

# **EU IndoPac Jean Monnet University Teaching Module**

## **Introduction to Hindu Law UCLouvain, Brussels, Belgium**

**by**

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# Diversity and Unity

**Hindus (~79–80%) → ~1.13 billion**

**Muslims (~14–15%) → ~210 million**

**Christians (~2.3%) → ~33 million**

**Sikhs (~1.7%) → ~24 million**

**Buddhists (~0.7%) → ~10 million**

**Jains (~0.4%) → ~6 million**



Erasmus+

Jean Monnet Modules

## Hindu by Religion

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A Hindu is anyone who follows Hinduism in any of its diverse forms. Hinduism is characterized by its adaptability and inclusiveness, having evolved over thousands of years by absorbing varied beliefs, practices, and philosophies.

## Conversion and Reconversion

A person may become a Hindu through conversion or reconversion. While traditional Hindu law did not prescribe formal conversion rituals, modern legal recognition allows conversion

1

## Hindu by Birth

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A person is considered Hindu by birth in the following cases:

- When both parents are Hindus, regardless of legitimacy.
- When one parent is Hindu and the child is raised as a Hindu.

The religion of the child is determined not solely by parentage but also by upbringing.

2

## Application of Hindu Law

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Hindu law also applies to Sikhs, Jains, and Buddhists, although they are distinct religions. Historically, they have been governed by Hindu law with modifications based on custom. Codified Hindu law continues this approach.

3

# Hindu Joint Family

01

## The Mitakshara Joint Family

The Mitakshara joint family is the most common Hindu family system in India, based on the concept of coparcenary, where members (including daughters after the 2005 amendment) acquire rights in joint family property by birth. A joint family includes all descendants of a common ancestor, while the coparcenary is a smaller group with ownership rights.

Joint family property mainly includes ancestral property, in which every coparcener has a birthright. Property obtained on partition may remain joint if the family continues together, but becomes separate after severance of status. Such property can arise from gifts (depending on intention), joint acquisitions, hereditary professions, exchange, blending with personal property, or accretions.



02

## The Dayabhaga Joint Family

The Dayabhaga school, mainly followed in West Bengal and Assam, differs fundamentally from the Mitakshara system. Under Dayabhaga law, sons do not acquire a right in property by birth. Instead, they obtain rights only after the death of the father. Coparcenary under the Dayabhaga system arises only upon the death of the father, and not before. This gives the father greater autonomy in dealing with property compared to the Mitakshara system.

03

## Nuclear Family

A nuclear family consists of a small unit:  
Husband and wife  
Their unmarried children

# SOURCES OF HINDU LAW

## (I. Ancient Sources)

### 1. Sruti (Vedas)

Sruti, meaning "what is heard," refers to the Vedas, regarded as divine revelation. In theory, all Hindu law originates from them. Although the Vedas contain few direct legal rules, their ideas were later interpreted and transformed into legal principles by scholars.

### 3. Digests and Commentaries

These are scholarly interpretations of Smritis, resolving conflicts and adapting law to changing conditions. Courts relied on these interpretations to clarify ambiguous or conflicting rules.

