

# Hindu Adoption



# &

# Maintenance

# Act, 1956

By Anoop Upadhyay



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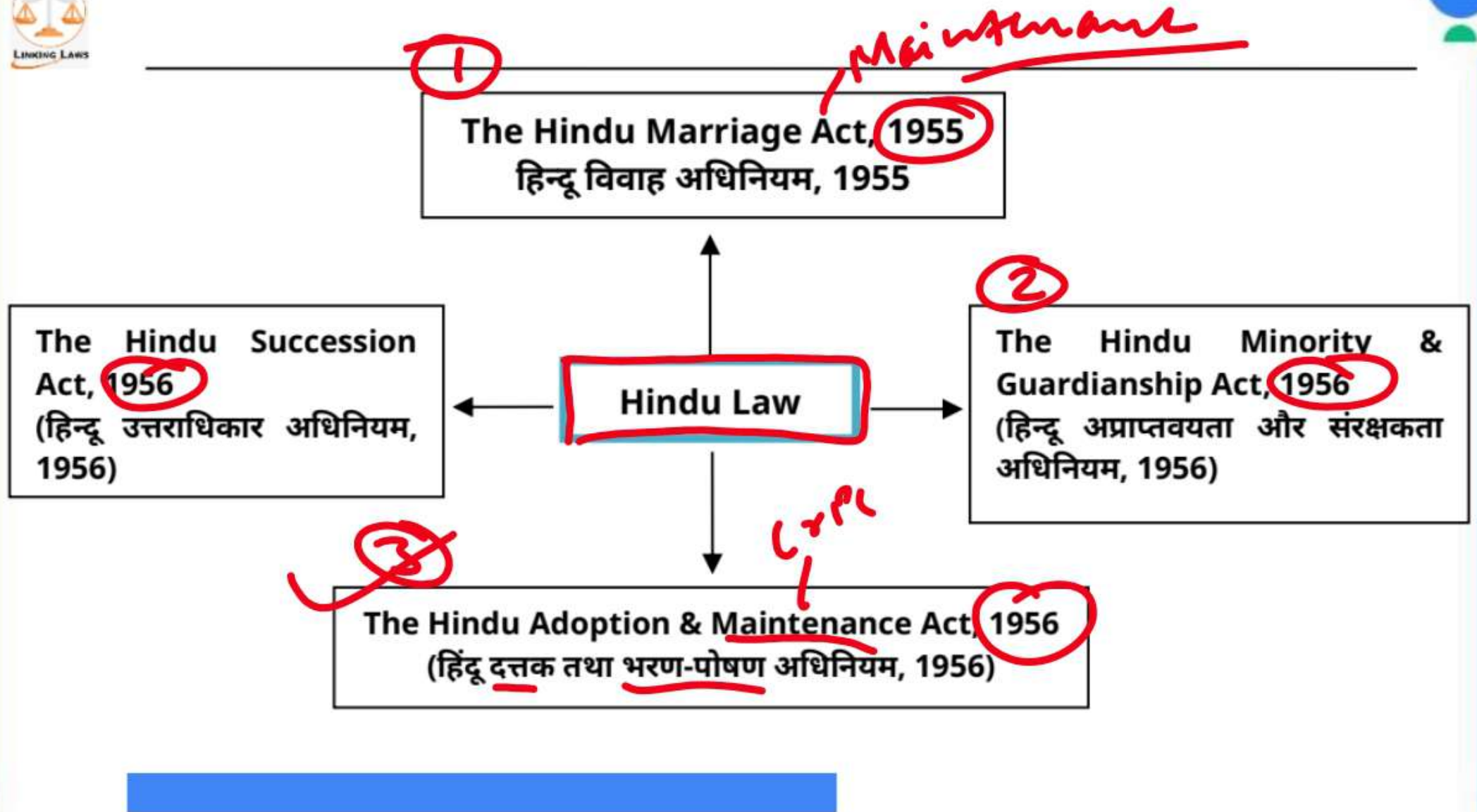
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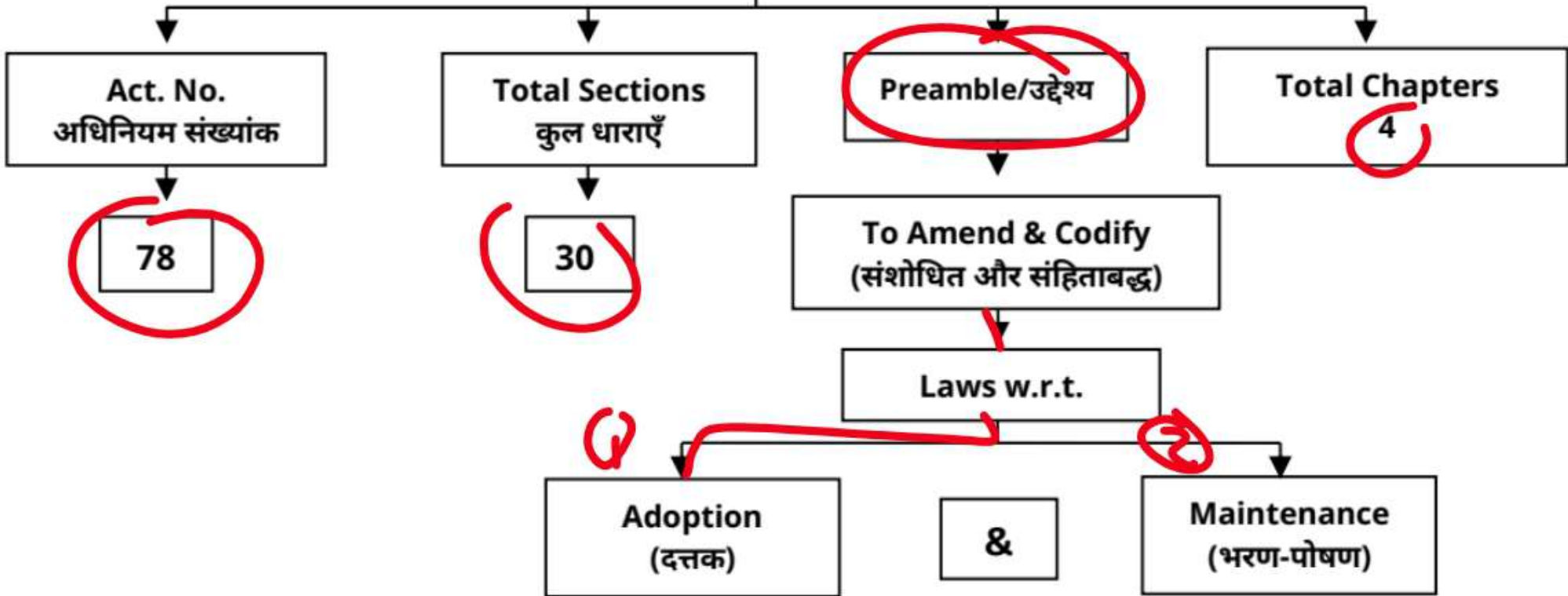


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# HAMA

## The Hindu Adoption & Maintenance Act, 1956 (हिंदू दत्तक तथा भरण-पोषण अधिनियम, 1956)



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Range		
Ch. No.	Chapter Name	Section
✓ 1.	Preliminary (प्रारम्भिक)	1-4
2.	<u>Adoption (दत्तक)</u>	5-17
3.	<u>Maintenance (भरण-पोषण)</u>	18-28
4.	Repeal & Savings (निरसन और व्यावृत्तियाँ)	29-30

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## Chapter 1 Preliminary (1-4)

Sec. 1

Short-Title (संक्षिप्त नाम)

Extent (विस्तार)

The Hindu Adoption & Maintenance Act, 1956  
(हिंदू दत्तक तथा भरण-पोषण अधिनियम, 1956)

Whole of India  
(संपूर्ण भारत पर)

Date of assent/ enactment

21<sup>st</sup> December, 1956 (लागू/प्रारम्भ)

Date of Commencement (लागू/प्रारम्भ)

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Sec. 2 - Application of the Act  
(अधिनियम का लागू होना)

Repeat

Q. Who is Hindu ?

Ans. Sec. 2 - Application of the Act.  
अधिनियम का लागू होना।

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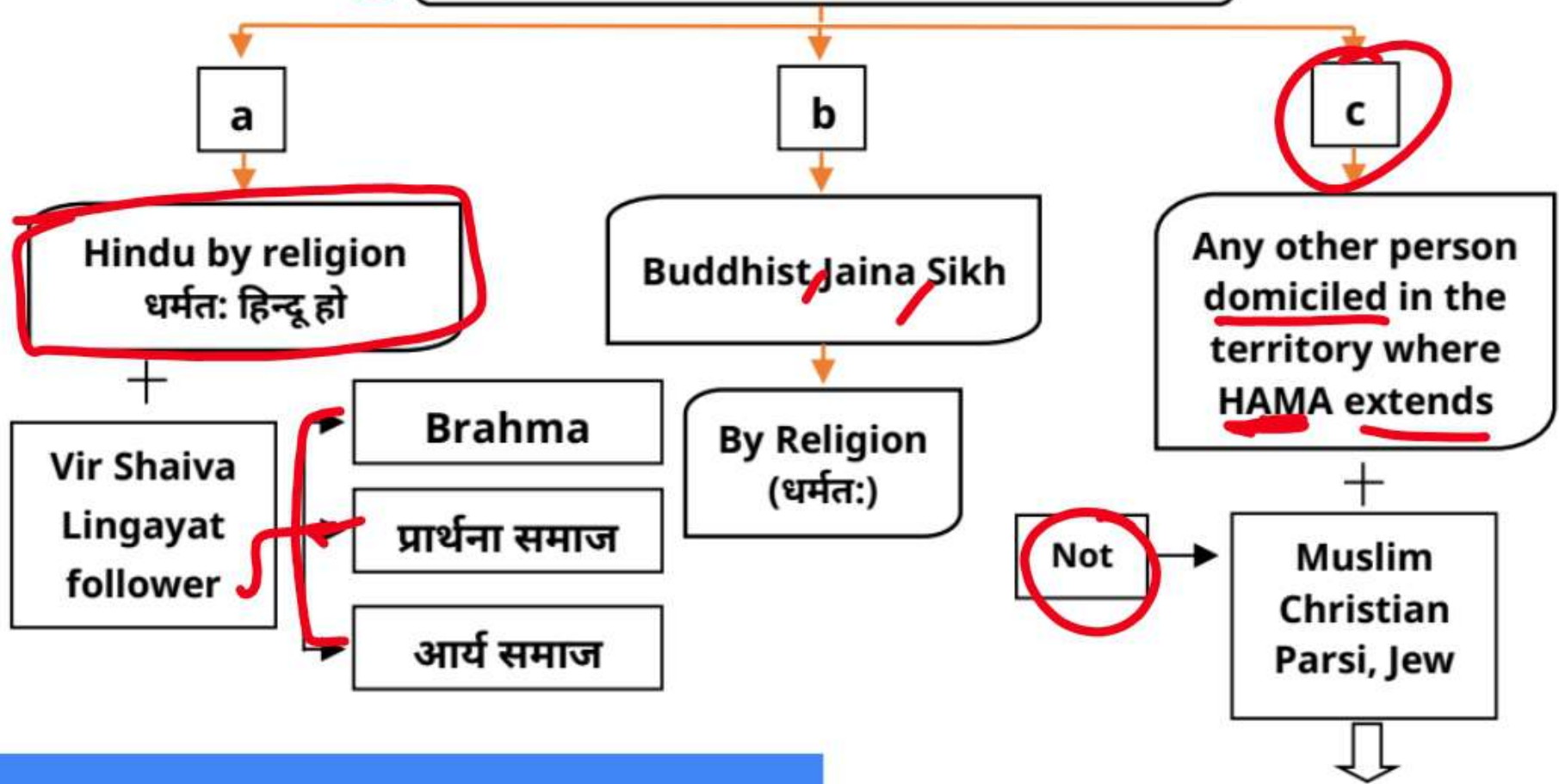
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## Sec. 2 : who is Hindu (हिन्दू कौन है?)



