



LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 3 | Issue 4

2025

DOI: <https://doi.org/10.70183/lijdlr.2025.v03.145>

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THE CONCEPT OF MARRIAGE UNDER HINDU LAW: SACRAMENT OR CONTRACT?

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I. ABSTRACT

“Marriage is not a contract but a sacred union of two souls.” – Manusmriti. Marriage under Hindu law is one of the most significant social and religious institutions. Historically perceived as a sacred union (samskara), it fulfills religious, moral, and social duties. With the enactment of the Hindu Marriage Act, 1955, and social modernization, contractual elements such as consent, legal capacity, and divorce were introduced. This paper examines Hindu marriage as a sacrament and a contract through scriptures, judicial interpretations, gender perspectives, and modern legal reforms. In addition to the traditional view, contemporary developments have reshaped the understanding of Hindu marriage into a more complex institution that harmonizes religious beliefs with modern legal requirements. The growing emphasis on individual autonomy, gender equality, and constitutional values has brought contractual principles to the forefront, challenging the age-old perception of marriage as an unbreakable sacrament. Judicial decisions have further clarified the dual character of Hindu marriage by recognizing both its ritualistic importance and its legal consequences. This paper therefore explores the historical journey of Hindu marriage from a purely spiritual and indissoluble bond to an institution increasingly influenced by statutory law and evolving social norms. It investigates how modern legislation, court judgments, and socio-cultural changes have introduced a hybrid model wherein sacred rituals coexist with legal rights, remedies, and obligations. The research aims to demonstrate that Hindu marriage today is best understood as a unique blend of tradition and modernity—simultaneously preserving its spiritual core while adapting to contemporary expectations of consent, equality, and legal protection.

II. KEYWORDS

Hindu Marriage, Sacrament, Contractual Elements, Hindu Marriage Act 1955, Consent and Rituals, Judicial Interpretations

III. INTRODUCTION

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Hindu marriage, or 'Vivaha', has traditionally been viewed as a religious sacrament, not merely a civil contract. The union is considered sacred, indissoluble, and essential for fulfilling spiritual and social obligations. The Rigveda emphasizes that a husband and wife together uphold dharma and continue the family lineage. Ancient texts describe marriage as a union transcending this life, binding two individuals for spiritual purposes and societal welfare. However, with legal codification and modern social reforms, contractual elements like consent, capacity, and dissolution have been introduced, reshaping the understanding of Hindu marriage.

A. RESEARCH OBJECTIVES

- To examine the historical and religious foundation of Hindu marriage as a sacrament.
- To analyse how modern legislation, especially the Hindu Marriage Act, 1955, introduced contractual elements into Hindu marriage.
- To study judicial interpretations reflecting the transition from sacramental to contractual understanding.
- To evaluate the coexistence of spiritual duties and legal rights in contemporary Hindu marriages.

B. RESEARCH QUESTIONS

- How has Hindu marriage traditionally been understood as a sacrament under ancient scriptures and customs?
- What contractual elements have been introduced into Hindu marriage through modern legislation?
- How have Indian courts interpreted the sacramental and contractual aspects of Hindu marriage?
- In what ways has modernization impacted the religious and legal nature of Hindu marriage?

C. RESEARCH HYPOTHESES

It is hypothesized that Hindu marriage, though historically rooted as a sacrament based on

religious scriptures, rituals, and spiritual obligations, has undergone significant transformation due to statutory reforms and judicial interpretations. With the advent of the Hindu Marriage Act, 1955, elements such as free consent, capacity, dissolution, and legal rights have introduced strong contractual features. Therefore, the contemporary Hindu marriage system is not purely sacramental nor wholly contractual, but rather a hybrid institution that reflects both traditional spiritual values and modern legal principles.