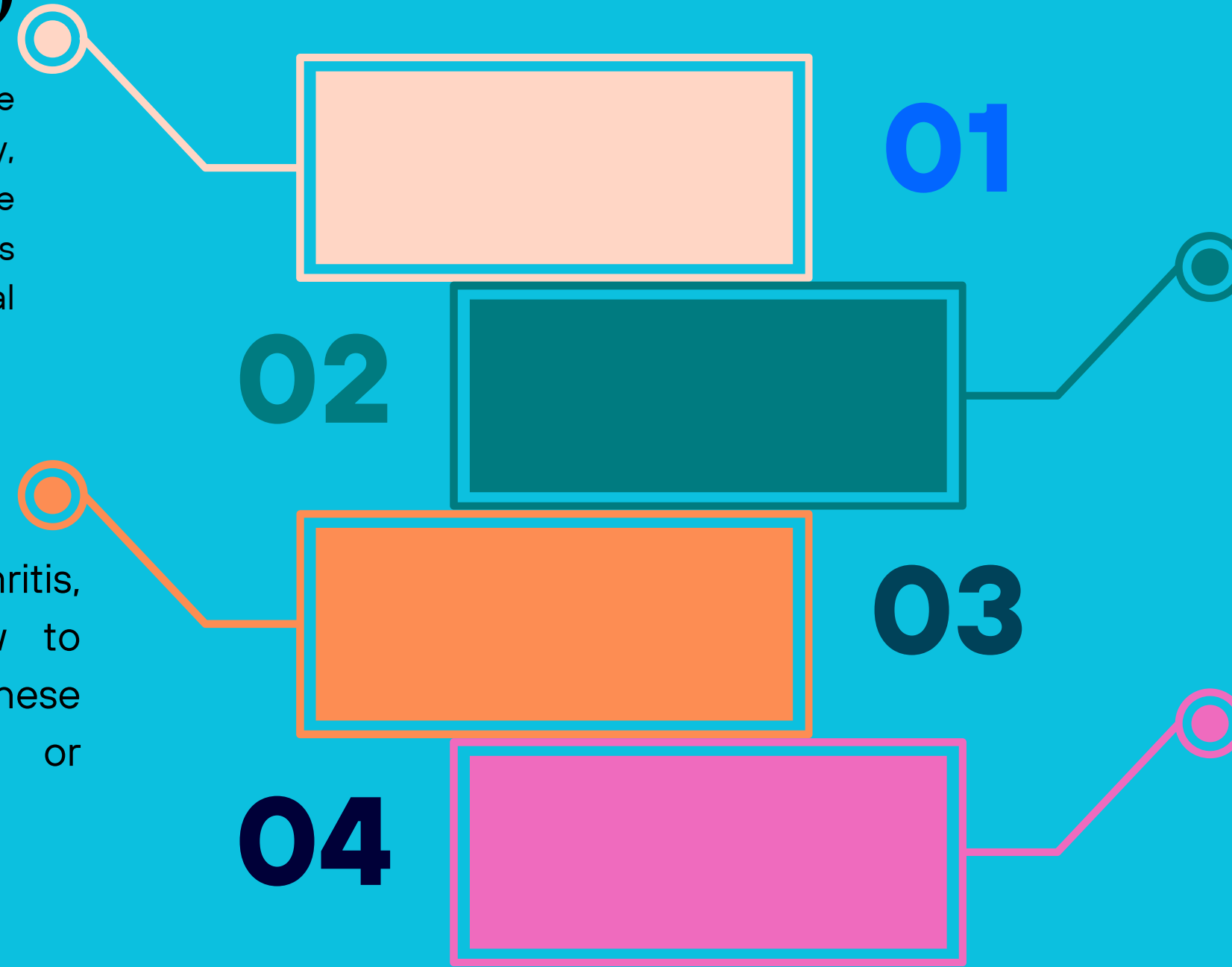
### 2. Smritis (Dharmasutras and Dharmashastras)

Smritis, meaning "what is remembered," systematically изложe rules of conduct and law based on Vedic ideas. Dharmasutras (800–200 BCE): Early prose texts on duties and customs.

Dharmashastras (later texts like Manusmriti): More systematic, covering civil law (vyavahara), religious duties, and penance. They translate abstract Vedic principles into concrete legal rules governing society.

### 4. Custom (Charitra)

Custom is a crucial source, especially in early society, reflecting practices accepted by the community. A custom gains legal force when it is ancient, continuous, certain, reasonable, and not against public policy or statute.



# MODERN SOURCES OF HINDU LAW



## 1. Legislation (Statutory Law)

- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956 (amended in 2005 to give daughters equal coparcenary rights)
- The Hindu Minority and Guardianship Act, 1956
- The Hindu Adoptions and Maintenance Act, 1956

## 2. Judicial Decisions (Precedents)

The doctrine of precedent (*stare decisis*) ensures that decisions of higher courts are binding on lower courts. Judges interpret statutes, resolve ambiguities, and sometimes fill gaps where legislation is silent.

