual union between two individuals. It was understood as a lifelong commitment aimed at fulfilling religious duties, preserving social order, and ensuring the continuation of family lineage. The emphasis was placed on the moral and spiritual dimensions of the relationship rather than on individual rights or contractual obligations.

However, with the passage of time, significant social changes, legal reforms, and evolving judicial interpretations have gradually transformed the institution of Hindu marriage. Modern developments have reshaped its traditional character, introducing features that resemble a contractual relationship while still preserving its religious foundation. Factors such as increased recognition of individual autonomy, changing social values, and the need to address marital disputes through legal mechanisms have contributed to this transformation.

This research paper seeks to critically examine the conceptual transition of Hindu marriage from its traditional sacramental nature to its present status as a socio-legal institution with contractual attributes. It traces the origins of Hindu marriage through scriptural texts and historical practices, followed by an analysis of legislative developments, particularly the codification of personal laws in the mid-twentieth century. The study also explores how statutory provisions have redefined marital rights and obligations, reflecting the changing needs of society.

Further, the paper analyses important judicial decisions to understand how courts have interpreted marriage in light of constitutional principles such as equality, dignity, and personal liberty. Judicial reasoning demonstrates an effort to strike a balance between respecting religious traditions and ensuring that marriage as an institution aligns with contemporary notions of justice and fairness. Legal concepts such as divorce by mutual consent, restitution of conjugal rights, and maintenance illustrate the gradual incorporation of contractual elements into what was once considered an indissoluble union.

The study ultimately argues that Hindu marriage today represents a hybrid institution. While it continues to retain its cultural and religious significance, it simultaneously operates within a modern legal framework that acknowledges individual rights, gender equality, and social transformation. This dual character reflects the dynamic nature of law in adapting traditional institutions to contemporary realities while maintaining their foundational values.

## **INTRODUCTION**

Marriage under Hindu law has traditionally been regarded as a sacred sacrament, solemnized through the performance of religious rites prescribed in the *Dharmashastra* texts. It is not merely a personal relationship but a significant social institution that carries legal and moral implications for both individuals involved. A Hindu marriage represents the fulfillment of social and religious duties by a man and a woman, symbolizing their union within the framework of societal norms and spiritual obligations.<sup>1</sup>

Traditionally, the validity of a Hindu marriage has been closely associated with the performance of essential religious ceremonies. Among the most important rituals are *Kanyadaan*, *Panigrahana*, *Agni Parinayana*, *Vivaha Homa*, and *Saptapadi*, each of which holds deep symbolic and spiritual significance. These ceremonies collectively signify the sanctification of the marital bond and the acceptance of mutual responsibilities by the couple. However, in contemporary society, there has been a gradual shift in the manner in which these rituals are performed, reflecting broader social and cultural changes.

With the growing influence of modernization and westernization, Hindu marriage has increasingly come to be viewed as a social event that publicly marks the union of two individuals. In many cases, greater emphasis is placed on the social and celebratory aspects of marriage rather than on the traditional religious practices. It is often observed that concerns about social status and public perception lead families to modify or minimize certain customary rituals, sometimes treating them as mere formalities rather than meaningful cultural practices rooted in tradition.<sup>2</sup>

Despite these changing trends, marriage under Hindu law continues to be understood as more than a simple contractual agreement based solely on the consent of the parties. It remains

fundamentally a religious and cultural institution in which two adults enter into a sacred union through prescribed ceremonies and rituals that give spiritual legitimacy to their relationship. Thus, while the social expression of marriage may evolve over time, its core essence as a solemn and sacred bond continues to hold importance within the Hindu legal tradition.

At the end of this paper, we will get to know the ground reality of marriage that has been changed after the modification of of true essence of the Hindu marriage and will encounter the new changes and reasons for the change in the sacrament that has been created by the society, laws and the society itself.

## **WHAT IS MARRIAGE**

Before examining the social and legal dimensions of Hindu marriage, it is important to first understand the meaning of the term “marriage” itself.

In legal terms, marriage may be described as a union in which a man who has attained the age of twenty-one years and a woman who has attained the age of eighteen years voluntarily consent to live together as spouses and establish a family. Through this legal union, the couple acquires various rights and obligations, including the right to cohabit, the right to procreate, and the enjoyment of conjugal rights. Marriage<sup>3</sup> also confers legal recognition on the couple’s relationship, enabling them to live together as husband and wife and share rights in respect of property, whether acquired jointly or inherited. Such a union may be solemnized according to personal laws based on the religion of the parties or through formal registration under applicable legislation. Thus, marriage creates a legally recognized relationship that imposes mutual duties and grants rights relating to property, inheritance, and marital obligations as provided under the law.