D. RESEARCH METHODOLOGY

This research follows a doctrinal methodology, relying primarily on statutory provisions, judicial decisions, and classical Hindu texts to analyse the nature of marriage under Hindu law. Primary sources include the Hindu Marriage Act, 1955, case law, and ancient scriptures such as Manusmriti and Dharmashastras. Secondary sources such as commentaries, scholarly articles, and academic writings support interpretation and contextual understanding. The study adopts an analytical and comparative approach to evaluate the evolution of Hindu marriage from a sacramental union to a model incorporating contractual principles

E. HISTORICAL BACKGROUND

The concept of marriage in Hinduism traces back to Vedic times. The Rigveda contains references to marriage ceremonies and emphasizes moral and spiritual obligations of spouses. Manusmriti prescribes that marriage is a duty and a sacrament essential for social continuity. Marriage was historically seen as a sacred bond beyond human intervention, and no provision for divorce existed. Rituals such as Kanyadaan, Panigrahan, and Saptapadi underscored the eternal and religious nature of the union. Over centuries, customary practices and regional variations enriched the sacramental aspects of marriage.

F. LITERATURE REVIEW

Scholars, religious texts and courts have long debated whether Hindu Marriage Act, 1955 (HMA) changed the traditional sacramental character of Hindu marriage, or whether marriage under Hindu law remains primarily a sacred union — or has become a hybrid of sacrament and contract.

- **Traditional / Sacramental View:** Under classical Hindu law (scriptures and

Dharmashastras), marriage was regarded as a “samskara” — a sacred, spiritual and indissoluble union. Rituals such as Saptapadi (seven steps around the sacred fire), Kanyadaan and other Vedic rites were considered essential for the solemnisation of marriage. The emphasis was on religious duty, spiritual union of souls, procreation, and performance of sacred rites — not on consent, contract or legal formalities.

- **Statutory / Contractual Shift:** With the enactment of HMA, certain features associated with contract — capacity, consent, age-requirements, voidability in case of fraud or coercion, and even divorce — were introduced. This statutory overlay has been interpreted by many to reflect a shift away from pure sacrament.
- **Hybrid / Balanced View in Scholarship and Practice:** Many modern scholars and legal commentaries argue that Hindu marriage today cannot be classified strictly as sacrament or as contract. Rather, it represents a hybrid institution — combining religious-ritualistic elements (ceremonies, sanctity) with legal features (consent, capacity, rights, dissolution).
- **Judicial Interpretation & Case Law:** Courts have also reflected this tension. Some judgments uphold that marriage under Hindu law is sacrosanct and more than a mere contract. Others recognise legal consequences — rights, duties, divorce — introduced by modern statutes, acknowledging the contractual-legal aspects.

The consensus in contemporary literature leans toward understanding Hindu marriage — post-HMA — as an institution that blends both sacramental and contractual dimensions. While the traditional sanctity, rituals and spiritual intent continue to inform social and religious understanding, statutory reforms and judicial recognition have added legal, contractual and secular layers.

IV. THE SACRAMENTAL NATURE OF HINDU MARRIAGE

A. RELIGIOUS BASIS

Sacred texts such as Manusmriti, Dharmashastras, and Rigveda describe marriage as a

spiritual and social fulfillment. The marriage ceremony is conducted before Agni, the fire deity, who acts as a divine witness. Rituals such as Kanyadan (gift of the daughter). Panigrahan (holding of hands), and Saptapadi (seven steps around the fire) symbolize eternal vows, religious duties, and moral obligations that bind the couple beyond contractual understandings.

Three features historically distinguished marriage as a sacrament in Hindu law:

- **Indissolubility** – Divorce was traditionally unrecognized; the bond was eternal, surviving even death.
- **Religious duty** – Marriage was essential for performing sacred rituals and for the continuation of the family lineage.
- **Spiritual union** – The belief that the husband and wife are spiritually united as one being.

1. Rituals and Ceremonies

The Saptapadi is considered the most important ritual, symbolizing seven vows that represent dharma, prosperity, health, happiness, progeny, mutual respect, and companionship. Kanyadaan emphasizes the moral duty and selfless giving by parents, reflecting the ethical and sacramental essence of Hindu marriage. Panigrahan signifies acceptance of responsibility between the spouses, reinforcing the spiritual and societal dimensions of the union.