## 3. Custom and Usage

A valid custom must be ancient, certain, reasonable, and not opposed to public policy or statutory law.



## 4. Equity, Justice, and Good Conscience

Where no clear rule exists, courts may decide cases based on principles of fairness, equity, and justice. This source allows flexibility and helps adapt the law to new social realities.



## 5. Scholarly Writings (Limited Role)

Unlike ancient times when texts like the Manusmriti or commentaries were primary sources, modern scholarly writings have only persuasive value. They may guide courts but are not binding.

## Reform of Hindu Laws

01

### Reforms by the British

- Bengal Sati Regulation, 1829
- Caste Disabilities Removal Act, 1850
- Hindu Widows' Remarriage Act, 1856
- Age of Consent Act, 1891
- Child Marriage Restraint Act, 1929
- Hindu Women's Right to Property Act, 1937

02

### Reforms by the Indian Parliament (Post-Independence)

- Hindu Marriage Act, 1955
- Hindu Succession Act, 1956
- Hindu Succession (Amendment) Act, 2005
- Hindu Minority and Guardianship Act, 1956
- Hindu Adoptions and Maintenance Act, 1956

# MARRIAGE

## SACRAMENT

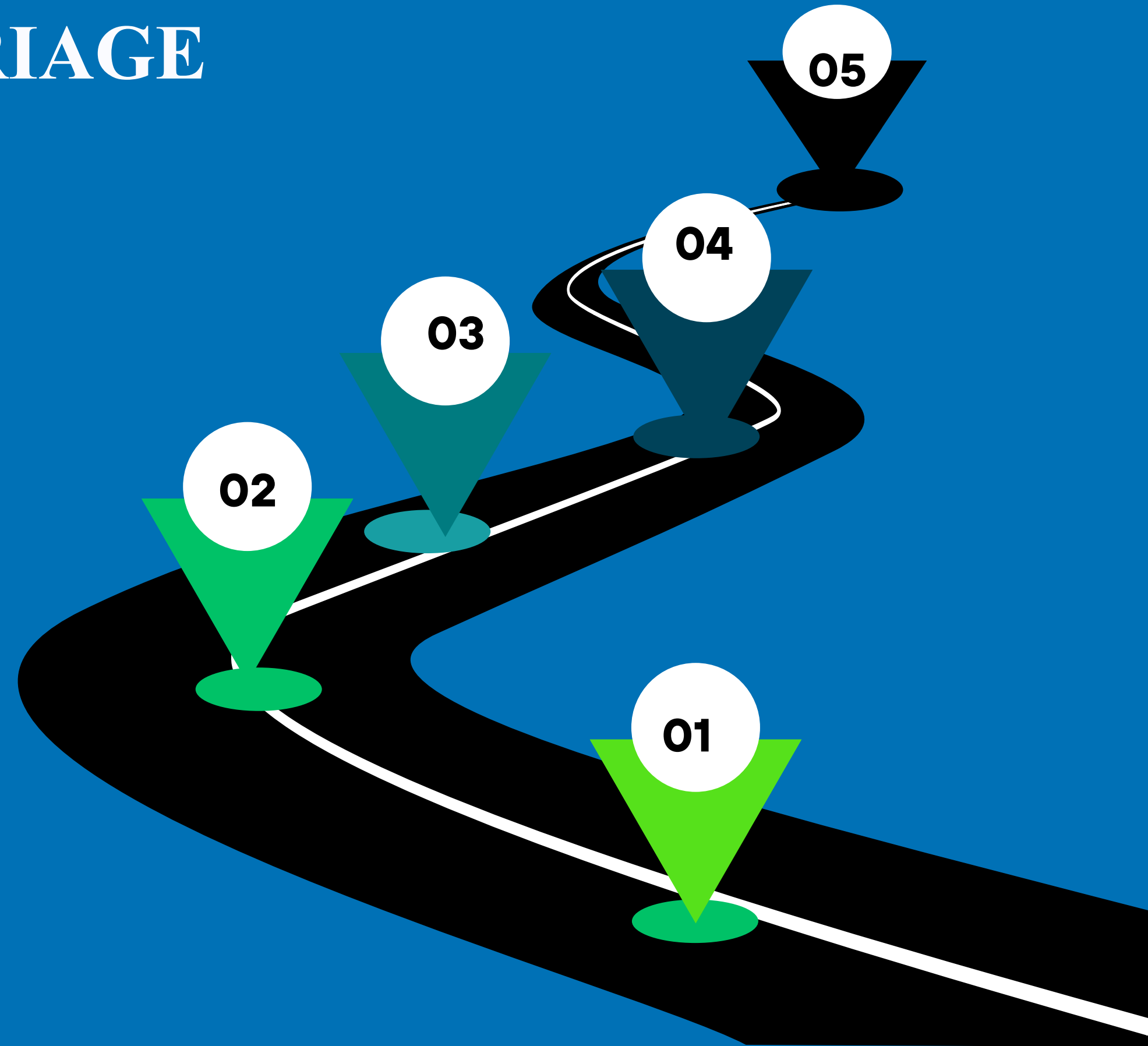
Eternal, extending beyond one lifetime

Permanent and indissoluble

Holy in nature

Performance of required ceremonies or formalities

Capacity to marry



# Key Traditional Ceremonies

**Saptapadi (Seven Steps Around the Sacred Fire)**



**Kanyadan (Giving Away of the Bride)**



**Vivaha-Homa (Sacred Fire**

**Panigrahana (Holding of Hands)**



**Ritual)**



# DOWRY



## Manusmriti

In classical Hindu law, marriage has traditionally been regarded as a sacred sacrament, often conceptualized as kanyadan the gifting of a daughter by her father. According to the Dharmashastras, particularly Manusmriti, the act of kanyadan was considered incomplete without dakshina (a form of gift) to the bridegroom. In the Brahma form of marriage, the father was expected to adorn his daughter with ornaments and garments and offer her to a groom, learned in the Vedas and of good conduct.



