



THE HINDU MARRIAGE ACT, 1955: A CRITICAL ANALYSIS OF DIVORCE AND MAINTENANCE PROVISIONS

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ABSTRACT

The Hindu Marriage Act, 1955 (HMA) changed how Hindu marriage is seen in law. It moved the idea of marriage from a sacred, unbreakable bond to a legal contract that recognizes the rights of each person. The Act sets rules for marriage, grounds for divorce, and duties for maintenance, and it aims to treat partners more equally under the law. This paper looks closely at the divorce and maintenance rules in the Act, tracing how they have changed and how courts have explained them over time. It studies key court decisions like Naveen Kohli v. Neelu Kohli (2006), Bhuwan Mohan Singh v. Meena (2014), and V. Bhagat v. D. Bhagat (1994) to show how judges have moved the law forward in real cases. These rulings helped shape clearer standards for cruelty, desertion, and compensation, and they clarified when maintenance is due and how it should be calculated. The analysis also notes that the law's real-world effect depends on how courts and officials apply it. Despite major progress, problems remain: some rules still carry gender bias, legal steps often take too long, and enforcement of orders can be weak. The paper argues that these gaps reduce the Act's promise of fair outcomes and that fresh legal reform is needed. Such reform should aim to remove bias, speed up procedures, and strengthen enforcement so that the Act better delivers justice and equality in family life.

Keywords: Hindu Marriage Act, Divorce, Maintenance, Judicial Interpretation, Gender Justice, Legal Reform.

INTRODUCTION

Marriage in Hindu thought has long been seen as a sacred, lasting bond that joins two people, their families, and many social duties. Old texts like the Manusmriti and the Dharmashastra clearly warned against ending a marriage and treated breaking that bond as wrongdoing. Still,

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after India won independence, leaders and lawmakers needed rules that matched the new Constitution's promises of equal rights and personal freedom. They had to balance respect for tradition with the need to protect individuals under modern law.

The Hindu Marriage Act of 1955¹ aimed to bring marriage into written law and make it fit with constitutional values. For the first time, the law listed clear reasons why a marriage could end and set rules for financial support after separation. This change gave people—especially many women who had been dependent on husband's legal ways to address harm and seek fairness. Before the Act, court cases such as *Tulsamma v. Sesha Reddy* (1977)² showed that women often had no formal remedy when left without support, which pushed judges and lawmakers to act.

By creating these rules, the HMA marked a major shift: marriage kept its sacred meaning for many, but it also became a legal contract that courts could review. Under the Act, marriage-s could be legally dissolved when certain conditions were met, and the law offered protections like maintenance and rights to fair treatment. This shift helped bring personal law closer to modern ideas of justice while still recognizing the cultural value of marriage.

HISTORICAL AND LEGAL BACKGROUND

Before 1955, Hindu marriage rules came from old customs and religious books. Women had little or no right to own property or to ask for a divorce. Men and elders led the family and made most choices. Social reformers like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar pushed for change. Their efforts helped bring laws such as the Hindu Widows' Remarriage Act of 1856³ and the Child Marriage Restraint Act of 1929⁴, which began to slow some harsh practices. After India gained independence, lawmakers moved to write down and unify personal laws. This work led to the Hindu Marriage Act of 1955. The Act set rules for Hindus, Buddhists, Jains, and Sikhs, made bigamy illegal under Section 5, allowed divorce under Section 13, and set out rights to financial support in Sections 24–25. In the 1952 case *State of Bombay v. Narasu Appa Mali*⁵, the Bombay High Court said that personal laws did not fall under Part III of the Constitution, but that reform by legislation was still needed to meet constitutional aims. That decision helped pave the way for Parliament to act with the Hindu

¹ Hindu Marriage Act 1955

² *Tulsamma v Sesha Reddy* (1977) 3 SCC 99

³ Hindu Widows' Remarriage Act 1856

⁴ Child Marriage Restraint Act 1929

⁵ *State of Bombay v Narasu Appa Mali* AIR 1952 Bom 84

Code Bills. Overall, the 1955 Act tried to balance old religious customs with newer ideas of fairness. It kept many traditions yet treated marriage more as a legal and social bond, guided by equality and justice-.

