

CODIFICATION LEADING TO THE JOURNEY OF HINDU LEGAL SYSTEM FROM PRIMITIVE NORMS TO THE PRESENT LAW

Dr. Anindita Choudhury¹

Abstract:

Hindu Law is one of the Primitive Codified Personal Law in India. Hindu law very gracefully deal with the family, Marriage, Guardianship, other social, and property relations of Hindus in our Country. It has been outsourced from various traditional sacred and religious texts like the Shrutis, Smritis, and Dharmashastras. This law highlighted mostly about Hindu Dharma, Religious rights, Sin, Religious wrong, duty, rather than personal Rights. With the passing of years, the system took the form of codified law starting from British colonial Period. In this way Hindu law gradually has been has shaped to changes in social structures and relationships.

The study reveals the year old continuous transformation of Hindu law from a Dharma based on, Karta system to a rights-based legal rule abiding the constitutional values. Such transformation has created a long impact not only on the family structure but also the marriage and Property usages in the Hindu Society. This research work also highlights at changes in property and inheritance rights, especially after the Hindu Succession (Amendment) Act, 2005. This amendment gave daughters equal rights to inherit property, a significant move toward gender equality, immunity from inter caste marriages, Rights of Maintenance as well as duty to maintain. This Codified law broke various stereotypical dogmas and age old concept of Hindus giving a fair opportunity to Right to equality. Thus it is becoming visible that Hindu law lies in its ability to balance cultural continuity with constitutional principles of equality, dignity, and justice, ensuring its relevance in a rapidly changing in Indian Society.

Key words: Dharma, Codified Law, Smritis, Shruti, Constitutional Values

Introduction:

One of the world's oldest recognized legal systems is Hindu law. It has strong roots in the Indian subcontinent's philosophical, cultural, and religious traditions. It originates from holy writings such as the Dharmashastras, Smritis, and Vedas. Initially, Hindu law functioned as a moral and social code in addition to a set of legal regulations. Later classical Hindu law placed more emphasis on responsibilities (dharma) than on rights, in contrast to contemporary legal systems. It established duties that directed people and communities at every stage of life. Family, property, marriage, inheritance, and social obligations were therefore intimately linked to moral and spiritual values.

¹ Assistant Professor, Faculty of Law, ICFAI University Tripura, Email: aninditachoudhury@iutripura.edu.in

With colonial rule in India, Hindu law changed significantly. The British codification of personal laws and court interpretations formalized some aspects of Hindu law while limiting others. This time marked a shift from a religious and customary legal system to a more structured, precedent-based one. It was only after India gained independence that Hindu law was updated in a modern statutory form with the Hindu Code Bills of the 1950s. The passage of the Hindu Marriage Act (1955), Hindu Succession Act (1956), Hindu Adoptions and Maintenance Act (1956), and Hindu Minority and Guardianship Act (1956) represented a major change in personal laws in India, promoting gender justice, equality, and social reform within a traditional framework².

The ability of Hindu law to adapt to society is one of its most important characteristics. Large joint families have given way to smaller nuclear families, necessitating legal changes. Women now have more rights in terms of property, marriage, and guardianship, which has altered gender relations. Since the Hindu Succession (Amendment) Act, 2005, which gave daughters equal inheritance rights, property laws have changed from rigidly patriarchal models to more egalitarian ones. These developments have been mostly driven by judicial interpretations, which guarantee that Hindu law changes in tandem with societal shifts and constitutional ideals.

Today, Hindu law sits at the crossroads of tradition and modernity. It represents the cultural and religious continuity of the Hindu community while also reflecting the constitutional principles of equality, dignity, and justice. The acknowledgment of live-in relationships, discussions around same-sex marriages, and changes in guardianship and adoption laws show the ongoing challenges and opportunities for Hindu law to address new types of relationships and family setups.

Therefore, Hindu law's role in the modern Indian legal system goes beyond maintaining ancient traditions. It also works to reshape social relationships in response to changing societal structures. This ongoing interaction between tradition and reform highlights Hindu law's relevance as a living legal system that can meet the evolving needs of society.

Origination of Hindu Law:

1. **Ancient Sources:** Shrutis, Smritis, and commentaries such as the Manusmriti and Mitakshara gave religious sanction to social norms. The traditions, cultures, usages of Hindus are always been accepted as the main base of our legal system. As a result of which such customs, traditions are given vital recognition under Hindu Law. These laws governed marriage, property, and caste duties.

2. **Medieval Developments:** Regional schools of law, notably Mitakshara and Dayabhaga, created diversity in succession and family law. During medieval Period some minor changes took place in the Family Law

² Online ISSN 2278-8808, , Peer Reviewed & Refereed Journal, AUG-SEPT2025, Vol-13/86, author, Dr. Ranganathaiah C.B, Associate Professor of Law, Department of Law, Government Law College, Kolar

structure but keeping the basic concepts intact.

3. **British Era:** During the British period keeping in mind the basic features of Hindu Norms, the British Govt under the shadow of Vedas, Upanishads, Shrutis, Smritis and other Hindu Texts with the help of Religious persons codified the Hindu Law. The British Rulers thus institutionalized Hindu law through court judgments, often selecting convenient interpretations, thereby freezing customary flexibility.

4. **Post-Colonial Reforms:** The Hindu Code Bills introduced statutory clarity, gender equality, and judicial oversight into personal law.