From a societal perspective, marriage is viewed as a union formed when two mature individuals decide to share their lives with one another

based on mutual understanding and commitment. It represents a relationship founded on love, emotional support, trust, and respect. Socially, marriage is not limited to the bond between two individuals but also signifies the coming together of two families and the creation of new relationships that extend beyond blood ties. Within this institution, individuals often assume roles shaped by social expectations and family values. Traditionally, a husband is expected to take on responsibilities inspired by the role of his father, while a wife may look toward her mother's role in managing family responsibilities, nurturing children, and experiencing motherhood, while also sharing companionship with her spouse. Marriage therefore serves as both a personal partnership and a social institution that fosters cooperation, responsibility, and emotional connection between partners.

Before in the history, even after having a toxic relation between the couple or couple with no companionship, love, care and trust, people never thought of giving up on each other and used to stay in the marriage whatever worst thing take place in their marriage their relationship of marriage did not get affected by such things.<sup>4</sup> On the other hand, in the contemporary era people have so many options of partners available that it is very easy for them to move out of the marriage and be with someone else, this is the drastic shift in the thinking and perseverance of individual in the society. Hence, marriage in simple terms is union of two adults i.e. men and a woman with a mutual consent, agreeing that they want to spend rest of their life with each other by performing their rights and obligation on them, and after performing required ceremonies, customs, ritual and tradition, the bond, connection or union of two individual will be recognised as marriage in the society with all the legalities fulfilled.

#### **HISTORICAL FRAMEWORK OF MARRIAGE UNDER HINDU LAW**

The concept of marriage as a sacrament in

Hindu tradition can be traced back to the Vedic period, when marriages were solemnized through the recitation of sacred Vedic mantras in the presence of divine forces. During this period, marriage was regarded as a deeply spiritual union between a man and a woman, sanctified through religious rituals and prayers. Prior to entering into marriage, a man was considered to be in the stage of Brahmacharya, dedicated to learning and spiritual discipline. Vedic hymns were recited throughout the various stages of the marriage process, beginning from the proposal and continuing through the completion of the ceremonies<sup>5</sup>, which included ritual acts symbolizing purification and the commencement of married life.

In ancient times, marriage was viewed as an indissoluble bond that could not be terminated. There was no recognized concept of divorce, and society did not contemplate the possibility of dissolving a marriage even in difficult circumstances. The marital union was considered permanent, reflecting the belief that it was a sacred commitment ordained by religious principles.

This union was formed between two consenting individuals who understood the importance of performing the prescribed rituals and ceremonies outlined in religious and spiritual texts. Historical accounts suggest that inter-caste marriages were not entirely uncommon in certain periods, and the presence of a wife was considered essential for a man to fulfill his religious duties. Marital relationships during this era were often characterized by mutual respect, affection, and cooperation, with couples striving to maintain harmony, trust, and companionship within the household.

The spouses should live in peace and love like the birds called Chakva and Chakai,<sup>4</sup> both the individual who gave the commitment to rest of their life with each other should live their life happily and one should not sacrifice at the cost of their marriage. Thus, only would the house become a real home a home for both of them,

and then they may be blessed with capable and good-natured issue.<sup>6</sup>

According to the teachings found in Manusmriti, the position of a wife within marriage is regarded as highly significant. Manu highlights that the presence of a wife brings prosperity, happiness, and honor to the household after she joins her husband's family. He further suggests that a home is considered incomplete or lifeless without the guidance and presence of the wife, even if other family members such as children, daughters-in-law, and grandchildren reside there. Similar ideas regarding the central role of a wife in maintaining family harmony can also be observed in ancient epics like the Ramayana and the Mahabharata, reflecting the long-standing cultural belief in her importance within the family structure.

#### **LEGAL FRAMEWORK OF MARRIAGE UNDER HINDU LAW**

The legal regulation of Hindu marriages is primarily governed by the Hindu Marriage Act, 1955, which provides a comprehensive framework for the solemnization and dissolution of marriage among Hindus. One of the significant objectives of this legislation was to introduce the concept of divorce, thereby making Hindu marriage legally dissolvable while still preserving its traditional foundation. At the same time, the Act aims to protect and preserve the institution of marriage by regulating the rights and obligations of spouses.

Section 29(2) of the Act recognizes and preserves the validity of marriages solemnized according to established customs, thereby respecting traditional practices. Further, Section 7 emphasizes the importance of customary rites and ceremonies, thereby retaining the sacramental character of Hindu marriage. According to this provision, a marriage is considered valid when it is performed in accordance with the customary rituals of either party. In cases where Saptapadi is regarded as an essential ceremony, the marriage is deemed complete and binding upon the taking of the seventh step by the couple.

Thus, the Act reflects a balance between tradition and modern legal principles by acknowledging the religious nature of Hindu marriage while providing statutory recognition and legal safeguards. A marriage continues to be viewed as sacramental in character when it is solemnized through the prescribed religious ceremonies performed by the parties.