## Dowry Prohibition Act (as amended in 1984 and 1986),

Any property or valuable security given or agreed to be given, directly or indirectly, by one party to the marriage to the other party, or by parents or any other person, at or before or any time after the marriage, in connection with the marriage.”



## Transfer of Dowry to the Bride

The Act further mandates that any dowry received by a person other than the bride must be transferred to her **within three months** of its receipt. Where the bride is a minor, such transfer must occur within three months of her attaining majority. Until the transfer is completed, the recipient holds the dowry in trust for the benefit of the bride, thereby imposing a fiduciary obligation.



## Offences Relating to Dowry

The 1986 Amendment significantly strengthened the penal framework by prescribing a minimum punishment of **five years' imprisonment** along with a fine of not less than **₹15,000** or the value of the dowry, whichever is higher. The Supreme Court in State of Punjab v. Iqbal Singh (1991) underscored the necessity of strict enforcement of these provisions, recognizing dowry as a deeply entrenched social evil requiring rigorous legal intervention.

# Sati Praxis in India

1

Patriarchal norms  
restricting widows'  
rights

3

Property and  
inheritance  
concerns

2

Social stigma  
attached to  
widowhood

4

Misinterpretations  
of religious texts



# Post Sati



In traditional Hindu custom, a widow wears a plain white saree often without a border to symbolize mourning, purity, and detachment from worldly pleasures following her husband's death



# Abolition of Sati Practices

**Bengal Sati Regulation, 1829**

**by Governor-General Lord William Bentinck.**

**Raja Ram Mohan Roy**

whose reformist critique combined:

- a) Scriptural reinterpretation (arguing Sati lacked authoritative basis in Hindu law)
- b) Moral and humanitarian reasoning
- c) Empirical evidence of coercion and abuse

