



# Hindu Marriage: A Saga of Journey from Ancient to Modern India

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## ABSTRACT

Hindu marriage not only has been a union of two families but also considered as one of the *sanskars*. However, it is observed that though the customs and traditions of ancient India remained static till modern times, there were no legal systems except a few molded and altered customs and usages till the emergence of British rule. European civilization also impacted on the Indians after the establishment of the British rule in India and create a few ripples on the otherwise calm sea of Hindu Law. This paper discusses about the concept of Hindu marriage since the ancient times and further elaborate important amendments took place in Hindu Marriage Laws after independence.

**Keywords:** Hindu Marriage, Hindu Marriage Law, Types of Hindu Marriage, Sanskars.

The logo for the International Journal of Research in Social Sciences and Humanities (IJRSSH) is a large, stylized graphic. It features a central figure that resembles a person with arms raised in a 'V' shape, composed of several overlapping, curved segments in shades of yellow, green, blue, and orange. This central figure is enclosed within a large, light-colored circular arc. Below the graphic, the acronym 'IJRSSH' is written in a bold, orange, sans-serif font.

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## INTRODUCTION

Marriage is one of the oldest institutions known in the human history which occupies a very important place in social life. Vishvesha (1987) defines marriage as “an institution which is in vogue since the time immemorial and it is almost uniformly regarded as a sine-qua-non for upgrading and cherishing moral and ethical values in the society and to discipline the man who is distinguished from animal because of his rational sense which is wanting in animal”.

The institution of marriage is said to be the back bone of every society and is as old as dawn of the civilization. It is a pious relationship between the husband and wife. Its development relation is correlated with the development of every civilized society in any part of the world. Vedas are considered as the oldest written literature available for man today. There are four Vedas namely, Rig Veda, Sama Veda, Yajur Veda and Atharva Veda which are the primary texts of Hinduism that give much information about the Hindu marriage customs and rituals that existed during that time.

*Manusmriti* that is another most important and earliest metrical work of the *Dharmasastra* textual tradition of Hinduism has paid attention on the importance of marriage and its

perspectives. However, it does not clarify very well the concept of marriage. Nevertheless, Manusmriti Laws on the status of the women, widow remarriage and inter-caste marriage have provoked conversation in the society on the marriage.

## HINDU MARRIAGE

Hindu marriage is one of the oldest institutions that joins two families. It is described as a union between a male and a female with a commitment for gaining wealth and worldly success and experience pleasure, in particular sexual pleasure, together. Hindu marriage is at once a gateway to earthly life of pleasure, progress, prosperity and joy. It is also an altar of elevation to a level of spiritual experience. Hindu marriage is regarded as one of most-important ten sanskars (sacrament) for them. It is a religious injunction intended to fulfil religious duties and to achieve the higher ends of life, namely Dharma, Artha, Kama and Moksha.

Hindu marriage during Rig Vedic was considered as a sacramental union that was continued to be so during the entire period. In the Shastric Hindu law (Diwan, 2008), the marriage has been regarded as one of the essential *sankaras* for every Hindu. So, every Hindu must marry. The Veda ordains that “*Dharma* must be

practiced by man together with his wife and offspring”. Further, a man is only said to be perfect who consists of his wife and offspring. There is also a mention of the fact that those who have wives can fulfill their obligations in this world; those who have wives truly have a family life; those who have wives can be happy; those who have wives can have a full life.

The wife in Hindu marriage is known as the *ardhangini*, the better half of man. *Satpatha Brahmana* mention that “the wife is verily the half of the husband. Man is only half, not complete until he marries.” The same is mentioned in *Taittiriya Samhita* which depicts the same means for the wife. It is also mentioned that Hindu marriage is not only essential for begetting a son in order to discharge his debt to the ancestors, but also for the performance of other religious and spiritual duties.

### SACRAMENTAL ASPECT OF HINDU MARRIAGE

In the sacred texts, the marriage has created an inseparable tie between the husband and wife, which could not be broken, in any circumstances whatsoever. Hence, Hindu marriage possesses various sacramental features. However, according to Sharma et al., (2013), the sacramental aspect of marriage under Hindu law has following three main characteristics:

(1) It is a sacrament union, which means that marriage is not to gratify one's physical needs; but is primarily meant for the performance of religious and spiritual duties;

(2) It is a sacramental union implies that a marriage once entered cannot be dissolved on any ground whatsoever; and

(3) It is a also sacramental union that means it is a union of soul, body and mind. It is a union not only for this life, but for all lives to come. The union is not only for this world, but also for other worlds.

Kumar (2015) mentions that the Hindu Marriage which was considered to be a religious duty and a sacrament has undergone a change and it has lost its religious sanctity under the Hindu Marriage Act, 1955. Therefore, it no longer remains a pure sacrament and a binding religious duty.