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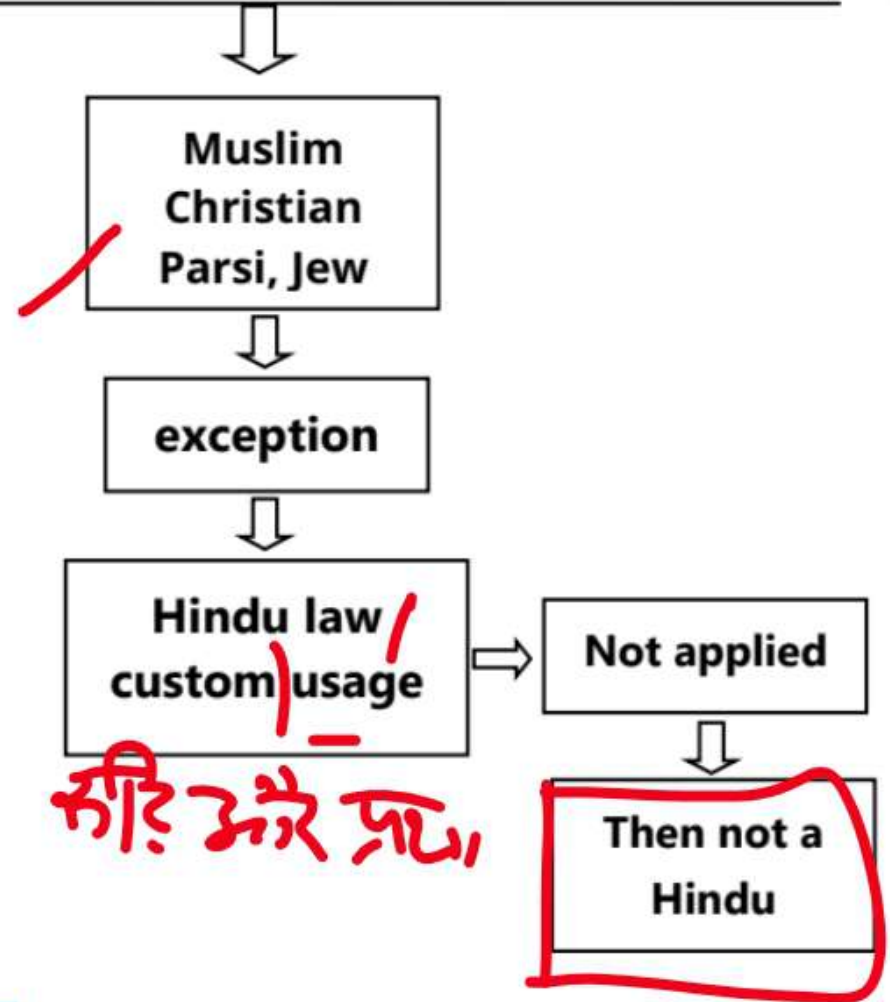


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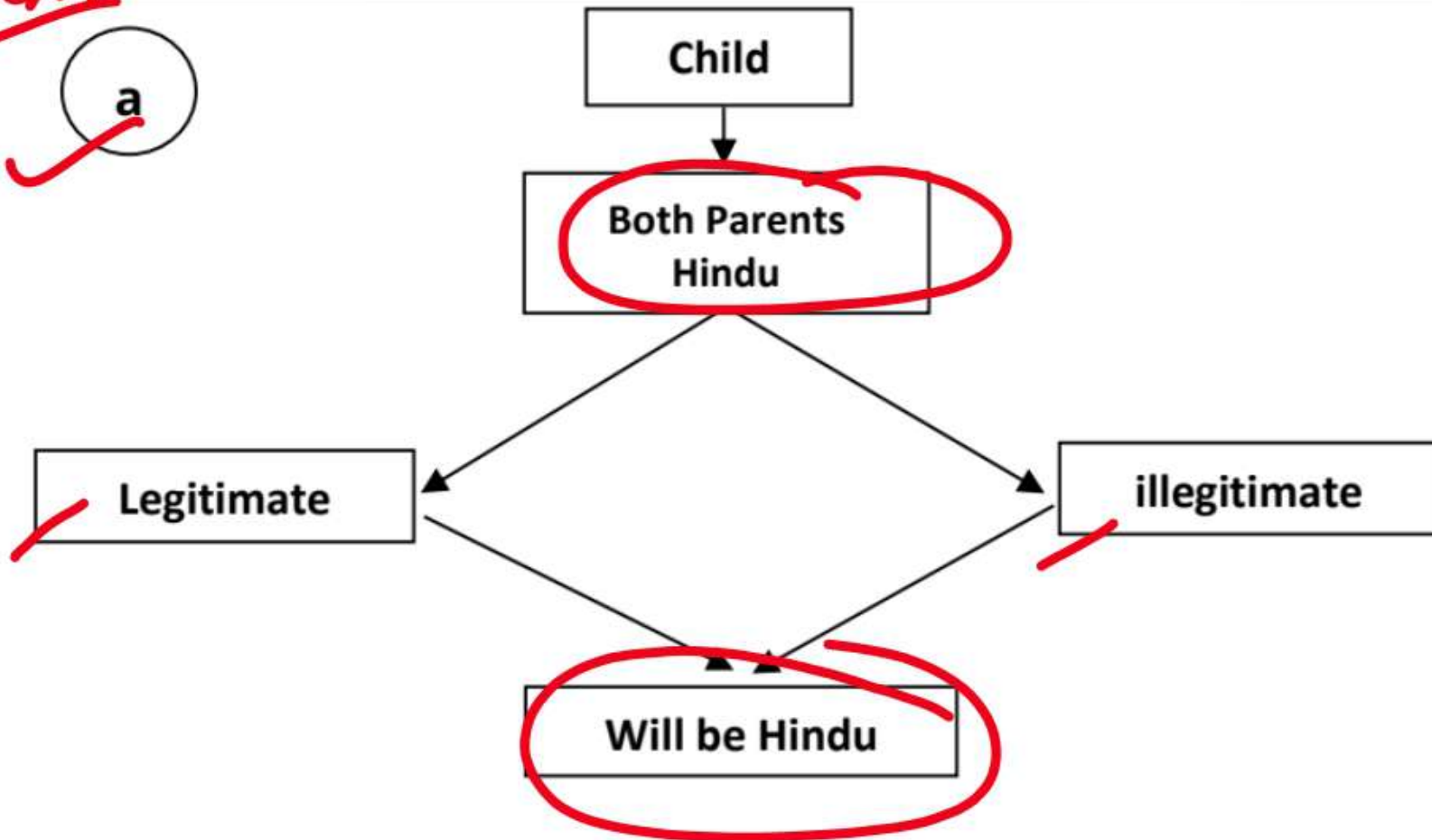
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Ex. 1.  
a