DIVORCE UNDER THE HINDU MARRIAGE ACT: A CRITICAL ANALYSIS

Legal Framework and Conceptual Shift

Before 1955, rules about Hindu marriage came mostly from old customs and sacred books. Women had little or no right to own land or other property, and they rarely had a clear right to ask for a divorce. Men and the older members of the family led household life and made most of the key choices. Social reformers such as Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar worked hard to change these customs and to win public support for fairer treatment of women and children. Their campaigns and social work helped bring in early laws like the Hindu Widows' Remarriage Act of 1856 and the Child Marriage Restraint Act of 1929, laws that slowly began to check some harsh practices and protect some basic rights.

After India won independence, lawmakers turned to the task of writing down and unifying personal laws so that citizens would have clearer, fairer rules. This effort led to the Hindu Marriage Act of 1955. The Act set out clear rules for marriage and related matters for Hindus, and it also applied to Buddhists, Jains, and Sikhs in many cases. The law made bigamy illegal under Section 5, which meant a person could not legally have more than one spouse at the same time. It allowed divorce under Section 13, giving couples a legal path to end marriages in defined situations. The Act also set rules for financial support and maintenance in Sections 24–25, protecting the rights of wives and children to support after separation or divorce-.

Earlier court decisions influenced this change. For example, in the 1952 case **State of Bombay v. Narasu Appa Mali**, the Bombay High Court held that personal laws were not covered by Part III of the Constitution, which lists fundamental rights. Still, the court said that reform through legislation was needed to meet the spirit and goals of the Constitution. That view helped clear the way for Parliament to draft and pass the Hindu Code Bills and related laws.

Overall, the Hindu Marriage Act of 1955 tried to strike a balance between long-standing religious customs and newer ideas of fairness and equality. The law kept many cultural and religious traditions but also treated marriage more clearly as a legal and social bond. By framing marriage, divorce, and maintenance in statutory terms, the Act aimed to bring greater

protection, justice, and equal treatment to people within these communities, while moving society toward a fairer legal standard for family life.

Judicial Expansion of Divorce Grounds

The courts have moved to read wider meanings into terms like “cruelty” and “desertion” so the law can match real life. In *V. Bhagat v. D. Bhagat* (1994)⁶, the Supreme Court said mental cruelty can include steady humiliation, repeated insults, and false charges that break a person’s spirit. That judgment made clear that cruelty need not be only physical; harm to the mind and dignity also counts. In a later case, *Samar Ghosh v. Jaya Ghosh* (2007)⁷, the Court gave more detail on psychological cruelty. It listed examples such as denying basic companionship, subjecting a spouse to persistent emotional neglect, using cruel words to wound, or creating a home full of fear and shame. These descriptions helped judges spot conduct that amounts to cruelty even when no bruises are visible.

In *Naveen Kohli v. Neelu Kohli* (2006)⁸, the Court turned attention to situations where a marriage has broken down beyond repair. The judges said that when a marriage has reached an “irretrievable breakdown,” forcing the couple to stay married serves no useful purpose. The Court noted that very long separation, deep hostility, or complete loss of trust and communication can show a marriage is beyond revival. That view prompted the Law Commission to suggest adding irretrievable breakdown as a formal ground for divorce, a reform that many legal experts still await.

Taken together, these rulings shifted divorce law away from strict moral blame and toward protecting individual dignity and personal autonomy. The courts began to accept that some marriages fail not because one partner is wholly at fault, but because the relationship no longer allows the people involved to live with basic respect, safety, and emotional support. This shift helped the law respond to real human needs by recognizing psychological harm, long-term breakdown, and the right of individuals to seek an end to relationships that no longer work.

Divorce by Mutual Consent

Section 13B, added by the 1976 amendment, lets married couples seek divorce by mutual consent after they have lived apart for one year. This rule was made to honor each person’s

⁶ *V Bhagat v D Bhagat* (1994) 1 SCC 337

⁷ *Samar Ghosh v Jaya Ghosh* (2007) 4 SCC 511

⁸ *Naveen Kohli v Neelu Kohli* (2006) 4 SCC 558

right to decide and to cut down on long, costly fights in court. It aims to make the end of a marriage less painful and more respectful for both sides. By setting a clear time frame, the law gives space for thought while also allowing an orderly way to end the marriage when two people agree-.

