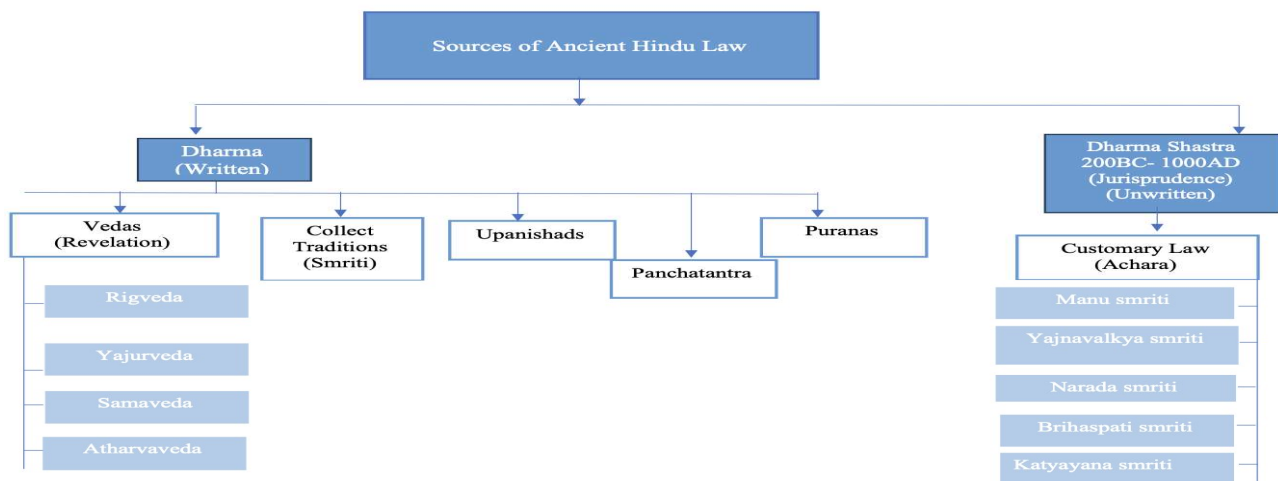


Hindu Law

The handout will briefly overview Hindu Law during three periods: ancient, medieval (under British rule), and post-colonial Hindu law. This will provide background to discuss the changes brought in Ancient Hindu Law by comparing the Hindu Marriage Act and the Hindu Succession Act on similar topics.

Ancient Hindu Law

Hindu law is one of the oldest legal systems in the world, dating back to around 200 B.C. until the 12th Century A.D. when Muslims invaded India. The ancient Hindu law originated from the Vedas and various other sources. It was not uniform or codified, meaning it varied from place to place. As a result, marriage and inheritance laws differed depending on the customs of each locality. These laws were crucial as they governed the essential social functions of marriage and inheritance. The sources of ancient Hindu law are both written and unwritten, and they are grouped in the table below:



Hindu Law under British Rule (Anglo -Hindu Law)

The East India Company implemented the Adalat system, which primarily dealt with Hindu and Muslim laws. In India, the traditional justice system was mainly based on customary law. While the British continued to respect customary law, they gradually developed a new legal framework by enacting and organizing existing laws. They introduced regulations, codified existing laws, and modernized them through legal interpretation.

The [Hindu Widows' Remarriage Act of 1856](#), also known as Act XV, was passed under East India Company rule and legalized the remarriage of widows in all jurisdictions in India.

The [Indian Succession Act of 1865](#) (Act X of 1865) applied to all classes except Hindus, Buddhists, and Muslims because these classes had their own laws on the subject. The Act was amended a few times in 1870, 1920, and 1925.

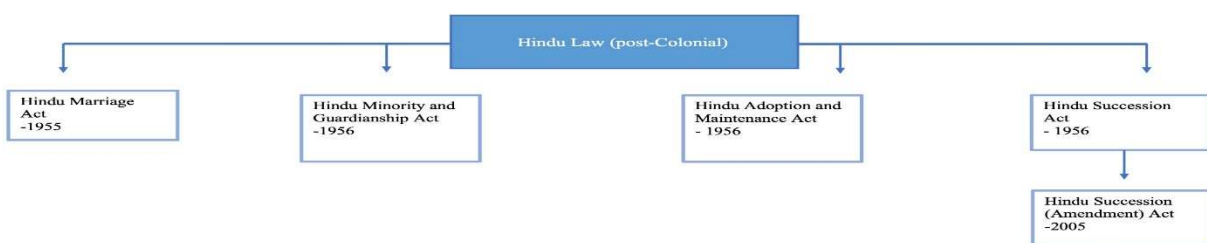
In [The Indian Succession Act 1925](#), Hindus, Buddhists, Sikhs, Jains, and Christians can govern their will. It doesn't apply to Muslims.

Hindu Law (post-colonial)

The Indian legal system is a common law system. Following independence, the Indian Parliament enacted four family laws applicable to defined religious communities.



The first Law Minister of India took the responsibility of editing and reviewing the Hindu Code Bill. However, the bill did not pass through the parliament during the first parliament sessions. Consequently, the government decided to enact the Hindu Code Bill by dividing it into different parts.



Suggested readings and landmark judgments.

- [Hindu Marriage Act, 1955](#)

Two landmark judgments related to the Hindu Marriage Act, 1955, which have significantly shaped the interpretation of laws related to Hindu marriage in India:

- [Sarla Mudgal v. Union of India \(1995\)](#)

Issue: Bigamy and Conversion to Islam for a Second Marriage

Judgment: In this case, the Supreme Court held that a Hindu husband, married under Hindu law, cannot solemnize a second marriage by converting to Islam without first dissolving the previous marriage. The second marriage would be invalid, and the husband could be prosecuted for bigamy under Section 494 of the Indian Penal Code (IPC).

Significance: This judgment reinforced the sanctity of the Hindu Marriage Act and helped prevent men from circumventing the law by converting to another religion to enter a second marriage.

- [Shayara Bano v. Union of India \(2017\)](#)
Issue: Constitutionality of Triple Talaq

Judgment: Although this case is primarily concerned with Muslim personal law, the Supreme Court's ruling declared the practice of "Triple Talaq" (instant divorce) unconstitutional. Its importance for the Hindu Marriage Act stems from its broader interpretation of personal law and gender justice across all religions.

Significance: The judgment emphasized the right to equality, non-discrimination, and personal dignity for women, influencing gender-sensitive interpretation across various personal laws, including the Hindu Marriage Act.

- [The Hindu Succession Act, 1956 & The Hindu Succession \(Amendment\) Act, 2005](#)

- [Ganduri Koteswaramma & Anr v. Chakiri Yanadi & Anr \(2011\)](#)
Issue: Whether daughters have the same rights as sons in coparcenary property under the Hindu Succession (Amendment) Act, 2005.

Judgment: The Supreme Court ruled that the Hindu Succession (Amendment) Act, 2005, applies retrospectively and gives daughters equal rights to property as sons. The judgment clarified that daughters, even if born before the 2005 amendment, are entitled to an equal share in the ancestral property.

- [Vineeta Sharma v. Rakesh Sharma \(2020\)](#)
Issue: Whether a daughter can claim equal rights in coparcenary property, even if the father died before the 2005 amendment.

Judgment: In this landmark decision, the Supreme Court held that daughters have an equal right to coparcenary property by birth, regardless of whether the father was alive on the date of the Hindu Succession (Amendment) Act, 2005. The ruling reinforced gender equality in inheritance laws and affirmed that daughters are coparceners from birth, just like sons.