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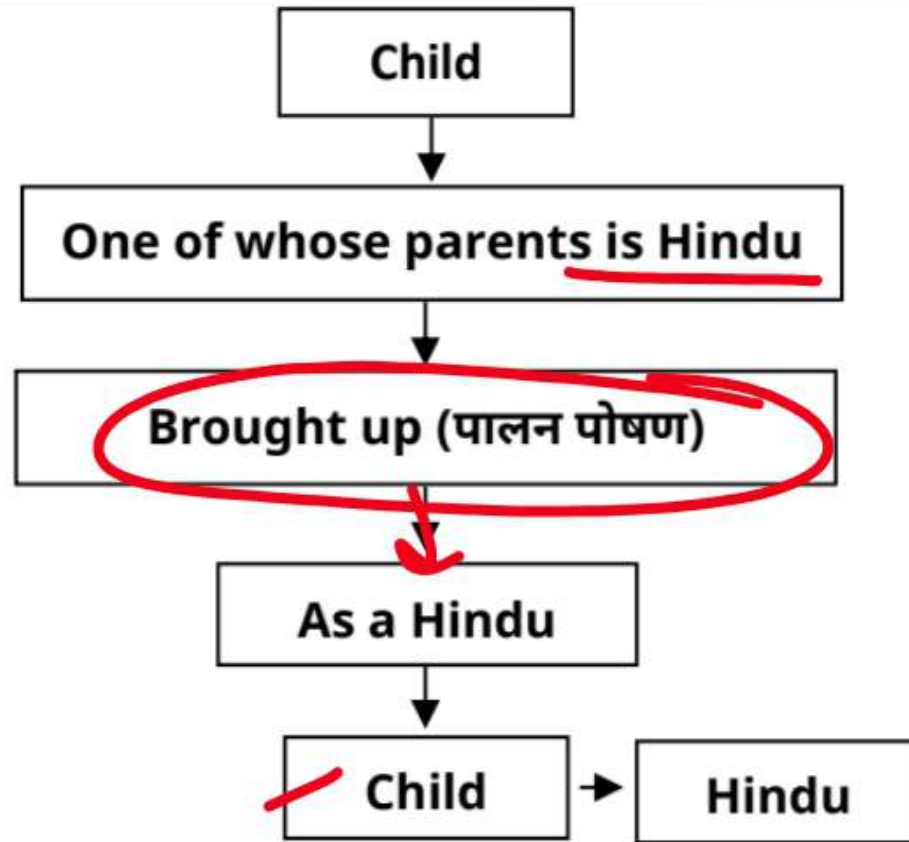
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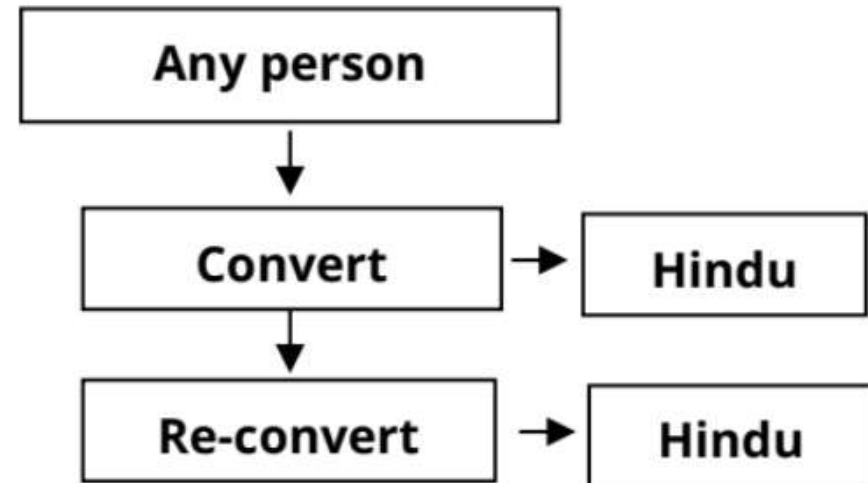
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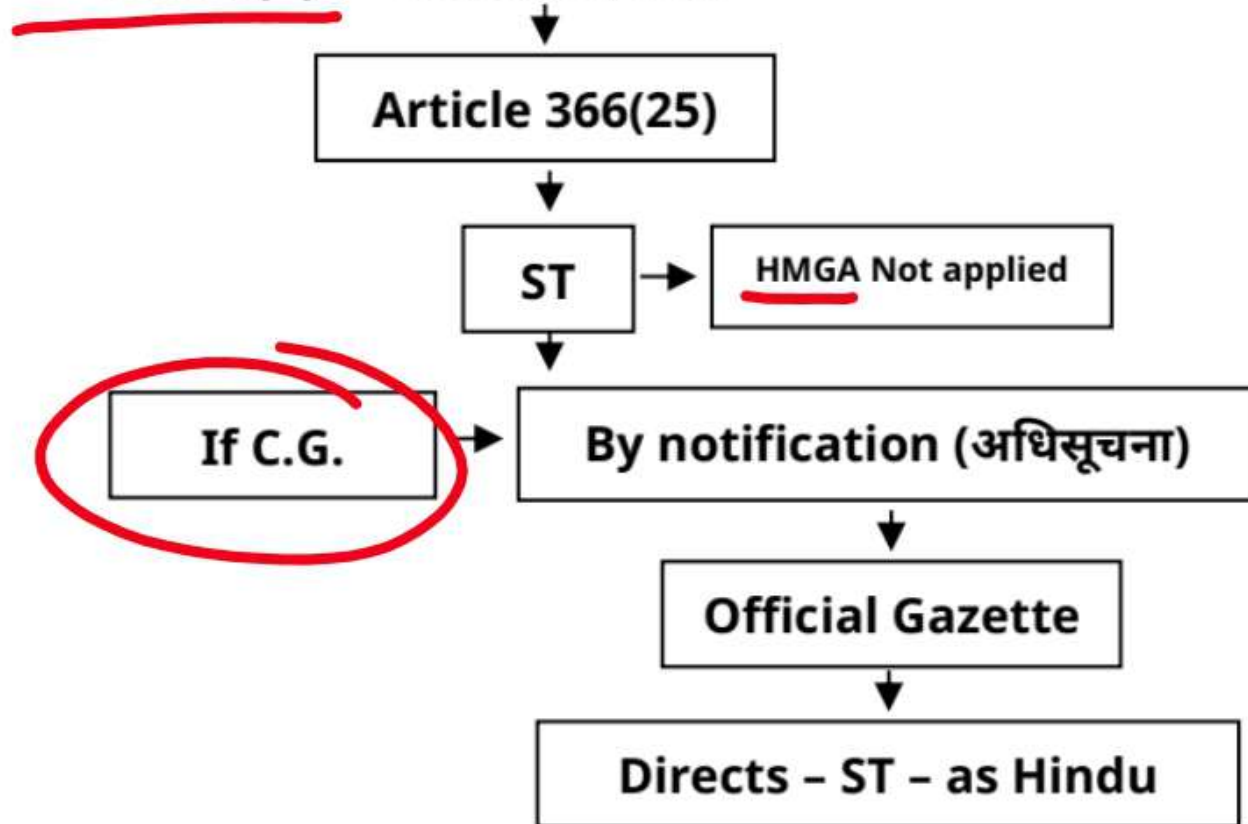


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## Sec. 2(2) : - Constitution



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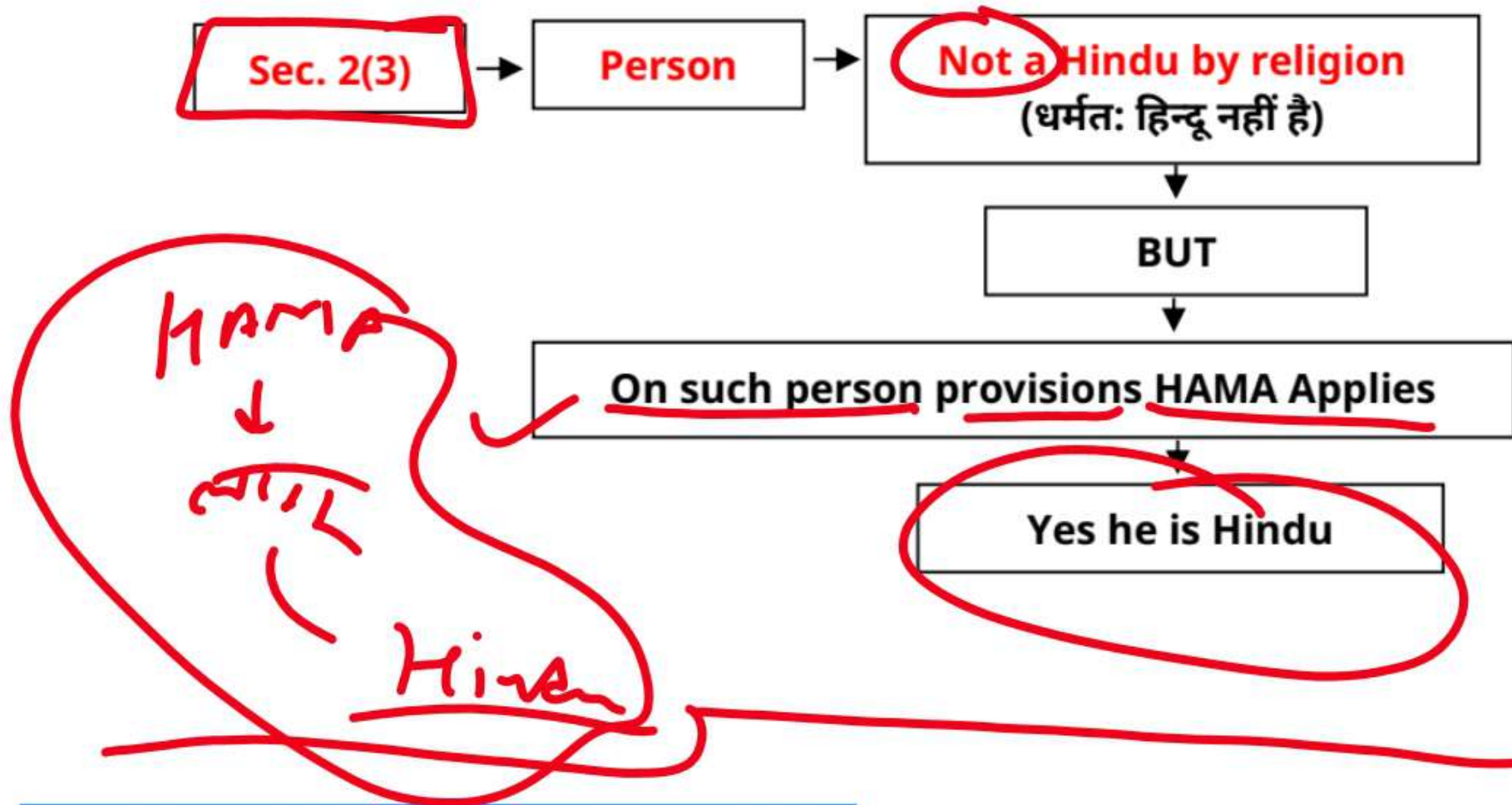
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## Sec. 3 Definitions (परिभाषाएं)

Sec. 3(a)  
Custom & Usage  
(रूढ़ि और प्रथा)

Sec. 3(b)  
Maintenance  
(भरण-पोषण)

Sec. 3(c)  
Minor  
(अप्राप्तवय)

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(a) the expressions "custom" and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:

"रूढि" और "प्रथा" पद ऐसे किसी भी नियम का संज्ञान कराते हैं जिसने दीर्घकाल तक निरन्तर और एकरूपता से अनुपालित किए जाने के कारण किसी स्थानीय क्षेत्र, आदिम-जन-जाति समुदाय समूह या कुटुम्ब के हिन्दूओं में विधि का बल अभिप्राप्त कर लिया हो :

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Reasonable  
↳ ↓ ↘ (Rij)  
④ ③ ⑦  
UP / Bihar  
⑦

Provided that the rule is **certain** and **not unreasonable** or **opposed to public policy**: and

परन्तु यह तब जब कि वह नियम निश्चित हो, और अयुक्तियुक्त या लोकनीति के विरुद्ध न हो; तथा

Provided further that, in the case of a rule applicable only to a **family**, it has **not been discontinued** by the family;

परन्तु यह और भी कि ऐसे नियम की दशा में जो एक कुटुम्ब को ही लागू हो, उसकी निरन्तरता उस कुटुम्ब द्वारा बन्द न कर दी गई हो;

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(b) **'maintenance'** includes (भरण पोषण' के अन्तर्गत)—

(i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment;  
सब दशाओं में भोजन, वस्त्र, आवास, शिक्षा और चिकित्सीय परिचर्या और इलाज के लिए उपबन्ध आता है;

(ii) in the case of an unmarried daughter, also the reasonable expenses of and incident to her marriage;

अविवाहिता पुत्री की दशा में उसके विवाह के युक्तियुक्त और प्रासंगिक व्यय भी आते हैं;

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(c) **“minor”** means a person who has not completed his or her age of eighteen years.