In *Amardeep Singh v. Harveen Kaur* (2017), the Supreme Court ruled that the six-month “cooling-off” period can be set aside if efforts at reunion are clearly futile and reconciliation is not possible. The Court recognized that forcing couples to wait when their differences are irreconcilable would serve no purpose and could cause further harm. This decision gives judges room to act compassionately and sensibly when continuing the delay would only prolong distress. It balances the need for reflection with the reality that some relationships cannot be saved.

Earlier, in *Sureshta Devi v. Om Prakash* (1991)⁹, the Court made it clear that mutual consent must remain genuine up to the final decree. This safeguard prevents situations where one party might be pressured or tricked into agreeing early on and later withdraw consent. The ruling protects honest, voluntary decisions and ensures that the legal end of a marriage truly reflects both parties’ free will. It thus guards against misuse of the mutual consent route and helps maintain fairness in divorce proceedings.

Taken together, these judgments show that mutual consent divorce fits within Article 21 of the Constitution, which protects personal liberty and dignity. The law and the courts have treated the right to choose how to live and end one’s marriage as part of a person’s basic freedoms. By allowing consensual dissolution while guarding against coercion and pointless delay, the legal approach seeks to uphold human dignity and freedom of choice in family life. This framework aims to respect private decisions while offering legal clarity and protection for both spouses.

Limitations and Critique

Although courts have made some progress, getting a divorce under the HMA still feels slow and hard. The law’s fault-based system pushes couples into bitter fights and long court battles. In *A. Jayachandra v. Aneel Kaur* (2005)¹⁰, the Court spoke about the “agony of proving cruelty” and called for simpler rules and faster ways to end marriages. Because the law does not yet accept “irretrievable breakdown” as a clear reason, judges try to fit many cases into old fault

⁹ *Sureshta Devi v Om Prakash* (1991) 2 SCC 25

¹⁰ *A Jayachandra v Aneel Kaur* (2005) 2 SCC 22

grounds. This forces courts to stretch legal ideas and leads to different results in similar cases, which upsets people seeking a fair and steady process. The result is legal uncertainty, delays, and extra emotional and financial strain for both parties. Clear statutory grounds for marriage breakdown, simpler procedures, and relief from proving blame would make the system fairer, quicker, and less painful for families.

MAINTENANCE UNDER THE HINDU MARRIAGE ACT: A CRITICAL ANALYSIS

Concept and Scope

Sections 24 and 25 of the HMA set out rules for maintenance **pendente lite** and for permanent alimony after a final decision. These provisions aim to make sure the dependent spouse gets steady financial aid so they can live with basic comfort and dignity while the case goes on and after it ends. The law tries to balance care for the weaker party with fair treatment for both sides.

In **Kanchan v. Kamalendra (1992)**¹¹, the Bombay High Court ruled that maintenance should match the standard of living the couple had during the marriage. The court stressed that support must be fair and equal, not punitive, and should let the dependent spouse keep a life close to what they knew before separation. The decision also noted that economic dependence often seen among women because of social roles and constraints is a real consequence of societal patterns, and maintenance serves to address that imbalance.

Interim Maintenance (Section 24)

Section 24 makes sure a person gets money to live on while a legal case is going on. In **Anju Garg v. Bharat Bhushan (2011)**¹², the Delhi High Court said interim maintenance must be fair and tied to what both people earn and the life they are used to. In **Manish Jain v. Akanksha Jain (2017)**¹³, the supreme Court said maintenance is a right, not a gift, so the spouse who depends on the other is protected from hardship during the court process. The rule aims to keep the dependent spouse stable so they can take part in the case without facing sudden poverty. Courts look at income, expenses, age, health, and past standard of living to set a sensible amount. This approach balances the needs of the dependent person with the paying party's capacity, so orders are just and workable while the dispute is decided.

¹¹ Kanchan v Kamalendra 1992 SCC OnLine Bom 72

¹² Anju Garg v Bharat Bhushan 2011 SCC OnLine Del 1295

¹³ Manish Jain v Akanksha Jain (2017) 15 SCC 801

Permanent Maintenance (Section 25)

Section 25 gives courts the power to order life long financial support or a one-time lump sum when a marriage ends. In *Bhuwan Mohan Singh v. Meena* (2014)¹⁴, the Supreme Court made clear that maintenance must let a spouse live with dignity and not just meet bare needs. The Court also ruled that a husband cannot avoid this duty by saying he has no money. In *Shailja v.s Khobbanna* (2018)¹⁵, the Court found that a woman's paid work does not automatically stop her from getting maintenance if her earnings cannot keep up the lifestyle she had during the marriage. Similarly, in *Rajnesh v. Neha* (2020)¹⁶, the Court urged the development of uniform rules for maintenance to ensure payments are made on time and that income affidavits are open and accurate, so the process is fair and predictable for both parties.