**Constitution 1950**

**Article 21: Right to Life and Dignity**

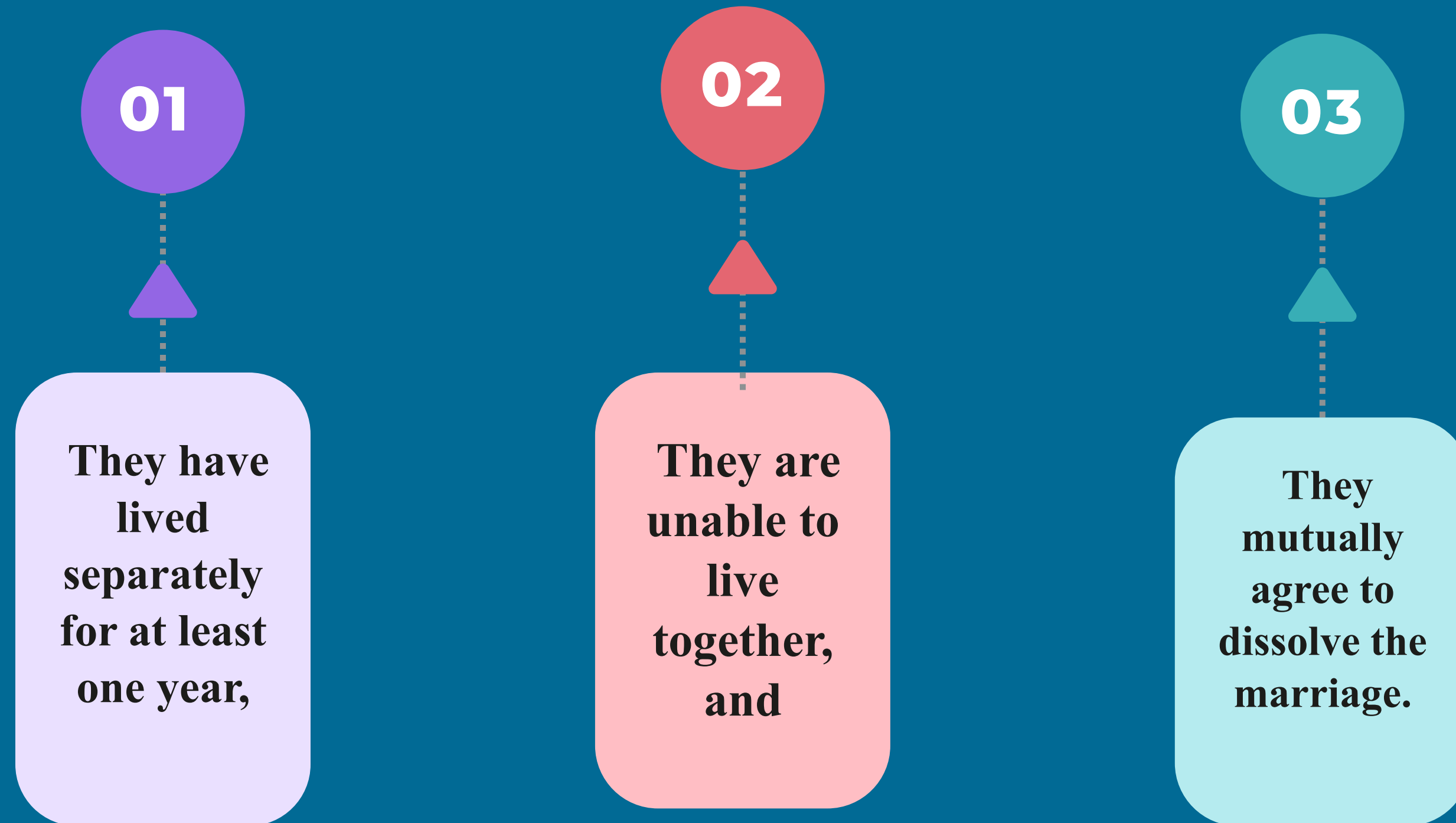
Ø Article 14 (equality before law) by reinforcing unequal social roles

Ø Article 15(1) by discriminating on grounds of sex

Article 25 guarantees freedom of conscience and the right to freely profess, practice, and propagate religion, but this right is subject to public order, morality, and health.