**“अप्राप्तवय”** से वह व्यक्ति अभिप्रेत है जिसने अपनी अठारह वर्ष की आयु पूरी न की हो।

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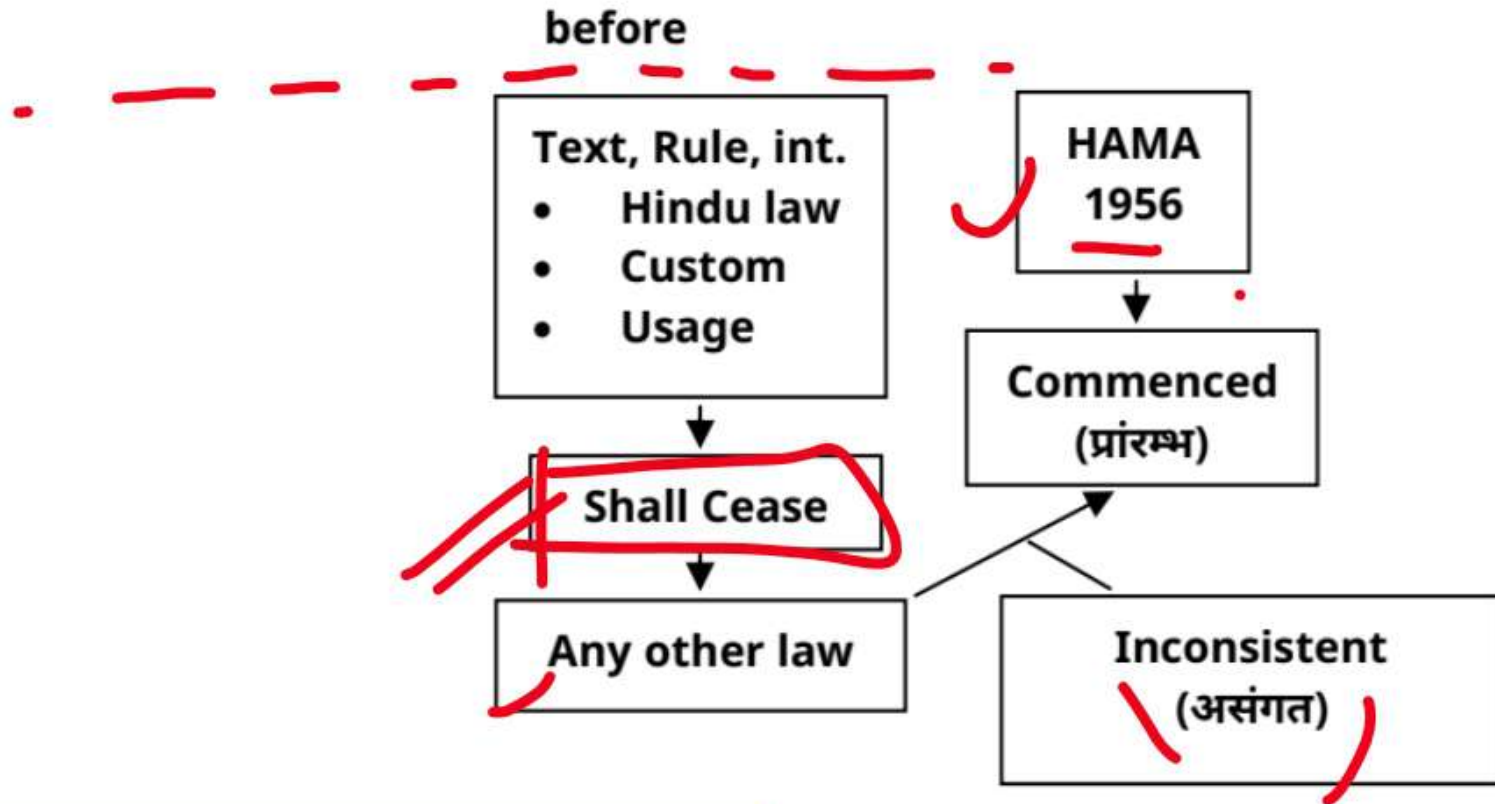
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**Sec. 4 - overriding effect / अध्यारोही प्रभाव**



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## Meaning of Adoption (दत्तक का अर्थ) :-

Adoption is a process whereby a person assumes the parenting of another, usually a child, from that person's biological or legal parent or parents.

दत्तक ग्रहण एक ऐसी प्रक्रिया है जिसके द्वारा एक व्यक्ति दूसरे के पालन-पोषण की कल्पना करता है, आमतौर पर एक बच्चा, उस व्यक्ति के जैविक या कानूनी माता-पिता या माता-पिता से।

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**Sec. 5 :- Adoption to be Regulated by ch-2 i.e.**

**Adoption (Sec. 5 to 17)**

दत्तक ch-2 के धारा 5 से 17 के प्रावधानों द्वारा विनियमित होंगें।

Any Adoption made in contravention of the Provisions of ch-2 shall be void.

अध्याय - 2 के प्रावधानों (उपबन्धों) के उल्लंघन में किया गया कोई भी दत्तक शून्य होगा।

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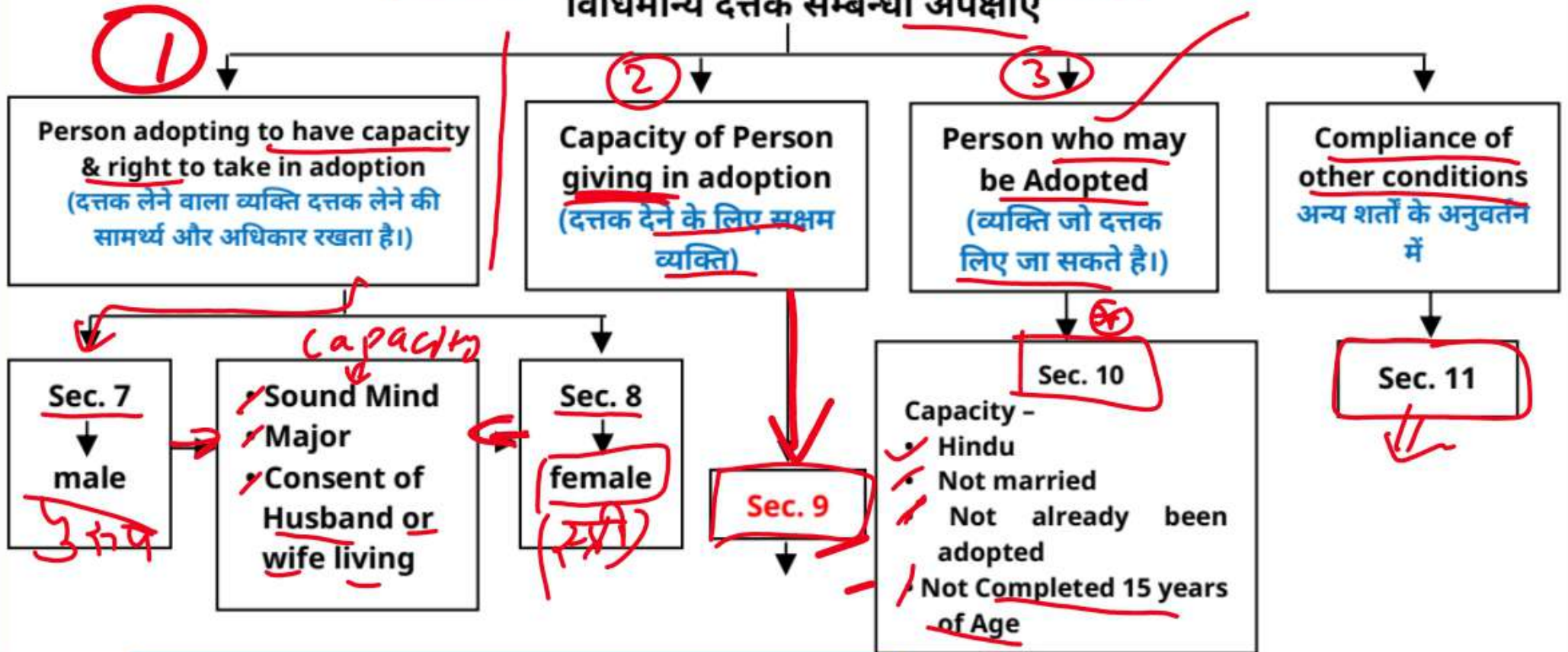


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## Sec. 6 - Requisites of a valid Adoption

विधिमाम्य दत्तक सम्बन्धी अपेक्षाएं



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Sec. 7

If more than one wife  
(एक से अधिक पत्नीयाँ हो)

Consent of all wives is necessary  
(सब पत्नियों की सम्मति आवश्यक है)

Exception of Sec. 7 & 8, 9

No need to take consent of husband or wife if -

- Renounced the Word (संसार का त्याग कर दिया)
- Ceased to be a Hindu (हिन्दू न रह गया हो)
- Unsound Mind (विकृत चित्त)