Enforcement Challenges

Despite progressive rulings, enforcement remains weak. In *Jasbir Kaur Sehgal v. District Judge, Dehradun* (1997)¹⁷, the Court noted that long delays and failure to pay maintenance defeat the goal of Section 25 and leave many dependents without timely support. Courts frequently lack clear, fast methods to recover unpaid sums or to impose swift penalties on those who default, so victims must wait months or years for relief. This gap means rulings often stay on paper without real help reaching the needy, and enforcement processes need practical tools and stronger follow-up to make orders effective.

Introducing a standardized formula, as suggested in *Rajnesh v. Neha* (2020), could bring greater consistency and efficiency to maintenance awards. A clear, uniform method for calculating support would reduce arbitrary decisions, speed up hearings, and make outcomes more predictable for both parties. Moreover, adding provisions for marital property division currently missing from the law would protect homemakers and other dependent spouses from financial abuse. Formal rules for splitting shared assets would ensure fair compensation for domestic contributions and reduce the risk that one partner is left impoverished after separation.

¹⁴ *Bhuwan Mohan Singh v Meena* (2014) 10 SCC 736

¹⁵ *Shailja v Khobbanna* (2018) 11 SCC 199

¹⁶ *Rajnesh v Neha* (2021) 2 SCC 324

¹⁷ *Jasbir Kaur Sehgal v District Judge, Dehradun* (1997) 7 SCC 7

GENDER JUSTICE AND SOCIO-LEGAL IMPLICATIONS

The HMA stands as a key part of family law that aims to bring gender justice. It gave women clear legal rights to seek divorce and to claim maintenance, steps meant to check long-standing male control in the home. Still, social habits and some court views have often weakened these protections, so the law's promise is not always fully lived up to. In *T. Sareetha v. Venkata Subbaiah* (1983), the Andhra Pradesh High Court struck down Section 9 on restitution of conjugal rights, calling it coercive and an intrusion on personal privacy. That ruling raised sharp questions about bodily autonomy and consent within marriage. Although the Supreme Court later reversed that decision in *Saroj Rani v. Sudarshan Kumar Chadha* (1984), the earlier judgment had already stirred public debate and pushed feminist critics to press for deeper changes in matrimonial law. From a gender justice view, rules on maintenance still carry tones of paternalism. In *Bhagwan Dutt v. Kamla Devi* (1975), the Court said maintenance exists to prevent destitution rather than to punish a husband, a stance that reflects older ideas about male financial control. Over time, courts and commentators have begun to shift this outlook by treating women's unpaid domestic labor as a real economic contribution, which helps modernize how maintenance is awarded and understood.

Reform in this area should also address equitable division of marital property. The absence of such provisions forces many women to depend solely on maintenance, limiting true equality within marriage.

JUDICIAL INTERPRETATION AND EMERGING TRENDS

The Indian judiciary has steadily widened the scope of the Hindu Marriage Act to meet present day needs and realities. Courts have moved beyond a narrow reading of old rules and now look at how marriages fail in real life. Judges weigh facts like repeated fights, false charges, and long periods of hostility when they decide if a marriage can end. This shift shows the courts working to make the law fit modern family life rather than forcing people into outdated molds.

In *K. Srinivas Rao v. D.A. Deepa* (2013)¹⁸, the Supreme Court granted divorce on the ground of mental cruelty, noting that constant legal battles and false criminal complaints can amount to serious cruelty. The court treated ongoing harassment and the toll of repeated litigation as

¹⁸ *K. Srinivas Rao v D.A. Deepa* (2013) 5 SCC 226

real harms that break down marital trust. By doing so, the judgment recognized how e-motional strain and legal abuse can wreck a marriage, giving the harmed spouse relief through divorce.

Judges have also accepted that some marriages reach a point where repair is no longer possible and that such deadlock can justify dissolution. In *R. Srinivas Kumar v. R. Shametha* (2019)¹⁹, the Supreme Court used its power under Article 142 of the Constitution to dissolve a marriage after finding reconciliation impossible. The court looked at the full facts and concluded that forcing the couple to stay married would serve no public interest. This approach shows the judiciary stepping in to close gaps where the law does not clearly address long standing breakdowns in relationships.

