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## An Analytical Study Related To Voidable Marriage In India Under The Provision Of The Hindu Marriage Act, 1955

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### KEYWORDS

Voidable marriage, The Hindu Marriage Act 1955, Customs & Usage, Grounds of Voidable Marriage, Impact of Voidable Marriage on the Child, Demerits of Voidable marriage

### ABSTRACT

We know that according to the orthodox view of Hinduism, there was an inseparable relationship between law and dharma. The concept of an invalid and voidable marriage is not new in India. It's been a long time. Law and the source of the law were common. Thus Manu described his four sources of Dharma which are also sources of Dharma. This is mentioned in the 1955 Hindu Marriage Act. An invalid and voidable marriage is a valid marriage that can be annulled by a court on specific grounds established by law. This research article focuses on several reasons for invalid and voidable marriages. What are the effects on children born and society after marriage is annulled or voidable by a court? After that what kind of life do they lead.

### Introduction

Marriage is one of the oldest Hindu institutions. It occupies a very important place in their social life. It is considered one of the ten most important sangskara (sacraments). In marriage, the father entrusts his daughter into the hands of a noble and physically sound groom who thereby becomes her husband. This type of marriage has been in place since Vedic times and has acquired religious significance. According to Raganandan, a Hindu marriage involves the groom accepting the bride as his wife through a ritual process professionally known as Kanyadhan.<sup>1</sup> It is the only Sanskara (sacrament) that is not forbidden to anyone regardless of caste or gender and is obligatory for all men and women. The institution of marriage binds a man and a woman into marriage, the purpose of which is usually the birth of a boy. All twice-born Hindus are religiously obligated to settle three debts: Pitri Rin, Dev Rin, and Rishi Rin: debt to the father, debt to the gods, and debt to the seer and the sage. And upon dismissal of Pitri Rin must renounce the need to have a son of his own. Along with his legally married wife, Dharmaji his Putra officiates the funerals and makes sacred offerings for their salvation upon the death of his ancestors. Therefore, Hindu law gives the boy a very important status and plays a vital role in saving his parents and freeing them from the torments of hell. Therefore, Hindu Son is the Messiah from Hell (Punnam Narkaat Trayaty iti Putrah), meaning that only his son saves people from the torments of hell. Therefore, the sacrament of marriage is required in order to give birth to a son. Now the question arises what are the rights of the children who have been borne by the annulled or voidable marriage?

### What is Voidable Marriage?

A voidable marriage is a legal marriage that can be annulled by one of the parties to the marriage. A voidable marriage is not automatically void, like a void marriage. A voidable marriage can be annulled by a court if there is a legal reason to do so. There are several reasons why a marriage may be voidable. One reason is if one of the parties to the marriage is under the age of 18. Another reason is if one of the parties to the marriage is already married to someone else. Additionally, a marriage may be voidable if the consent of one of the parties was obtained by fraud or force. If a court annuls voidable marriage, it means that the marriage is no longer legally valid. The annulment of a voidable

marriage does not have any effect on the validity of any children born of the marriage.<sup>2</sup>

### Grounds of Voidable Marriage

There are several grounds on which a voidable marriage can be annulled in India. These grounds are laid out in the Hindu Marriage Act. Some of the most common grounds for annulling a marriage include:<sup>3</sup>

1. Impotency
2. Marriage with a eunuch
3. Unsoundness of mind
4. Consent obtained by force or fraud
5. Pregnancy at the time of the marriage

### Some other grounds of Voidable Marriage

- One of the spouses was not of legal age at the time of the marriage. In India, the legal age for marriage is 21 for men and 18 for women.
- One of the spouses was already married at the time of the second marriage. Polygamous marriages are not allowed in India.
- The marriage was not consummated due to impotency or incapacity of one of the spouses.
- The marriage was solemnized by force or under duress.
- The marriage was solemnized without the consent of the parents or guardians of one of the spouses, if that spouse was a minor at the time of the marriage.


### Role of Judiciary Related to Voidable Marriage related to Hindu Law

In India, voidable marriages are governed by the Hindu Marriage Act. Under this Act, a marriage can be declared void if it is found to be invalid or if it has not been consummated. A marriage can also be declared void if it was entered into under duress, coercion, or fraud.

The role of the judiciary is important in voidable marriages. The courts have the power to declare a marriage void if it is found to be invalid. They can also set aside a marriage if it has not been consummated. If a marriage was entered into under duress, coercion, or fraud, the courts can annul the marriage.