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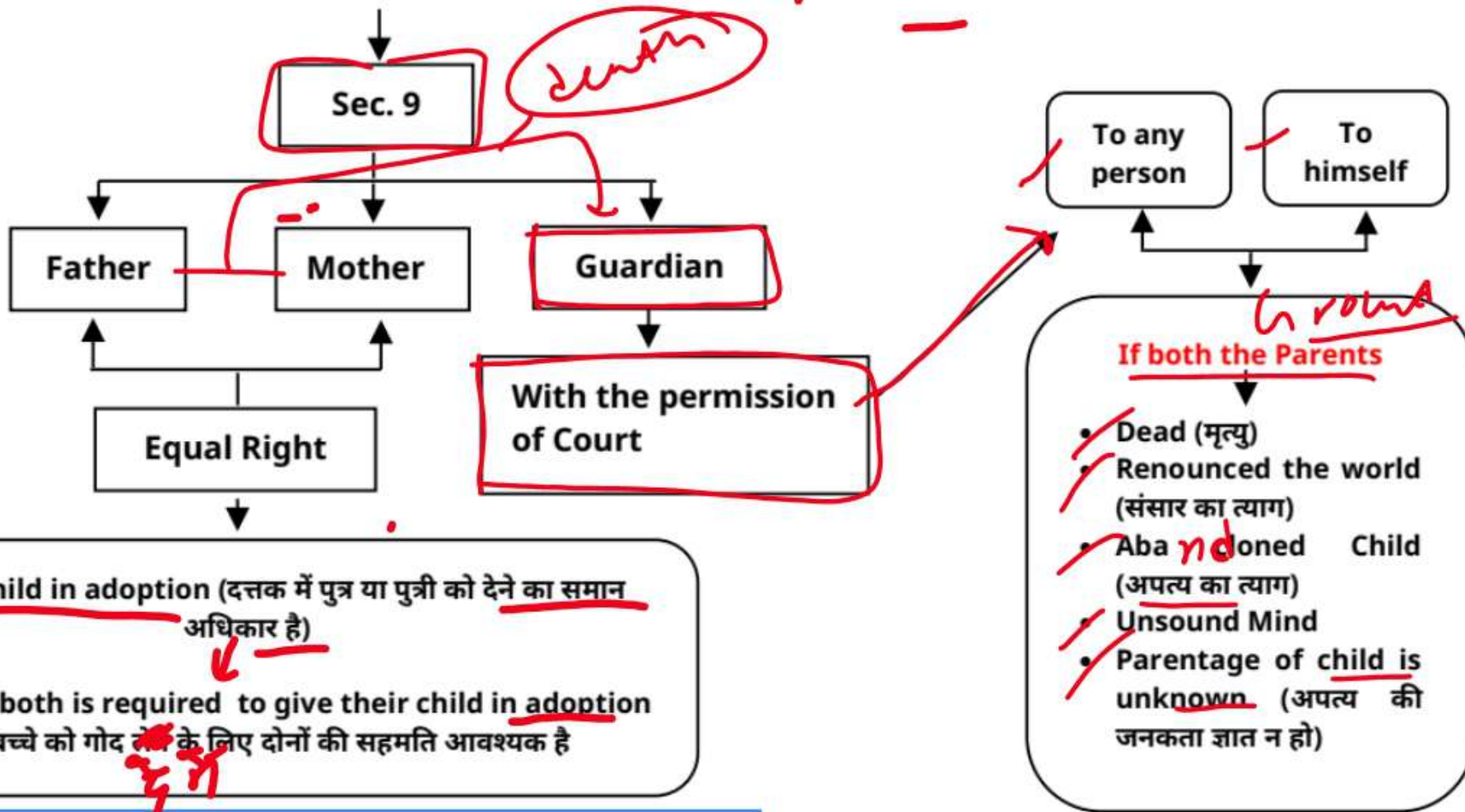
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# Living in Adoption



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Sec. 11 Compliance of other conditions for a valid adoption

अन्य शर्तों के अनुवर्तन में



S. 10

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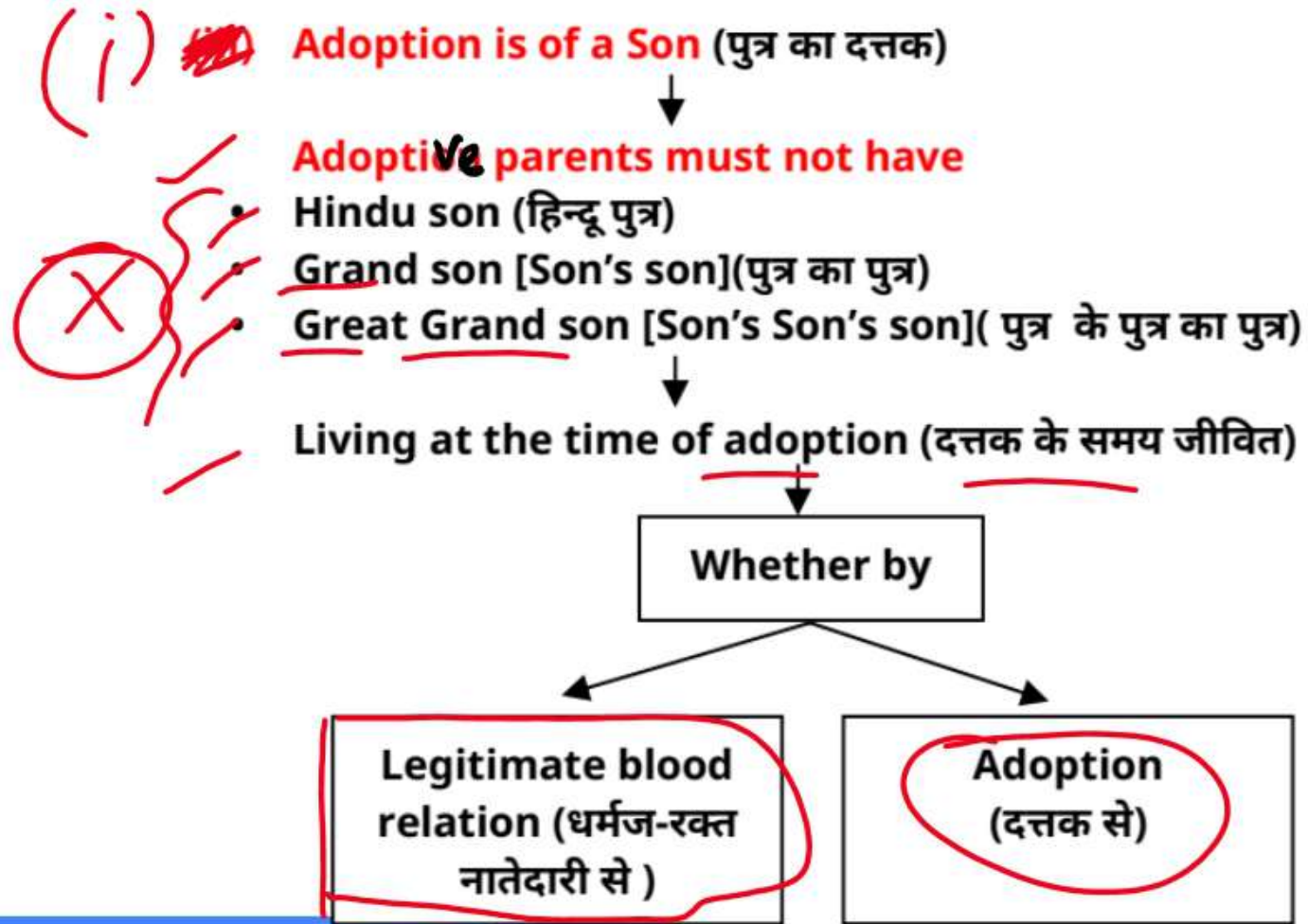


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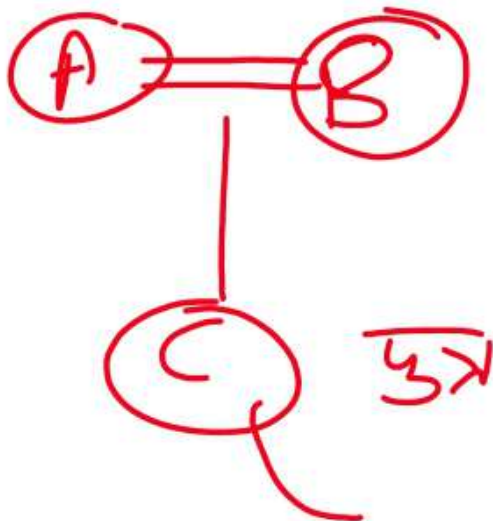


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**Example :-**



A and B has a son 'C'  
A और B का एक बेटा 'C' है

C has converted to islam  
C ने इस्लाम कबूल कर लिया है

Can A & B adopt a son -  
क्या ए और बी एक बेटा गोद ले सकते हैं -

दस्तावेज

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Yes/ हाँ

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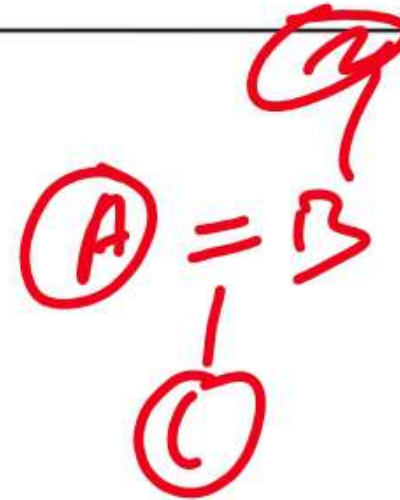
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Example :-

A and B has a son 'C'  
A और B का एक बेटा 'C' है



C has illegitimate  
सी अवैध है

Can A & B adopt a son  
क्या ए और बी बेटा गोद ले सकते हैं



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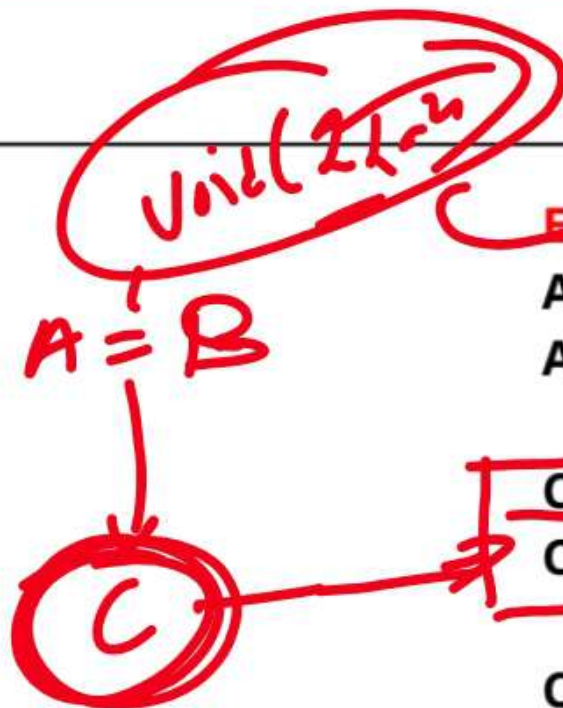
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**Example :-**

A and B has a son 'C'

A और B का एक बेटा 'C' है

**C was born out of void/voidable marriage.**

C का जन्म शून्य/शून्यकरणीय विवाह से हुआ था।

Can A & B adopt a son -

क्या ए और बी बेटा गोद ले सकते हैं

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**:- No :-**

Reason →  
(बाल्य)

**Sec. 16 of Hindu Marriage Act :- Child born out of void/voidable marriage will be legitimate child.**

**हिन्दू विवाह अधिनियम की धारा 16 :- शून्य /शून्यकरणीय विवाह से उत्पन्न संतान वैध संतान होगी।**

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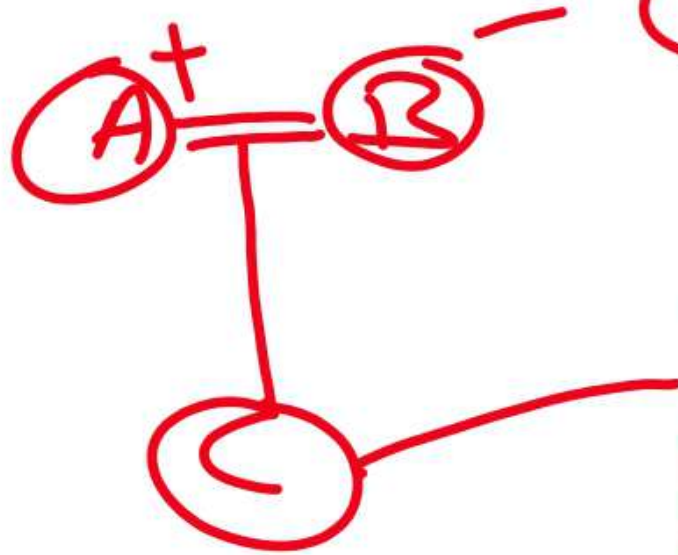
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दूसरा प्रश्न