2. Spiritual Significance

Marriage is seen as a union of two souls, not merely two individuals. Ancient scriptures assert that the husband and wife support each other in performing religious duties, ensuring the well-being of their family and society. The indissoluble nature of marriage underscores its spiritual character. The belief that spouses remain united across future births further highlights the eternal and transcendent nature of Hindu marital bonds.

V. THE CONTRACTUAL VIEW: EMERGENCE OF MODERN LEGAL PRINCIPLES

A. THE SHIFT FROM RELIGION TO LAW

The colonial period and later the Indian independence movement brought about a new legal consciousness. The British administration's approach to Hindu personal law was to codify and rationalize it, often blending religious traditions with secular legal frameworks. This evolution culminated in the Hindu Marriage Act, 1955, which introduced several contractual elements into Hindu marriage.

B. ELEMENTS OF CONTRACT IN HINDU MARRIAGE

Though still rooted in sacred ideals, the modern Hindu marriage exhibits many features of a civil contract:

- **Free consent:** **Section 5 of the Hindu Marriage Act** mandates that a marriage is valid only if both parties give free and voluntary consent. This echoes the fundamental principle of
- contract law.
- **Capacity and legal eligibility:** Conditions such as age, mental soundness, and prohibition of prohibited degrees resemble the prerequisites of a valid contract.
- **Legal consequences:** Rights and obligations arise after marriage — including maintenance, legitimacy of children, and inheritance — much like contractual rights.
- **Dissolution:** The introduction of divorce under Section 13 of the HMA has fundamentally altered the sacramental notion of indissolubility, allowing marriage to end on legal grounds.

Thus, while rooted in tradition, modern Hindu marriage operates within a legal framework that increasingly mirrors contractual reasoning.

C. THE CONTRACTUAL ELEMENTS INTRODUCED BY MODERN LAW

The Hindu Marriage Act, 1955, introduced provisions that align marriage with contractual principles. Section 5 mandates free consent of both parties, absence of mental incapacity, and compliance with age requirements (bride 18 years, groom 21 years). These ensure that marriage respects individual autonomy and legal capacity, characteristic of contractual obligations.

VI. GROUNDS FOR DIVORCE AND JUDICIAL SEPARATION

Section 13 and 13b of the act allow judicial intervention for divorce or separation based on cruelty, desertion, or mutual consent. this demonstrates that marriage, while sacramental, is also subject to dissolution under legal provisions. void and voidable marriages, as described in section 11 and 12, integrate contractual principles, addressing coercion, fraud, or incapacity.

These provisions reflect the evolving legal understanding of Hindu marriage as both a religious institution and a civil agreement. Historically, Hindu women had limited rights within marriage, with roles confined largely to domestic and religious duties. Modern legal reforms, including maintenance provisions, domestic violence protection, and the right to divorce, have enhanced women's status. Judicial interpretations emphasize equality, consent, and autonomy, reflecting the shift from purely sacramental ideals to a hybrid model balancing tradition with individual rights.

VII. JUDICIAL INTERPRETATIONS

Indian courts have often grappled with the duality of marriage under Hindu law.

A. EARLY JUDICIAL VIEWS

In *Bhaurao Shankar Lokhande v. State of Maharashtra* (AIR 1965 SC 1564), the Supreme Court emphasized that a Hindu marriage must be performed with proper ceremonies and in due form, reinforcing its sacramental essence.

Similarly, in *Smt. Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav* (AIR 1988 SC 644), the Court held that a marriage in contravention of Section 5(i) (while a spouse is living) is void ab initio, signifying the continued religious and moral seriousness attached to the institution.

B. THE SHIFT TOWARD CONTRACTUAL UNDERSTANDING

However, with cases like *Saroj Rani v. Sudarshan Kumar Chadha* (AIR 1984 SC 1562), where the Court upheld the right to restitution of conjugal rights, and *Vimla (K.) v. Veeraswamy (K.)* (1991), where consent and cohabitation were emphasized, the contractual dimensions became increasingly visible. In *T. Sareetha v. T. Venkata Subbaiah* (1983), Justice P.A.