The conditions provided under section 4 of the Act have made rule of monogamy, besides this condition other conditions are that neither party is incapable of giving a valid consent because of unsoundness of mind or has been suffering from mental disorder of such a kind to be unfit for marriage and procreation of children or has been subject to recurrent attacks of insanity, the age of male is twenty one years and of female is eighteen years and the parties are not within the degree of prohibited relationship.<sup>7</sup>

#### **SOCIETAL ISSUES FACED IN MARRIAGES UNDER HINDU LAW**

Society often plays a significant role in shaping and influencing marital relationships, frequently questioning or challenging existing norms, traditions, customs, and legal provisions. Although marriage fundamentally involves the union of two individuals, social expectations and pressures tend to extend beyond the couple, affecting their choices, preferences, and decisions. Hindu society, being deeply rooted in long-standing cultural traditions and customary practices, continues to face various social challenges that impact both the institution of marriage and the individuals within it. This research highlights some of the major social concerns that reflect the complexities associated with Hindu marriages.

#### **CHILD MARRIAGE**

Child marriage refers to a marital union in which one or both parties are below the legally prescribed age of majority, typically involving individuals who lack the emotional and psychological maturity required to enter into such a relationship. In many cases, it disproportionately affects girls, leading to

serious consequences such as disruption of education, adverse health outcomes, psychological stress, and increased school dropout rates. Such practices are widely recognized as violations of children's fundamental rights and hinder their overall development.

According to UNICEF (2011), child marriage is a significant social issue and a violation of children's rights, regardless of whether it involves a boy or a girl. It deprives children of essential rights such as access to education, proper health and nutrition, protection from violence and exploitation, and the opportunity to enjoy a safe and secure childhood.

### **THE PERSISTENT SHADOW OF DOWRY**

Dowry system in India is one of the most challenging paradoxes in the modern Hindu society which has been a prevalent practice by the groom's family on the bride's family. Despite strict legislation<sup>8</sup> it is being practiced in some of the parts of the country dowry practice is considered be a marriage negotiation between the two family of the individuals.

### **DOMESTIC VIOLENCE**

Domestic violence is a never-ending discussion as it has been happening since a very long time in the union of two i.e. marriage, mostly women's are victim of domestic violence whereas as we see the contemporary time men's are also being subjected to domestic violence within the marriage. Violence such physical assault, emotional, psychological and even sexual abuse are some types of acts of violence of which women are targeted. As per the society, women are expected to go through this violence and don't raise their voice against the violence and oppose her husband from doing all these illegal acts upon her.

### **DIVORCE**

Divorce continues to be viewed as a social stigma in many parts of Hindu society, creating significant challenges for individuals seeking to end a marital relationship, particularly women. Although legal provisions allow for divorce on

specified grounds, women who approach the courts often encounter social disapproval, criticism, and discouragement not only from the community but sometimes even from their own families. The act of seeking divorce is frequently perceived as bringing dishonor to both the woman's marital family and her parental family, making the process emotionally and socially burdensome.

Even after obtaining a divorce, women often face continued social prejudice and are labeled as "divorcees," which can make it difficult for them to rebuild their lives with dignity. Societal attitudes may lead to isolation, judgment, and exclusion, reflecting the deep-rooted stigma attached to marital dissolution. Such social pressures can significantly influence an individual's decision to remain in an unhappy marriage rather than pursue legal separation.

Various studies and reports examining divorce laws in India have highlighted their impact on women and emphasized the need for reforms to ensure greater fairness and protection of individual rights. In particular, the concept of irretrievable breakdown of marriage has been widely discussed as a potential ground for divorce, aiming to provide relief in situations where the marital relationship has completely collapsed and reconciliation is no longer possible.<sup>9</sup>

### **CONTEMPORARY VIEW OF MARRIAGE UNDER HINDU LAW**

Modern society has witnessed a considerable transformation in attitudes toward marriage, leading to a shift away from the traditional perception of marriage purely as a sacrament. The changing social environment reflects evolving values, priorities, and lifestyles, which have influenced how marriage is understood and practiced today. As a result, marriage under Hindu law is increasingly viewed through a more practical and individual-centered lens, while still retaining elements of its traditional significance. The following aspects highlight some of the key contemporary trends shaping Hindu marriages.

### **CHANGING MARRIAGE PATTERNS**

One of the most noticeable developments in recent times is the increasing age at which individuals choose to marry. Both men and women are now entering marriage later than in previous generations, reflecting changing social and economic priorities. Factors such as higher education, career aspirations, and the need to balance professional and personal life have contributed to this trend. It is now common for individuals to consider marriage at an age when earlier generations had already started families, illustrating a clear shift in societal expectations and life planning.