**Example :-**

A and B has a son 'C'  
A और B का एक बेटा 'C' है

C is step son (सौतला बेटा)

Can A & B adopt a son  
क्या ए और बी बेटा गाद ले सकते हैं

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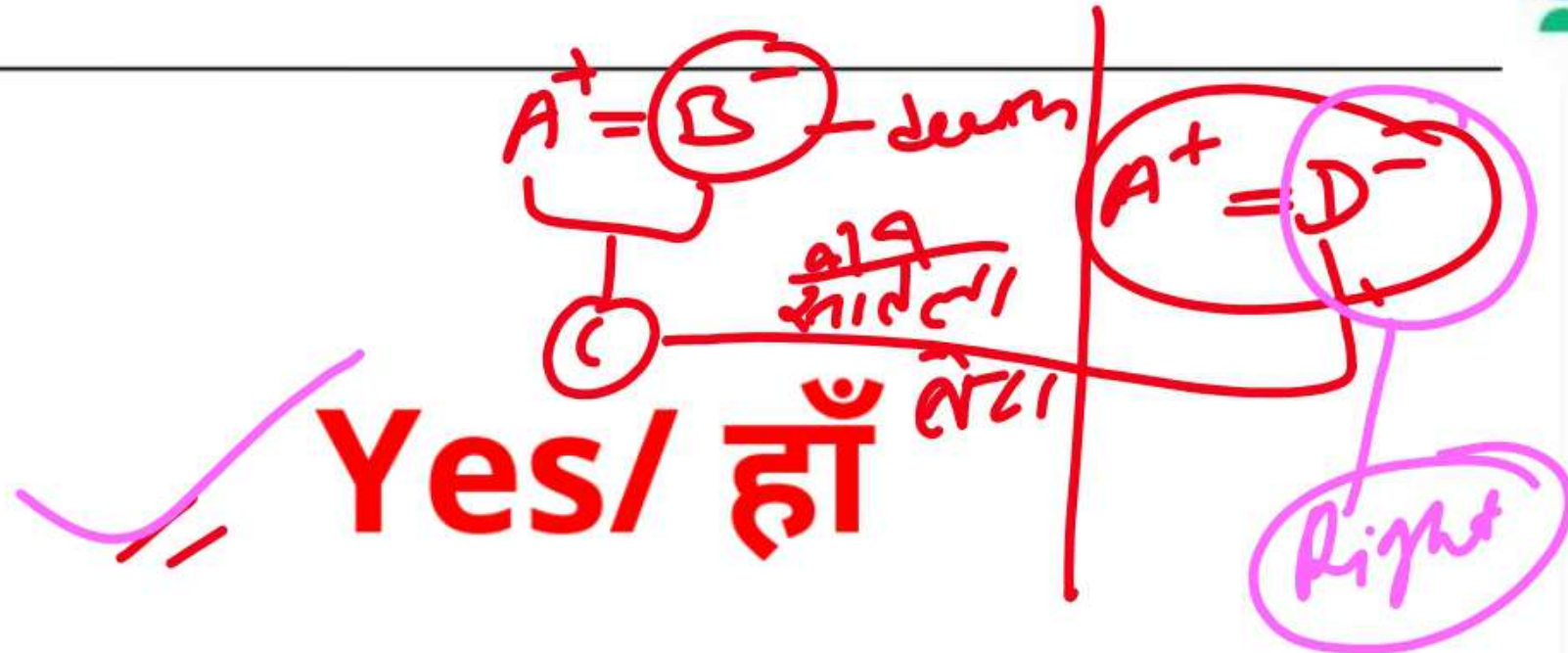


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Sec. 11

(ii) Adoption is of a daughter (पुत्री का दत्तक)

Adoptive parents must not have

Hindu Daughter (हिन्दू पुत्री)

- Sons Daughter (दत्तक के समय जीवित)

Living at the time of adoption (दत्तक के समय जीवित)

Whether by

Legitimate blood  
relation (धर्मज-रक्त  
नातेदारी से)

Adoption  
(दत्तक से)

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S.11

(iii) & (iv) :-

Pre

Minimum 21 year of Age difference

If a male wants to adopt a female child

Or

If a female wants to adopt a male child

Adoptive person (Male/Female) must be 21 year older than person being adopted.

$$\begin{array}{r} 40 \\ - 21 \\ \hline 19 \end{array}$$

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~~(v)~~ Simultaneous adoption of same child by 2 or more person not allowed.  
वही अपत्य एक साथ दो या दो से अधिक व्यक्तियों द्वारा दत्तक नहीं किया जा सकेगा।

~~(vi)~~ Actual giving & taking in adoption  
दत्तक में वस्तुतः लेना आर देना।

↓  
} Child to be adopted must actually be given & taken in adoption.



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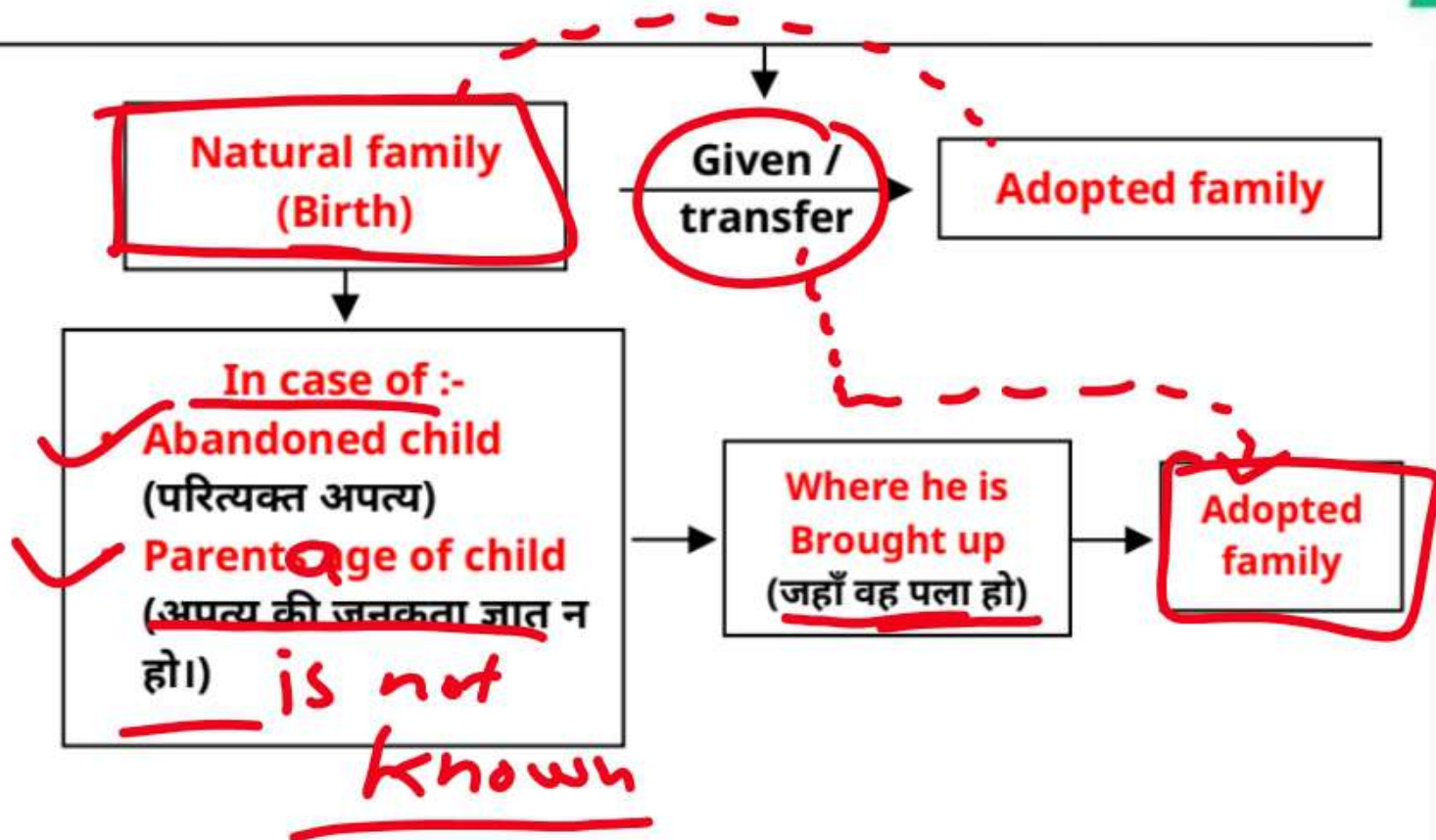
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Case :-

1. L. S. Kothari v/s S.R. Kumar (1961) SC

2. Jogendra Manjhi v/s Baliar Singh (2007) orisa

Ceremony of giving and taking child is essential for the valid adoption.

बालक को समारोह (कार्यकाण्ड) में लेना और लेना आवश्यक है।

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Not

Pre

Compulsory

V.V. Jamb

**Datta homam** (दत्त होमम्) :-

It is a ceremony relating to sacrifice of burning of clarified butter.

घी जलाने का आहुति का समारोह दत्त होमम् कहलाता है।

Now it shall not be essential to the validity.  
अब यह दत्तक की विधिमान्यता के लिए आवश्यक नहीं है।

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1782

Note :-

A Hindu woman

- Unmarried/married (अविवाहित/विवाहित)
- Widow (विधवा)
- Divorced (तलाक)
- Whose marriage has been dissolved
- Unchaste woman (अपवित्र)

Has capacity to adopt.