### TYPES OF HINDU MARRIAGES

There are eight types of Hindu marriages in traditions which are recognized in Hindu law books. These are.

- Brahma marriage
- Daiva marriage
- Arsha marriage
- Prajapatya marriage
- Gandharva marriage

- Asura marriage
- Rakshasa marriage
- Paishacha marriage

Each of them on the basis of Lee (2020) is detailed out as follow:

- *Brahma Marriage*: It has the most supreme position of the eight types of Hindu marriages. It is a type of marriage where a boy is able to get married once he has completed his student hood, or Brahmacharya. When the parents of the boy seek for a female, they would consider her family background, but the girl's father would make sure that the boy that wishes to wed his daughter had the knowledge of Vedas. It is these things that make the basis for Brahma marriage, not a system of dowry.
- *Daiya Marriage*: It is lower type of marriage than Brahma marriage. In this type of marriage, the woman's family will wait for a specific time to get her wed. If she does not get a suitable groom, then she would be married off to places where sacrifices are conducted.
- *Arsha Marriage*: It is another type of marriage where the girl is married to the sages. The bride will be given in exchange for two cows which shows that the groom does not have any special qualities. An Arsha marriage is not considered as a noble marriage because it has business transactions and / or monetary exchange.
- *Prajapatya Marriage*: This type of the marriage is the marriage in which the bride's father goes in search of a groom. Although this is not considered as good as because the grooms parents searching for the perfect bride. However, monetary transactions are not a part of the Prajapatya marriage.
- *Gandharva Marriage*: In this type of marriage, a groom and his bride wed without their parents' knowledge. However, it is not correctly considered as a type of marriage because it does not have the consent of the parents. It mostly resembles with that of the love marriage.
- *Asura Marriage*: In this type of marriage, the groom is not in the slightest bit compatible with the bride. But what is compatible is that the bride's father likes money and the groom is happy to surrender his own wealth. In modern times this type of marriage

is not entirely acceptable because it is much like buying a product off the shelf.

- *Rakshasa Marriage*: Here, the groom forges battles with the bride's family, overcomes them and carries the bride away to convince her to marry him. It is just like a fairytale. However, it is not considered right because of the forcible methods used in this type of marriage. Moreover, a girl should not be wooed this way to tie the wedding knot with a groom.
- *Paishaca Marriage*: The bride's wish is not even considered in this type of marriage and it is the most type of inferior marriage. Here, the female is forced to marry when she is not willing to marry the groom chosen for her. Not to mention, the bride's family is not even given anything in trade, or any cash for their daughter. Bride is seized against her wish and the man would marry her, a woman whom he had seduced while intoxicated, asleep or insane. Now a days, this type of marriage has almost been prohibited.

However, Brahma, Daiva, Arsha and Prajapatya come under the approved

forms of marriage. But others have been prohibited or are heavily frowned upon.

## **HINDU MARRIAGE IN MODERN TIMES**

Modern times can be said to have started with the regime of British in India. It is observed that the Legislature of British Government started the ball rolling on the reforms of Hindu marriage law and reforms were brought about in widow remarriage, child marriage and inter-caste marriage; however, the educated and advanced classes of Hindu society started agitating against these reforms.

Alexander Dow, an army officer of East India Company, wrote in 1772 that "to leave the natives to their own laws would be to consign them to anarchy and confusion, averse beyond measure to one another. It is therefore absolutely necessary for the peace and prosperity of the country that the laws of England in so far as they do not oppose prejudices and usages which cannot be relinquished by the natives should prevail" (Banerjee, 1984). So, Hindu marriage law enacted. Hindu marriage can be studied under two parts:

### **1. Hindu Marriage Law before Independence**

Hindu marriages received the assent of Queen Victoria in India for an

Act for Marriage on the 24th of July, 1851. However, the first attempt was to restrict the practice of sati that was abolished by law and was declared as an offence in the year 1829. Later in 1856, Hindu Widow's re-marriage Act was passed which removed the incapacity of the Hindu widow to re-marry. With the amendment in 1923, this was again extended to persons who professed the Hindu, Buddhist, Sikh, or Jain religion to validate certain marriages that would have been invalid according to the personal laws of the parties such as marriage between different casts or religions.

Meanwhile, in 1872, an urgent need was felt to amend the existing laws relating to the solemnization of marriages of Christians in India that mainly attributed to two reasons: firstly, necessitated by the implications of the law and the second, the grievance of the Indian Christian community. The Special Marriage Act was passed in 1872 which was originally applicable to persons who did not profess Christian, Jewish, Hindu, Mohamedan, Parsi, Buddhist, Sikh or Jain religion. Thus, in about hundred years there was a gradual development of law concerning Hindu marriage and marriage laws related to other confessions.