Choudhary famously declared that enforcing conjugal rights violated personal liberty under **Article 21**, suggesting that marriage cannot override individual autonomy — a deeply contractual notion.

Courts have recognized both sacramental and contractual aspects of Hindu marriage. In **Smt. Sushila Devi v. Om Prakash** (1977), the sacramental nature was emphasized, while in **T. Sareetha v. T. Venkata Subbaiah** (1983), contractual features such as consent and rights were acknowledged. Courts also reinforce gender equality and protection against cruelty, ensuring that marriage upholds both moral and legal obligations.

VIII. THE PHILOSOPHICAL TENSION: DHARMA VS. INDIVIDUALISM

The debate is not merely legal but also philosophical.

- **As a Sacrament:** Marriage is a duty — one's obligation to family, ancestors, and society. It transcends self-interest and is guided by dharma (righteousness).
- **As a Contract:** Marriage is a partnership between two free individuals who enter into a legal relationship of mutual rights and responsibilities.

The modern Indian ethos, influenced by constitutional values like equality, dignity, and liberty, leans toward recognizing personal choice and consent — thereby infusing marriage with contractual rationality. Yet, cultural continuity keeps it deeply tied to its sacred roots.

IX. CONTEMPORARY DEVELOPMENTS AND CHANGING SOCIAL ATTITUDES

Modernization, urbanization, education, and women's empowerment have transformed Hindu marriage practices. Love marriages, inter-caste unions, and legal divorce are more common. While rituals remain significant, individual choice, mutual understanding, and legal rights are now emphasized alongside spiritual duties. The legal system balances traditional sacramental ideals with modern contractual principles to protect both spouses. The traditional sacramental nature of marriage has faced challenges in recent decades due to social and legal transformations.

- **Gender equality:** Women's right to divorce, maintenance, and property has

redefined marital power dynamics.

- **Special Marriage Act, 1954:** This secular legislation enables interfaith and civil marriages, purely contractual in nature.
- **Same-sex marriage debate:** Contemporary discussions on marriage equality emphasize consent and companionship over ritual purity, strengthening the contractual narrative.
- **Still, for many Hindus, the wedding rituals:** The mangal sutra, saptapadi, and pheras — remain indispensable. This demonstrates how the emotional and spiritual value of marriage continues to coexist with its legal character.

A. ANALYSIS: A HYBRID INSTITUTION

In truth, Hindu marriage today cannot be confined to a single category. It is both a sacrament and a contract, embodying the evolution of Indian society itself. The sacramental aspect endures in rituals, cultural sentiment, and moral obligations. The contractual aspect governs legal rights, remedies, and the principle of consent. Thus, Hindu marriage represents a sacred contract — a union that carries divine meaning but operates within the boundaries of human law.

B. CONTEMPORARY PERSPECTIVE

Today, Hindu marriage is a hybrid institution, retaining spiritual and sacramental roots while incorporating contractual elements to safeguard rights, equality, and justice. Judicial interpretations have balanced tradition with modernity, ensuring marriage fulfills moral, social, and legal obligations.

X. CONCLUSION

The concept of marriage under Hindu law has traveled a long journey — from a purely spiritual sacrament to a legal institution with contractual features. Ancient Hindu texts viewed marriage as eternal and religious; modern law, influenced by social reform and constitutional principles, views it as a partnership of equals grounded in consent.

In essence, Hindu marriage today reflects the coexistence of tradition and modernity, faith and freedom, ritual and reason. It is this very blend — of sacredness and legality — that

gives Hindu marriage its unique identity.

Hindu marriage has evolved from a purely sacramental institution to one harmonizing sacred duties with legal and contractual elements. Ancient texts emphasized eternal bonds, but modern statutes and judicial interpretations recognize autonomy, consent, and rights. Hindu marriage now embodies both tradition and modernity, offering a framework that is sacred, ethical, and legally enforceable.

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