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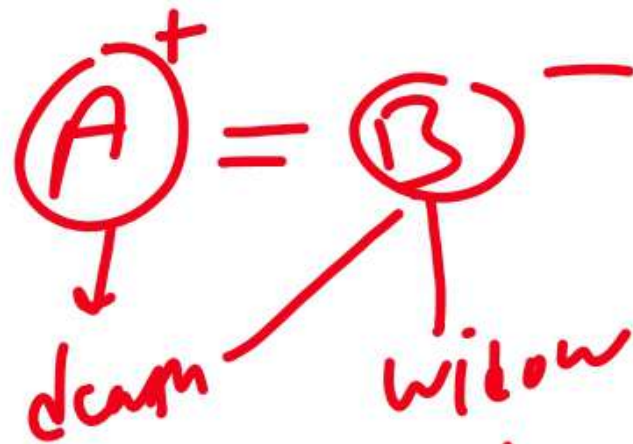


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Case :- Sita Bai v/s Ram Chandra (1970) SC.



A child adopted by the widow will be deemed to be a child not only of the widow but also of the deceased husband of the widow.

विधवा द्वारा दत्तक लिया गया पुत्र केवल उसका ही पुत्र नहीं होगा बल्कि विधवा के मृतक पति का भी होगा।



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Case :- Kishori Lal v/s Chalti Bai (1959) SC.



The adoption is to be proved as a fact and the burden is on the person who asserts so.  
दत्तक को एक तथ्य की तरह साबित किया जायेगा तथा भार उस पर होगा जो उसका प्राख्यान करता है।

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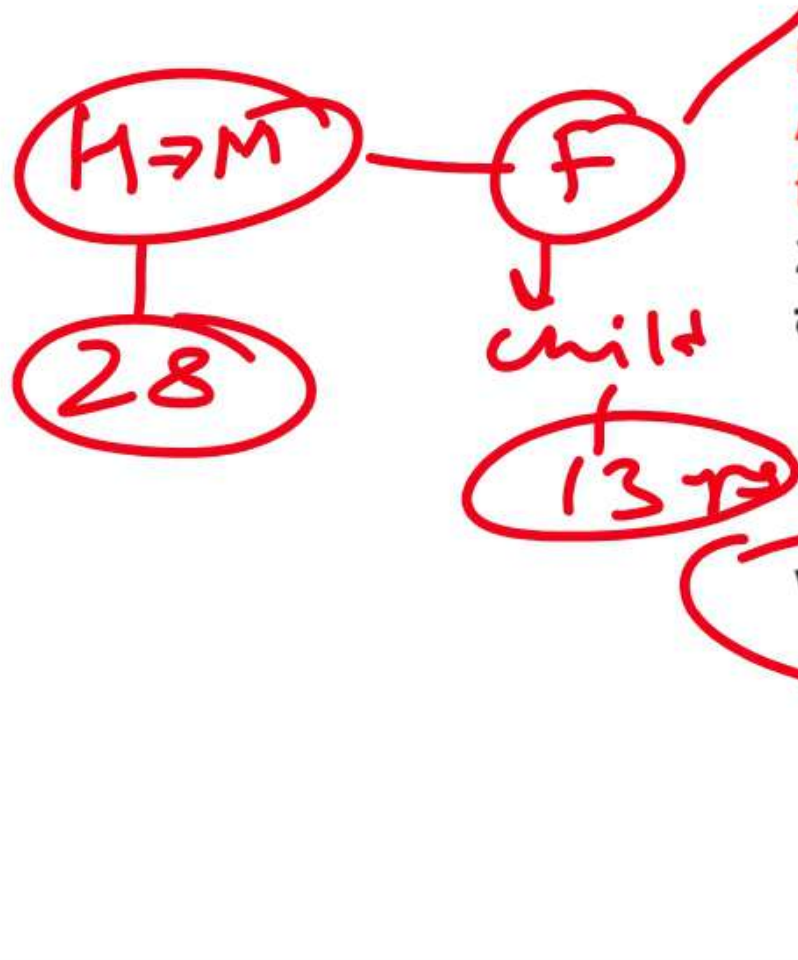
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Example :-

A Hindu male of 28 years of age adopts a female child of 13 years of age.

28 वर्ष का एक हिन्दू पुरुष 13 वर्ष की एक कन्या को गोद लेता है।

The adoption is

Void (शून्य)

Voidable (शून्यकरणीय)

21 yrs

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\* Adoption can never be cancelled by -  
दत्तक कभी रद्द नहीं किया जा सकता -

- Adoptive father (दत्तक पिता)
  - Adoptive Mother (दत्तक पिता)
  - Any other person (अन्य व्यक्ति द्वारा)
  - Natural Parents (प्राकृतिक माता-पिता)
- &

गोद लेने वाला

✓ The adopted child can not renounce his or her status as such & return to family of his birth.  
और न ही गोद लिया बच्चा अपनी स्थिति का त्याग सकता है और न ही अपने जन्म के परिवार में वापस आ सकता है।

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## Case | Sandhya v/s union of India, [1998] Bombay.

The Bombay High court has held that the provisions section 11(i) & (ii) are not violative of article 14 & 21 of constitution as it was contented that it discriminated between parents with any number of Children of same Sex and parents prevented from taking any child of same sex in adoption.

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Sec. 12 :-

Effect of Adoption (दत्तक के परिणाम)

Sec. 12(c)

अगर कोई child natural family से adoptive family में जाता है तो वहाँ जो interest already लोगों में vested है वह divest नहीं होंगे।

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**Example :-** In a family ~~Husband~~, wife and daughter are there.

- Husband died.
- Now property of Husband is vested in his wife & daughters equally i.e.
- 50 percentage to widow (wife)
- 50 percentage to daughter

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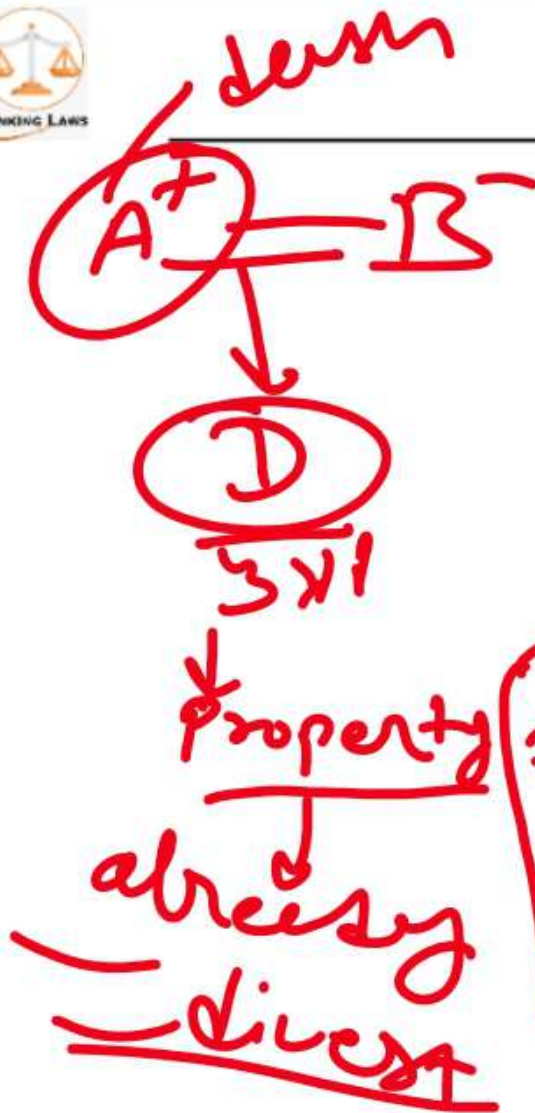


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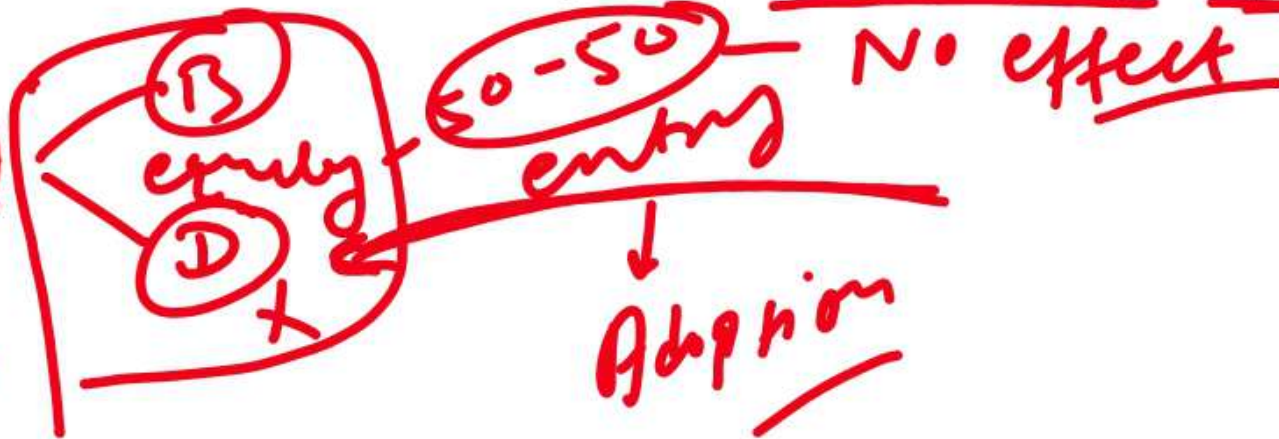


उत्तर है

Subsequently a boy X is adopted in the family

Now X (adopted son) can not divest the interest vested in widow(wife) or Daughter i.e. 50 per.

X can not say to distribute property in 3 parts.



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Pre x Mains  
V. Imp. \*

## Doctrine of Relation back theory (भूतकाल से सम्बन्ध का सिद्धान्त)

The doctrine of relating back in adoption is the concept of old Hindu law which has now been abolished by the Section 12 Hindu adoption and Maintenance Act, 1956.