Changing Dimensions under Hindu Law

1. Changed Marital and other Family structures:

The conventional joint family system is being gradually declined by the new soci legal setups, giving way to nuclear or single families causing from urbanization and economic independence. In the sake of giving Constitutional justification the concept of equality, equal opportunity, right to freedom are going at its peak resulting to the breakdown of HUF, Hindu Joint Family System etc.

The **Hindu Marriage Act, 1955**, as a Codified law broke various stereotypical dogmas and age old concept of Hindus giving a fair opportunity to Right to equality. Thus it is becoming visible that Hindu law lies in its ability to balance cultural continuity with constitutional principles of equality, dignity, and justice, ensuring its relevance in a rapidly changing in Indian Society. This law brought reformative action giving rise to inter-caste and inter-religious marriages via the Special Marriage Act. Several provisions for divorce, and grounds such as cruelty, adultery, desertion, and mutual consent are also introduced in the Act giving justice and abiding Constitutional values.

In this regard marriage is neither a sacrament nor a contract but semblance of both. If a Hindu marries in special circumstances under Special Marriage Act, 1954 then marriage would be regarded as a civil contract as no essential marriage ceremonies are necessary for solemnization of marriage. As marriage is solemnized in the office of registrar, this is a civil contract and requires no marriage ceremonies apart from thirty days' notice prior to registration of marriage along with presence of three witnesses.³

• Gender role evolution under Hindu law:

The evolution of gender roles under Hindu law has shifted from extreme patriarchy to constitutionally mandated equality. Moving away from traditional scriptures that relegated women to dependents, modern legislative reforms and judicial interventions have established women as equal partners in property rights, marriage, and guardianship.⁴

Ancient Hindu Socio legal structure is evidently found to have been particularly rigorous on women,

³ The Special Marriage Act, 1954 (Act 43 of 1954), s. 11

⁴ <https://ijirl.com/wp-content/uploads/2026/02/EVOLUTION-OF-PROPERTY-RIGHTS-OF-HINDU-WOMEN-IN-INDIA-LEGAL-FRAMEWORK-AND-SOCIAL-REALITY.pdf>

refuting them Social and economic freedom. It was also a stereotypical concept that providing education, right to property, equal rights and freedom to the women during the colonial era shall led to the loosening of this rigorous social control .

‘A woman must be reliant on her father in childhood, upon her husband in youth, and upon her sons in old age,’ Manu, the arch lawgiver, stated in support of this assumption. “She should never be allowed to be free.”⁵

Historically, Hindu law placed women in a subordinate role within family and property structures.

- The **Hindu Succession(Amendment)Act,2005**, revolutionized inheritance rights by granting daughters equal coparcenary rights in ancestral property(affirmed in *Vineeta Sharma v. Rakesh Sharma*, 2020).⁶
- Marriage laws now protect women against domestic violence, cruelty, and dowry harassment, aligning with constitutional principles of gender justice.

Modifications in the Property and Succession rule:

- Mitakshara law, which previously privileged male lineage, has been reshaped to recognize women’s property rights.
- Dayabhaga’s emphasis on individual ownership influenced legislative reforms, shifting inheritance from collective to personal rights.
- Contemporary courts have emphasized individual autonomy over traditional collective structures, altering the nature of Hindu joint families.
- Social and Cultural Transformation
- Practices such as child marriage, polygamy, and caste-based restrictions have been legally abolished.
- Modern Hindu law aligns with Article 14 (equality) and Article 21 (right to life with dignity), ensuring that personal laws do not violate fundamental rights.
- Social realities like interfaith unions, adoption by single parents, and recognition of LGBTQ+ rights continue to test the adaptability of Hindu law.
- Role of Judiciary in Shaping Contemporary Hindu Law:
- Judicial activism has played a critical role in redefining Hindu law:
- *Shayara Bano v. Union of India* (2017),⁷ though concerning Muslim law, reinforced the principle that personal laws must conform to constitutional morality.
- *Vishaka v. State of Rajasthan* (1997)⁸ and subsequent cases emphasized gender equality within workplaces and homes, indirectly influencing Hindu marriage and family law.
- *Vineeta Sharma v. Rakesh Sharma* (2020),⁹ ensured daughters’ equal coparcenary rights irrespective of the

⁵ <https://blog.ipleaders.in/rights-women-changing-perspective-hindu-law-special-reference-hindu-succession-act/>

⁶ *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1

⁷ (2017) 9 SCC 1 / AIR 2017 SC 4609

⁸ AIR 1997 SC 3011

⁹ (2020) 9 SCC 1

father's death date, showcasing progressive judicial interpretation.

- Judicial recognition of live-in relationships (e.g., *Indra Sarma v. V.K.V. Sarma*, 2013) reflects the adaptability of Hindu law to modern family arrangements.
- Conclusion:
 - The development of Hindu law shows a significant change from its beginnings as a set of religious rules to a modern legal system based on constitutional principles. Historically, Hindu law governed personal and social life through duties, or dharma, which were deeply rooted in religious texts and customs. However, over time, colonial codification, legislative changes, and judicial interpretation transformed it into a flexible framework that responds to societal changes.
 - The biggest impact of Hindu law today in India is its ability to adapt to the changing aspects of family, gender relations, and property rights. The decline of the joint family system and the increase in nuclear families have changed the traditional basis of Hindu personal law. Legislative reforms, such as the Hindu Marriage Act of 1955, have acknowledged new realities in marriage, such as divorce, inter-caste marriages, and protections against cruelty.

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