### **RISE OF LOVE MARRIAGE**

In contemporary society, changing cultural influences and evolving social values have contributed to the growing acceptance of love marriages. While traditional Hindu marriages were predominantly arranged by families, this trend has gradually shifted as individuals increasingly assert their autonomy in choosing their life partners. Many people today prefer to exercise their personal choice and enter into marriage based on mutual understanding and compatibility rather than solely relying on family arrangements.

The judiciary has played a significant role in reinforcing this shift by recognizing the right of individuals to choose their partners. The Supreme Court of India has affirmed that adults have the freedom to marry a person of their choice irrespective of caste or social background. It has further observed that the right to marry a partner of one's choice is an essential expression of personal liberty and freedom guaranteed under Articles 19 and 21 of the Constitution of India. In various landmark judgments, the Court has emphasized that the freedom to choose a life partner forms an integral part of the right to life and personal liberty.<sup>10</sup>

### **LIVE-IN RELATIONSHIPS**

Live-in relationships have also gained

increasing visibility and acceptance in modern society. Traditionally, Hindu law did not formally recognize arrangements where couples cohabit without marriage. However, judicial interpretation has acknowledged the evolving nature of relationships and recognized the rights of individuals who choose to live together without entering into a formal marriage.<sup>11</sup>

The Supreme Court of India has clarified that live-in relationships between consenting adults are not illegal, thereby affirming the importance of personal choice and autonomy. Additionally, legal protections have been extended through legislation such as the Protection of Women from Domestic Violence Act, 2005, which provides safeguards for women in relationships in the nature of marriage and ensures protection of their dignity and rights. Although such relationships may still face resistance from sections of society rooted in traditional views, they reflect the changing social landscape and are likely to become more widely accepted as societal attitudes continue to evolve.

### **LGBTQ+ RIGHTS AND HINDU MARRIAGE**

The granting of homosexuality in the *Navtej Singh Johar v. Union of India (2018)*<sup>12</sup> ruling was one of the most significant developments in recent Indian legal discourse. It has been the growing conversation around the recognition of same-sex unions. Although same-sex marriages are not yet legally recognized, judicial developments have sparked important debates on how existing Hindu marriage laws might evolve to include LGBTQ+ individuals. With increasing demands for legal recognition of same-sex relationships, there is a rising movement advocating for marriage equality. These discussions reflect a broader shift toward inclusivity and equal rights within the institution of marriage, even though the judiciary has not formally recognized such unions so far.

The Supreme Court of India has also taken a strong stance against honour killings and the interference of Khap Panchayats in inter-caste and inter-religious marriages. In the landmark

case of *Shakti Vahini v. Union of India (2018)*<sup>13</sup>, the Court issued comprehensive guidelines that included preventive, remedial, and punitive measures aimed at curbing such unlawful practices. This judgment marked an important step toward safeguarding individual autonomy and reinforcing the right of adults to marry according to their choice, free from societal or customary pressures.

### **CONCLUSION**

The transformation of Hindu marriage from its origins in ancient Vedic sacramental traditions to its present-day statutory framework reflects the broader social and cultural evolution of Indian society. Over time, legislative reforms and judicial pronouncements—particularly those of the Supreme Court of India—have significantly influenced the understanding and functioning of marriage. Despite these progressive developments, longstanding customs and deeply rooted social practices continue to shape marital relationships in contemporary India.

Persistent social concerns, such as dowry-related violence and honour-based crimes, demonstrate the ongoing tension between traditional norms and modern constitutional values. These issues highlight the complex interplay between cultural continuity and the demand for reform. At the same time, there are encouraging signs of change. Increasing levels of education, economic independence, and social awareness—especially among younger generations—have empowered individuals to question rigid marital conventions. Inter-caste and inter-faith marriages, greater insistence on gender equality within relationships, and evolving expectations from marriage illustrate this shift.

Urban centres like Mumbai and Bangalore present a unique blend of tradition and modernity, where conventional matchmaking practices coexist with digital matrimonial platforms. The emergence of nuclear family structures, enhanced participation of women in the workforce, and changing societal

perceptions toward divorce indicate substantial alterations in marital dynamics. Furthermore, judicial recognition of live-in relationships and the expanding discourse on LGBTQ+ rights have challenged conventional definitions of Hindu marriage and encouraged a more inclusive approach.

As Indian society stands at this juncture of tradition and transformation, the future of Hindu marriage will depend on its ability to harmonize its sacred and cultural foundations with contemporary ideals of equality, autonomy, and dignity. The enduring strength of this institution may lie not in rigid adherence to the past, but in its capacity to evolve while preserving its essential cultural character. By fostering a balanced approach that respects both heritage and progressive values, Hindu marriage can remain relevant and meaningful in a rapidly changing world.

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