

THE HINDU MARRIAGE ACT, 1955

ACT NO. 25 OF 1955

Date of Assent of President	: 18-05-1955
Date of Enforcement	: 18-05-1955
Date of last Amendment	: 21-02-2019 by Personal Laws (Amendment) Act, 2019
Total Chapters	: 6
Total Sections	: 30

Extension (Section 1)

- Whole of India
- Extended to Dadra and Nagar Haveli (w.e.f. 1-7-1965) and to Pondicherry (w.e.f 1-10-1963)
- Made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh, *Vide* notification dated 30th October, 2019.
- Applies also to Hindus domiciled in the territories to which this Act extends who are outside the said territories.

Application of Hindu Law (Section 2)

Hindu Law applies to the persons of following three categories:

- (1) Any person who is a Hindu, Buddhist, Jain or Sikh by religion or convert or re-convert (Hindu by religion)
- (2) Any person who is born of Hindu parents i.e. when both the parents or one of the parents is a Hindu, Jain, Sikh or Buddhist by religion (Hindu by birth)
- (3) Any person who is not a Muslim, Christian, Parsi or Jew by religion and who is not governed by any other law.

Hindu by religion

Two types of persons:-

1. Originally Hindu, Jain, Buddhist or Sikh by religion.
2. Converts or re-converts to Hindu, Jain, Buddhist or Sikh religion.

Who is originally Hindu?

Any person who follows Hindu religion in any of its form or development, either by practicing it or by professing it, is a Hindu.

Convert

A convert is a person who renounces his faith and adopts another. A non-Hindu may become a Hindu by the following ways:-

1. If he undergoes a formal ceremony of conversion/ reconversion followed by the community to which he converts / reconverts.
2. If he expresses an intention to become a Hindu accompanied by conduct alongwith acceptance of the community. - *Peerumal vs. Poonuswami 1971 SC 2352*
3. If he bonafide declares that he is a Hindu. - *Mohandas vs. Dewaswan Board 1975 Kerala.*

Hindu by Birth

A person is Hindu by birth:

1. If he is born of Hindu parents i.e. both parents are Hindu.
2. If he is born to a Hindu parent i.e. one of the parents is Hindu **and he is brought up as a Hindu.**

Application to ST

Provisions of Hindu Marriage Act, 1955 do not apply to the members of Scheduled Tribe coming within the meaning of Article 366 (25) of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs. [Section 2(2)]

N.B – This clause does not mean that the ST which were governed by Hindu law prior to the codification will now not be governed by Hindu law. It will continue to be governed by uncodified Hindu law.

Definition clause (Section 3) -

(a) “**custom**” and “**usage**” must -

- i. be observed for a long time,
- ii. be certain,
- iii. not be unreasonable,
- iv. not be opposed to public policy; and
- v. has obtained the force of law

among Hindus in

- any local area (*local custom*),

- tribe, community (*caste or community custom*),

- group or family (*family custom*).

“full blood” — when both the parents (mother and father) of two persons are the same. (same father + same mother)

“half blood” – when the father is common and mothers are different. (same father + different mothers);

“uterine blood”— when mother is common and fathers are different (different father + same mother);

(f) **“sapinda relationship”**

One person will be *sapinda* to the other :

i. If he is in direct degrees of ascent within five degrees to the other through the father or three degrees of ascent to the other through the mother.

ii. If, both are *sapindas* to the common ancestors, then lines are traced upwards upto five degrees (paternal) or three degrees (maternal).

Rules for determining *sapinda* relationship -

i. It is always traced upward, that is, in the line of ascent and not downward, that is, in the line of descent.

ii. For computation of degrees the person concerned is inclusive.

iii. It may be traced one or both sides.

iv. If both the persons are *sapindas* to the common ancestor, they will be *sapindas* to each other.

v. The relationship may be legitimate / illegitimate or may be by full blood / half blood / uterine blood or may be by natural birth or adoption.

(g) **“degrees of prohibited relationship”** -the following persons are within “degrees of prohibited relationship” -

(i) if one is a lineal ascendant of the other; or

(ii) if one is the wife or husband of a lineal ascendant or descendant of the other; or

(iii) One can not marry the wives of the following relations :

- a. Brother
- b. father’s brother
- c. mother's brother
- d. grandfather's brother

- e. grandmother's brother; or
- (iv) two persons cannot marry if they are
- a. brother and sister,
 - b. uncle and niece,
 - c. aunt and nephew,
 - d. children of two brothers,
 - e. children of two sisters, or
 - f. children of a brother and a sister.

The relationship may be legitimate / illegitimate or may be by full blood / half blood / uterine blood or may be by natural birth or adoption. (Explanation)