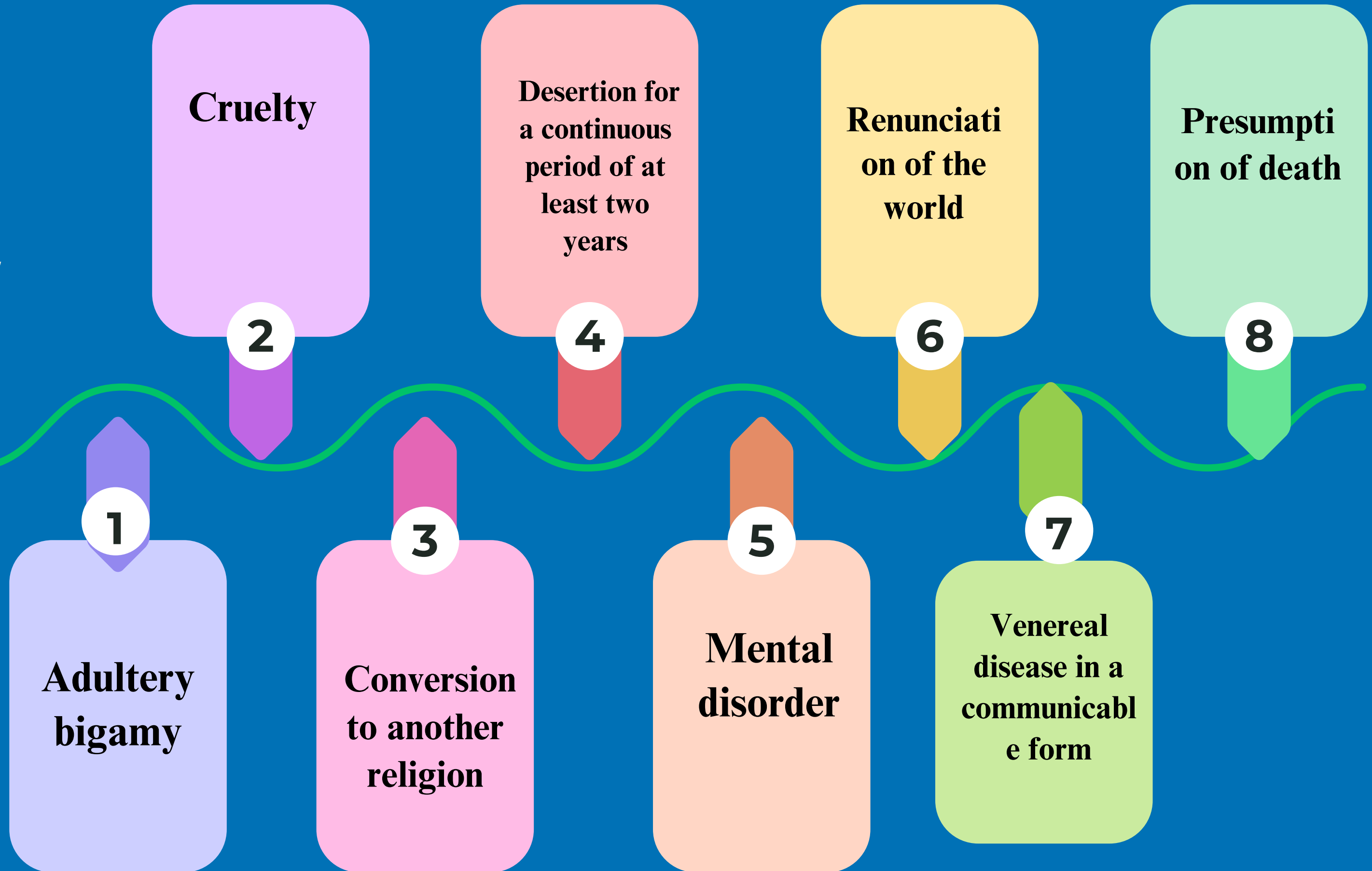
**Commission of Sati (Prevention) Act, 1987**

