

Marriage and Kinship: Evolution of Hindu Marriage Law

A comprehensive study of the **Hindu Marriage Act, 1955** and related legislation — for LLB students, legal professionals, and UPSC aspirants.





The Hindu Marriage Act, 1955: A Revolutionary Codification

Enacted

18 May 1955 as part of the landmark **Hindu Code Bills**

Purpose

Replaced **fragmented personal law** with a **uniform codification** for Hindu marriages across India

Scope

Applies to **Hindus, Jains, Buddhists, and Sikhs** across all states and union territories



From Sacred Sacrament to Civil Contract

Ancient Hindu View

Marriage as "**Samskara**" — a holy sacrament for discharging **religious and spiritual obligations**

Colonial Legacy

Fragmented personal law with **inconsistent rules** across regions and communities

Post-Independence Reform

"To survive, we need a revolution in our thoughts and outlook" — **Dr. Radhakrishnan**

Conditions for a Valid Hindu Marriage



Monogamy

Neither party shall have a **living spouse** at the time of marriage — bigamy is void



Age & Capacity

Groom minimum **21 years**, bride minimum **18 years**; sound mind required



Prohibited Relationships

No marriage within **prohibited degrees** of sapinda relationship or affinity



Ceremonies

Marriage solemnized according to **Hindu rites and customs** (e.g., Saptapadi)



Restitution of Conjugal Rights

SECTION 9 HMA

A remedy ordering a spouse who has **withdrawn from the society** of the other, **without reasonable excuse**, to return to that society.

The **aggrieved party** may petition the District Court when a spouse withdraws without reasonable cause. The burden of proving reasonable excuse lies on the **withdrawing spouse**.



Constitutional Challenge: The provision is pending challenge in **Ojaswa Pathak v. Union of India** on grounds of **right to privacy** under Article 21.



Matrimonial Remedies: Divorce & Judicial Separation

1

Grounds for Divorce

Adultery, **cruelty**, desertion (2+ years), mental disorder, communicable disease, renunciation, or **presumption of death**

2

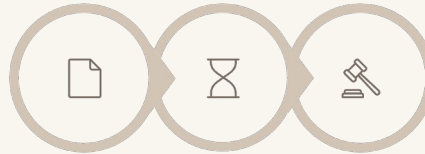
Judicial Separation

Separation **without dissolving the marriage bond**; can convert to divorce after **6 months** (Section 10)

3

Mutual Consent Divorce

Both parties agree; requires a mandatory **6-month cooling-off period** before the decree is granted



Petition Filed

Cooling-off

Final Decree

Maintenance & Alimony

SECTIONS 24 & 25 HMA



1

Interim Maintenance — Section 24

Granted **during litigation** to cover living expenses and legal costs pending the final decree

2

Permanent Alimony — Section 25

Granted at the time of decree or later; based on **income, property, conduct,** and circumstances of both parties

3

Gender-Neutral Provision

Either husband or wife may claim maintenance — a progressive departure from traditional law

The Dowry Prohibition Act, 1961

Definition of Dowry

Any **property or valuable security** given directly or indirectly at, before, or after marriage **in connection with the marriage**

Penalties

Minimum **5 years imprisonment** and fine of at least **₹15,000** or the value of dowry, whichever is higher

Exceptions

Customary gifts given without demand, duly entered in the prescribed list, are exempt from the Act



Customary Practices & Modern Legislative Framework

The **HMA strikes a balance** between traditional customs and modern legal reform — recognizing regional diversity while enforcing constitutional safeguards.



Customary Practices Recognized

Regional ceremonies, inheritance customs, and **joint family arrangements** accepted where not inconsistent with statute

Key Reforms

Gender equality, abolition of discriminatory practices, and enhanced **protection of women's rights**

Sources & References

Key legislative and academic references for further study:

- [Hindu Marriage Act, 1955 — Wikipedia](#)
- [Navigating the Hindu Marriage Act of 1955: A Journey of Law, Society and Changing Times — IJIRL](#)
- [Significance of the Hindu Code — AdvocateKhoj](#)
- [Restitution of Conjugal Rights — Legal Republic](#)
- [Restitution of Conjugal Rights: Section 9 HMA, Constitutional Debate and UPSC Notes — Anantam IAS](#)
- [HMA Section 25 — Permanent Alimony and Maintenance](#)
- [The Dowry Prohibition Act, 1961 — Indian Kanoon](#)
- [Section 3, The Dowry Prohibition Act, 1961 — Indian Kanoon](#)