The courts have been active in shaping fair outcomes in financial matters too. In *Vinny Parmvir Parmar v. Parmvir Parmar* (2011)²⁰, the court emphasized that maintenance must reflect the real social standing and needs of the parties and should not be a mere token sum. Judges thus ensure that support orders allow the dependent spouse to live with dignity and to meet reasonable expenses. Such rulings make clear that maintenance rules must respond to changing economic roles, costs of living, and the need for basic security after a marriage ends.

Taken together, these decisions show how the judiciary has become a key force for gender justice and social fairness in family law. By interpreting statutes with an eye to present day circumstances, courts help make sure that legal remedies match the lived experience of spouses. This evolving case law aims to protect vulnerable parties, discourage abusive tactics within marriage, and provide practical relief when relationships cannot be mended.

CHALLENGES AND NEED FOR REFORM

Despite some strong gains, the HMA still faces several clear problems that affect real people every day.

1. Procedural Delays: Family courts carry heavy backlogs that stretch out divorce cases for years, causing stress and uncertainty for both spouses and children. Case: In *Anil Kumar Jain v. Maya Jain* (2009), the Supreme Court drew attention to how long fights in court damage mental health and family bonds.

¹⁹ *R. Srinivas Kumar v R. Shametha* (2019) 9 SCC 409

²⁰ *Vinny Parmvir Parmar v Parmvir Parmar* (2011) 13 SCC 112

2. **Inadequate Maintenance:** There are no uniform rules, so maintenance awards vary widely and often fail to cover basic needs. Case: *Rajnesh v. Neha* (2020) asked for clearer, standard criteria to make maintenance awards fairer and more predictable.

3. **Non-Enforcement:** Even when courts order payments, many orders go unpaid, leaving vulnerable parties without support. Case: *Jasbir Kaur Sehgal* (1997) stressed the importance of strong enforcement tools to make court orders effective.

4. **Gender Bias and Social Stigma:** Old social attitudes and bias still influence outcomes, and women who leave marriages can face judgment, loss of status, and fewer options.

5. **Absence of Property Division:** The unpaid work and financial sacrifice of homemakers often go unrecognized, which leaves them insecure after separation or divorce. **Proposed Reforms:** Include irretrievable breakdown of marriage as an explicit ground so genuine, irreparable splits can be resolved without prolonged battles.

Establish clear maintenance calculation guidelines that account for income, standard of living during marriage, and length of the marriage, to make awards fair and consistent. Enforce maintenance through practical tools such as attachment of salary, freezing of assets, or regular monitoring to ensure orders are followed.

Introduce marital property division provisions that recognize homemakers' contributions and aim for equitable settlements that secure long-term financial safety. Sensitize judges and lawyers about gender perspective and social realities in family law through ongoing training, so decisions reflect equality and protect vulnerable parties.

CONCLUSION

The Hindu Marriage Act, 1955, marks a major turning point in the law for Hindus by treating marriage as both a sacred bond and a legal contract. It set clear rules for marriage, divorce, and support, and helped people claim personal freedom and financial safety when relationships break down. Over time, courts have shaped how these rules work through key cases like *Naveen Kohli* and *Bhuwan Mohan Singh*, which pushed the law to better match the rights guaranteed by the Constitution. These decisions made it easier for people to seek fair relief and to have their dignity respected in family matters.

Yet the law still faces real problems that make justice slow or uneven. Long court waits, differing upkeep awards from judge to judge, and old-fashioned views about gender roles can

leave people without timely or fair relief. Many argue the Act needs clear, modern fixes adding “**irretrievable breakdown**” of marriage as a formal ground for divorce would help couples move on when trust and companionship are gone national standards for maintenance would make support awards more steady and fair; and legal recognition of shared marital property would protect economic rights for both spouses. These steps would make the Act fairer and reflect equal standing for partners.

As India’s social life and family forms change, the Hindu Marriage Act must keep up so the law serves real people, not just paperwork. Reform should aim for swift procedures, balanced financial support, and equal property rights so justice inside marriage truly means equal respect, safety, and dignity for both partners. Strengthening the Act in these ways would help families heal, protect the vulnerable, and build a fairer future for married life.