# Divorce by Mutual Consent



# **DIVORCE**

## **Judicial Separation under Hindu Law**



# **COURT TO WHICH THE PETITION IS TO BE FILED IN THE CASE OF DIVORCE RELATED ISSUES**

**District Court**



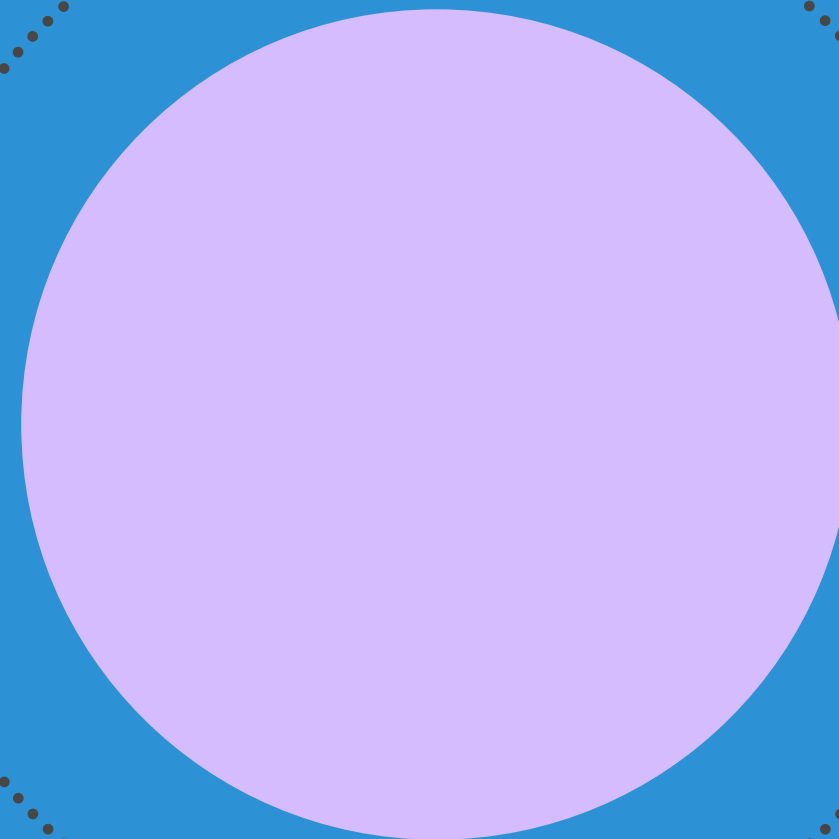
**Family Courts**



**High Courts**



**Supreme Court**



# LAW CAREER IN INDIA

## Bachelor's Degree

- BA LL.B. (Arts + Law)
- BBA LL.B. (Business Administration + Law)
- B.Com LL.B. (Commerce + Law)
- B.Sc LL.B. (Science + Law)
- LL.B. (3-year course)

### ADMISSION:

- Usually through entrance exams such as:
- CLAT (Common Law Admission Test)
- AILET (for NLU Delhi)
- LSAT—India
- State-level or university-specific exams

## Master's Degree

After LL.B., you can specialize further:  
LL.M. (Master of Laws) – 1 or 2 years  
Specializations include:

- Constitutional Law
- International Law
- Corporate Law
- Intellectual Property Law
- Human Rights Law

## Doctoral Studies

Ph.D. in Law – for academic, research, or policy careers

### Admission:

Often through CLAT-PG or university exams.

## Career Options

A law degree opens multiple paths:

- Litigation (Advocate)
- Corporate lawyer / Legal advisor
- Judiciary (Judge via exams)
- Legal academia (Professor, Researcher)
- Civil services
- NGOs / Human rights organizations
- Arbitration and international law practice

## Top Law Universities in India

- National Law Universities (NLUs)
- Delhi University (Faculty of Law)
- Jindal Global Law School
- Symbiosis Law School



**Thank**

**You**