In India, there are many cases of voidable marriages every year. The courts have to deal with these cases on a regular basis. In most cases, the courts will declare the marriage void and set it aside. However, in some cases, the courts will annul the marriage.

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### Some Important Case Law

1. **Naurang Singh Chuni Singh v/s Smt. Sapla Devi**<sup>4</sup> in this case hon'ble the court Sapla Devi as his second wife. In his opinion, the second marriage in the lifetime of the first wife was void under section 5/11 of the Hindu Marriage Act, 1955.
2. **Paramasami Pillai v/s Sornathammal And Ors.**<sup>5</sup> In this case the hon'ble the court decided that the primary aim of marriage is to procure a child and for that physical capacity, for example-potentiality is an essential requisite. Hence under Hindu Law the marriage of an impotent person whether male or female is wholly ineffective.
3. **Biswas v/s Biswas**<sup>6</sup> Impotency connotes incapacity to cohabit, whether it is physical or mental, but it must be permanent and incurable.
4. **Paramaswami v/s Somathawal**<sup>7</sup> In this case the Madras High Court observed that a sexless person (eunuch), would be deemed to be impotent within the meaning of Section 12(1)(a).

### What is the impact of Voidable Marriage on the Child

- A voidable marriage is one that can be annulled by either party at any time. This type of marriage is not considered valid in the eyes of the law. A child born of a voidable marriage is not considered to be legitimate. But his rights will be treating as legitimate child.
- There are several reasons why a couple may choose to annul their marriage. In some cases, it may be because one party was forced into the marriage against their will. In other cases, it may be because one party was misled about the other party's marital status, or because of fraud or duress.
- A voidable marriage can have a significant impact on the child of the marriage. If the parents choose to annul the marriage, the child may be left without legal status. Additionally, the child may have difficulty accessing benefits such as inheritance or health insurance.

### What is the impact of Voidable Marriage on the society

- There are a number of impacts that voidable marriages have on society. One of the most significant impacts is that it creates a situation where there is no clear legal status for the parties involved. This can lead to a number of problems, such as property disputes and custody battles. Additionally, it can create financial instability for the parties involved and their families.
- Another significant impact of voidable marriages is that it can erode trust in the institution of marriage. When marriages are voided, it sends a message to society that marriage is not a permanent commitment. This can make people less likely to enter into marriage, or to stay in a marriage if they are experiencing difficulties.
- Additionally, it can make people less likely to believe in the promises made during marriage ceremonies.
- Finally, voidable marriages can also have an impact on the mental and emotional health of the parties involved. Going through a voidable marriage can be a very stressful and traumatic experience. It can cause feelings of anxiety, insecurity, and loneliness. Additionally, it can lead to depression and post-traumatic stress disorder (PTSD).

### What are the demerits of Voidable marriage

There are several disadvantages to a voidable marriage. First, if the marriage is annulled, it will be as if the marriage never happened. This can be confusing for children of the marriage, as they may not be considered legitimate in the eyes of the law. Additionally, any property or assets that were acquired during the marriage may have to be returned to the original owner. Finally, an annulled marriage may be viewed as a stain on one's reputation.

### Conclusion

The study concludes that the provisions related to voidable marriages in India under the Hindu Marriage Act, 1955 are not adequate enough to protect the rights of women. There is a need for more stringent laws to be put in place so that women can be protected from abusive relationships. Additionally, there is a need for more awareness about these provisions so that women can avail of them when necessary.

### Suggestions

1. The definition of voidable marriage should be amended to include all marriages that are not entered into willingly or under duress.
2. The burden of proof should be on the party seeking to annul the marriage to show that the marriage was not entered into willingly or under duress.
3. The grounds for annulling a marriage should be expanded to include all marriages that are not entered into with the intention of remaining married.
4. The time limit for seeking an annulment should be extended to allow parties to seek an annulment at any time after the marriage has taken place.
5. The procedure for annulling a marriage should be simplified to make it more accessible to parties who wish to seek an annulment.

### References:

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- <sup>1</sup> Section 5, the Hindu Marriage Act
  - <sup>2</sup> Section 12(1), the Hindu Marriage Act
  - <sup>3</sup> Section 12(1)(a), the Hindu Marriage Act
  - <sup>4</sup> AIR 1968 All 412, 1968 Cr.L.J. 1636.
  - <sup>5</sup> AIR 1952 Bom.486.
  - <sup>6</sup> 1921 IC 459.
  - <sup>7</sup> AIR 1969 Mad.124

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