BLOGS

Essentials of a Valid Hindu Marriage under Hindu Marriage Act, 1955

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Introduction

The Hindu Marriage Act of 1955 (HMA) lays down specific requirements that must be met for a marriage to be considered legally valid under Hindu law. These conditions ensure that both parties enter the marriage willingly, with full legal capacity, and that the union aligns with traditional Hindu customs and practices. The requisites for a valid Hindu marriage are contained in Sections 5 and 7 of the HMA.

Valid Forms of Marriage

The following forms of marriage are approved by the Hindu Marriage Act:

1. Brahma: In this form of marriage, the daughter is presented to the husband by the father i.e. Kanyadaan is done. This is the most prevalent form of Hindu marriage today.
2. Daiva: As the priest, the bridegroom performs the solemnization of the marriage. The bride is considered as a present for the sacrifice he made.
3. Arshya: The husband gives the bride’s father a cow or bull as a kind of token of appreciation for his daughter. The animals are primarily given as a gift to fulfill religious obligations.
4. Prajapatya: The father says to the couple, “”May both of you perform together your duties”

Customary Requirements of a Valid Hindu Marriage

According to the Hindu Marriage Act of 1955, a custom is a rule that members of a Hindu community, clan, or family have adhered to since time immemorial.

If a custom is fair, transparent, and does not conflict with public policy, it is deemed to be law. According to **Section 2(2) of the Act**, Scheduled Tribe individuals are exempt from the Hindu Marriage Act. Instead, they are governed by their tribe’s traditions and rituals.

Section 7(2) of the Act states that the marriage can be solemnised according to the customs and traditions of the parties.

A custom must fulfill the following requirements to be recognised as valid under the HMA:

1. The custom must be ancient
2. It has to be certain and continuous
3. It must be reasonable
4. It has to be unopposed to law, public policy, and morality

However, for a marriage to be recognised as valid under the Hindu Marriage Act, the parties must follow the tradition of Saptapadi regardless of which community they are from. This is mandated by **Section 7(2) of the HMA**. It consists of taking seven steps around a holy fire toward the northeast as hymns are sung. The marriage is completed on the seventh step.

In **Bibba v. Ramkall** (1982), the court ruled that merely performing some ceremonies with the intention of being married does not suffice; the ceremonies must align with the customs of the parties.

The Supreme Court has also clarified that registration of a marriage does not validate it if the essential ceremonies have not been performed. Registration serves only as proof of marriage but does not confer legitimacy if the marriage was not conducted according to Section 7 of the Act.

Soundness of Mind and Consent of Parties

Section 5(ii) of the Hindu Marriage Act emphasizes the importance of valid consent. Both parties must be capable of giving valid consent to the marriage. For this to happen, section 5(ii)(b) stipulates that they must both be of sound mind and should not be subject to recurring acts of insanity.

Additionally, section 5(ii)(c) states that neither party should suffer from a mental disorder that makes them unfit for marriage and procreation.

Even if a party is capable of giving legal consent, the marriage can be dissolved if they have a disease that makes them unfit for married life. In **Alka Sharma v. Chandra Sharma** (1991), the court nullified the marriage because the woman exhibited extreme anxiety and irrational behavior, making her unfit for marital life.

Prohibited Degrees of Relationships

The union between two individuals is said to be within the degrees of prohibited relationships when one individual is a lineal ancestor of another. Such relationships between close relatives result in offspring that frequently suffer from inbreeding depression, hence they are usually forbidden. This covers the bonds between uncles and nieces, aunts and nephews, siblings, and other close family members.

The parties should not fall within prohibited degrees of relationship unless their customs or usages permit such a marriage. Two individuals are considered to be within prohibited degrees of relationship if:

1. One is a lineal ascendant of the other (e.g., a daughter cannot marry her father or grandfather, and a mother cannot marry her son or grandson).
2. One was the wife or husband of a lineal ascendant or descendant of the other (e.g., a son cannot marry his stepmother, and a person cannot marry their daughter-in-law or son-in-law)
3. One was the wife of the brother, father's brother, mother's brother, grandfather's brother, or grandmother's brother of the other
4. The two are brother and sister; uncle and niece; aunt and nephew; or children of brother and sister, two brothers, or two sisters.

The parties should not be "sapindas" of each other unless their customs or usages permit marriage between them. Section 3 of the HMA defines such a relationship. Sapinda relationships extend to the third generation (inclusive) in the line of ascent through the mother and the fifth (inclusive) in the line of ascent through the father.

In simpler terms, a person cannot marry up to their second cousin from the mother's side and up to their fourth cousin from the father's side.

Principle of Monogamy

The Hindu Marriage Act strictly adheres to the principle of monogamy. Section 5(i) mandates that neither party should have a living spouse at the time of the marriage. Furthermore, bigamy is a penal offence under Section 82 of the Bhartiya Nyaya Sanhita. It is punishable by imprisonment for up to seven years and a fine.

Minimum Age for a Valid Marriage

The Act specifies minimum age requirements for marriage to ensure that both parties are mature enough to understand the responsibilities and implications of marriage. Section 5(iii) states that the bridegroom must be at least 21 years old, and the bride must be at least 18 years old.

Conclusion

The Hindu Marriage Act of 1955 puts forth the essential requisites for a valid Hindu marriage. It ensures that the union is entered into with mutual consent, soundness of the mind, and adherence to traditional customs.

Section 5 of the Act mandates monogamy, soundness of the mind, age requirements, and the prohibition of marriages within certain degrees of relationship to safeguard the sanctity and integrity of the marital bond. Furthemore, section 7 provides that a marriage can be solemnised as per the customs of the parties, and that the marriage is complete once the 7th step of Saptapadi is taken.

By upholding these principles, the Act not only preserves cultural values but also promotes the well-being of individuals within the institution of marriage.