## **2. Hindu Marriage Law after independence**

The Hindu Marriage Act, 1955 is a milestone in the history of the law of marriage among Hindus. This Act was passed to amend and codify the law relating to marriage among Hindus and came to force on the 18th of May 1955. The Hindu Succession Act, 1956, the Hindu Minority and the Guardianship Act, 1956, and the Hindu Adoptions and Maintenance Act, 1956, were also enacted during this time. The Act of marriage also deals with other terms related to marriage like divorce, juridical separation, restitution of conjugal rights and maintenance. All these acts intended to modernize the then current Hindu legal tradition.

The Special Marriage Act, 1954 was also passed to provide a uniform law of marriage for the citizens of India and also for the Indian nationals residing in foreign countries. As per the act, the parties may follow any form of ceremonies for the solemnization of marriage but certain formalities are prescribed for the registration of the marriage. There are also provisions for the persons already married, to register their marriage to avail legal provisions of this Act. Special Marriage Act also deals with divorce applicable to the persons under this Act. Also, it permits

inter-caste and inter-communal marriages. The marriage performed under the Special Marriage Act is a civil contract. It is noteworthy to mention that the interested parties shall file a Notice of Intended Marriage in the specified form to the Marriage Registrar which will be published for one month in the place of his office and if there is no objection from anyone, the marriage is solemnized before three witnesses. When a marriage has been solemnized, the Marriage Officer enters in the Marriage Certificate Book and shall be signed by the parties of the marriage together with three witnesses.

But the Hindu Marriage Act of 1955 by providing several matrimonial remedies including mainly divorce and nullity of marriage has seriously evaded its sacramental character. In this regard, the Marriage Laws (Amendment) Act, passed in 1976 that made another onslaught upon the sacramental character by providing remedies like divorce by mutual consent.

Hence it can be very well concluded that the sacramental character of marriage has been left behind but ceremonial character of marriage has been retained by Hindu Marriage Act, 1955.

### 3. Notable Points in Hindu Marriage Law

Some notable points are briefly detailed out below (Kumar, 2015):

**Divorce:** *Dharmashastra* considered marriage as an indissoluble union of husband and wife. The divorce was previously unknown to the laws. Manu declared “a wife cannot be separated from her husband either by sale or by abandonment because marital tie could not be severed under any condition whatsoever. It, therefore follows that the Hindu law does not recognize a divorce. But Section 10 of Hindu Marriage Act deals with judicial separations. A degree of judicial separation does not only terminate the marriage but on the other hand it puts the obligation of conjugal duties to an end.

**Child Marriage:** The Child Marriage Restraint Act, 1978 enhanced the lower age limit of the bride and bridegroom. Under this Act, the male and females must have attained the age of 18 and of 21 years. Since there is now left no question of marriage below such given age, the provision for the consent of her guardian or her own competence to consent has met its natural death. In this circumstance the consent of her guardian in marriage would be meaningless; if she exercises this power of her rights and the resultant marriage



would be entirely contractual in nature and not sacramental.

**Court Marriage:** Court marriage is said to be performed without any discrimination on the basis of caste, colour, religion, or creed under Special Marriage Act. However, recognizing the freedom of choice available to adults, and a boy of 21 years and a 18 years old girl may decide to consummate their sexual cravings, either of them could go to the nearest family court with proof of their sexual act and claim to be married to the other. This really sounds very odd and somehow playing with dignity and cultural integrity.

**Live In - Relationship:** Live-in-relationship is voluntary sexual union founded on mutual attraction, not on mutual agreement. Neither partner can enforce the live-in-relationship but either of them can unilaterally walk out of it with ease. But there is no special law in India at present to deal with the concept of live-in-relationship and its legality. However, the Courts in India through their decisions in

various cases, have laid down the law in respect of such relationship.

## CONCLUSION

We can say that the marriage is the foundation of conventional family and society where family is the primary institution that socializes individuals with time-tested mix of duties and rights. It is seen that traditions and customs have forced to legitimize a law of marriage in the society's eyes.

Besides, Hindu marriage is the *bandhan*, the bond of two souls that lasts for 07 *janams*, the bond of seven births. The institution of marriage is considered sacred even by those who view it as a civil contract. Thus, despite its traditional aspects, it is to be seen as a dynamic system which has its capacity to adapt to the changing patterns of social life (Kanjirathamkunnel, 2012). So, it can be put with stress that: though, laws are there but Hindu marriage stills considered as a pious ceremony and most of the families follow all religious practices in their lives.

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