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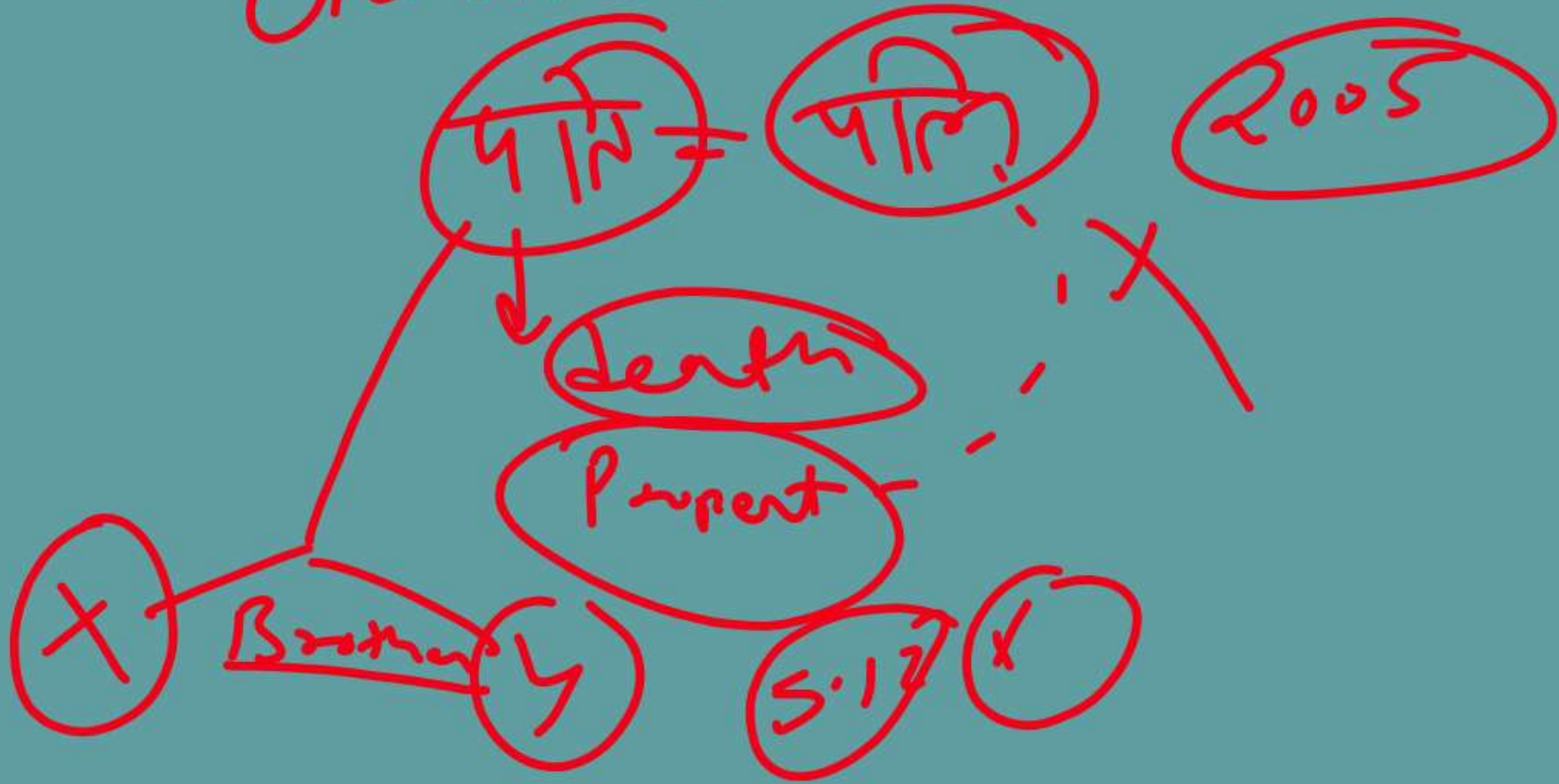


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Old Hindu law



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## 2. Application of the Act. (अधिनियम का लागू होना) -

### (1) This Act applies (यह अधिनियम लागू है) -

- (a) to any person who is a **Hindu by religion** in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj

ऐसे किसी भी व्यक्ति को जो हिन्दू धर्म के किसी भी रूप या विकास के अनुसार, जिसके अन्तर्गत वीरशैव, लिंगायत अथवा ब्रह्मसमाज, प्रार्थनासमाज या आर्यसमाज के अनुयायी भी आते हैं, धर्मतः हिन्दू हो;

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- (b) to any person **who is a Buddhist, Jaina or Sikh by religion;** and  
ऐसे किसी भी व्यक्ति को जो धर्मतः जैन, बौद्ध या सिक्ख हो; तथा
- (c) to any other person domiciled in the territories to which this Act extends, **who is not a Muslim, Christian, Parsi or Jew by religion,** unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

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ऐसे किसी भी अन्य व्यक्ति जो उन राज्यक्षेत्रों में, जिन पर इस अधिनियम का विस्तार है, अधिवसित हो और धर्मतः मुस्लिम, क्रिश्चियन, पारसी या यहूदी न हो, जब तक कि यह साबित न कर दिया जाये कि यदि यह अधिनियम पारित न किया गया होता तो ऐसा कोई भी व्यक्ति एतस्मिन् उपबन्धित किसी भी बात के बारे में हिन्दू विधि या उस विधि के भाग रूप किसी रूढ़ि या प्रथा द्वारा शासित न होता।

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**Explanation -** The following persons are Hindus, Buddhists, Jainas or Sikhs by Religion, as the case may be -

निम्नलिखित व्यक्ति धर्मतः, यथास्थिति, हिन्दू, बौद्ध, जैन या सिक्ख है



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- (a) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;

कोई भी अपत्य, धर्मज या अधर्मज, जिसके माता-पिता दोनों ही धर्मतः हिन्दू, बौद्ध, जैन या सिक्ख हों;



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(b) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jaina or Sikh by religion and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged: and

कोई भी अपत्य, धर्मज या अधर्मज, जिसके माता-पिता में से कोई एक धर्मतः हिन्दू, बौद्ध, जैन या सिक्ख हो और जो उस जनजाति, समुदाय, समूह या कुटुंब के सदस्य के रूप में पला हो जिसका वह माता या पिता सदस्य है या था; तथा

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- (c) any person who is a convert or re-convert to the Hindu, Buddhist, jaina or Sikh religion.

कोई भी ऐसा व्यक्ति जो हिन्दू, बौद्ध, जैन या सिक्ख धर्म में संपरिवर्तित या प्रतिसंपरिवर्तित हो गया हो।

- (2) Notwithstanding anything contained in sub-section (1) nothing contained Act shall apply to the members of any **Scheduled Tribes**, within the meaning of Clause (25) of Article 366 of the Constitution unless the Central Government, by notification in Gazette, otherwise directs.

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उपधारा (1) में अंतर्विष्ट किसी बात के होते हुये भी इस अधिनियम में अंतर्विष्ट कोई भी बात किसी ऐसी जनजाति के सदस्यों को जो संविधान के अनुच्छेद 366 के खंड (25) के अर्थ के अंतर्गत अनुसूचित जनजाति हो, लागू न होगी जब तक कि केन्द्रीय सरकार शासकीय राजपत्र में अधिसूचना द्वारा अन्यथा निर्दिष्ट न कर दे।



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- (3) The expression 'Hindu' in any portion of this Act shall be construed included a person who, though not a Hindu by religion, is, nevertheless, a person to applies by virtue of the provisions contained in this section.

इस अधिनियम के किसी भी प्रभाग में आये हुये "हिन्दू" पद का ऐसा अर्थ लगाया जायेगा मानो उसके अंतर्गत ऐसा व्यक्ति आता हो जो, यद्यपि धर्मतः हिन्दू नहीं है तथापि ऐसा व्यक्ति है जिसे यह अधिनियम इस धारा के अंतर्विष्ट उपबंधों के आधार पर लागू होता है।



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S.2

Case

**K.M. Manu v. Chairman Scrutiny Committee for  
Verification of Community Certificate, AIR 2015 SC  
1402-**

If the parents of a person are converted from Hinduism to Christianity and he is born after the conversion and embraces Hinduism and the members of the caste accept him, he comes within the fold of the caste.

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यदि किसी व्यक्ति के माता-पिता हिन्दू धर्म त्याग कर इसाई धर्म स्वीकार कर लेते हैं और वह व्यक्ति माता-पिता के द्वारा इसाई धर्म में संपरिवर्तन के बाद उत्पन्न होता है और हिन्दू धर्म को अंगीकार कर लेता है तथा उस जाति के सदस्य जिसमें वह संपरिवर्तित होता है उसे स्वीकार कर लेते हैं तो ऐसी स्थिति में वह व्यक्ति उस जाति का सदस्य हो जाता है।

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## Krishna Kumari vs Palace Administration Board Kalikotta, 2009

- ✓ बालक चाहे वह औरस हो या जारज, यदि उसके माता पिता हिन्दू हैं तो वह हिन्दू माना जायेगा।  
any child legitimate or illegitimate both of whose parents are Hindu would be a Hindu.

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- ✓ यदि उसकी माता हिन्दू है और पिता मुसलमान है तो यह अधिनियम ऐसे बालक पर तब तक लागू नहीं होगा, जब तक यह साबित नहीं कर दिया जाता कि उस बालक का लालन-पालन हिन्दू धर्म के रीति-रिवाजों के अनुसार किया गया है।

If his mother is a Hindu and the father is a Muslim, then this act will not apply to such child, unless it is proved that the child has been brought up according to the customs of Hindu religion.



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## Yagnapurush Dasji v. Muldas, AIR 1966 SC

### यज्ञ पुरुषदासजी बनाम मूलदास

Those persons are Hindus who recognised themselves as Hindus and who act upon according to Hindu religion and culture.

वे लोग हिन्दू हैं जो अपने आपको हिन्दू कहते हैं तथा हिन्दू धर्म एवं संस्कृति के अनुसार आचरण करते हैं।



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Criminal Procedure Code, 1973
- 25th May - Muslim Law  
Indian Evidence Act, 1872
- 26th May - Law of Torts, Principle of Equity, & Indian Trust Act  
Civil Procedure Code, 1908
- 27th May - Specific Relief Act, 1963
- 28th May - Indian Contract Act, 1872
- 29th May - Negotiable Instruments Act, 1881
- 30th May - Hindu Law
- 31st May - Sale of Goods Act, 1930
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Mahavir Saini	Trapti Jain	Richa Agrawal	Rishi Gupta	Arunima Singh	Animesh Rajpurahit	Kiran Prajapat	Shivani	Mahima Shrimali	Vaidani Singh Rajpurahit	Harsh Vardhan	Ritika Agrawal	Shini Jain	Sakat Jain	Mansi Agnihotri	Bharat Parmar
RJS (RANK-46)	RJS (RANK-56)	RJS (RANK-63)	RJS (RANK-66)	RJS (RANK-74)	RJS (RANK-75)	RJS (RANK-78)	RJS (RANK-88)	RJS (RANK-97)	RJS (RANK-105)	RJS (RANK-112)	RJS (RANK-119)	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22
Lucky Sani	Devendra Puri	Komal Bhati	Kartika Gehlot	Yeena Suwalka	Trilochana Rathore	Akshay Tambi	Richa Shikhowat	Meenakshi Khatri	Dimpal Kumar	Anita Rajwaniya	Shivani Meena	Dharmveer Singh Rathor	Shrishty Kushwaha	Srishti Sahu	Akshita Shukla
MPCJ	MPCJ	MPCJ	MPCJ	MPCJ	MPCJ	BJS	HCS(JB) RANK-5	HCS(JB) RANK-6	HCS(JB) RANK-16	HCS(JB) RANK-18	HCS(JB) RANK-36	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22
Akansha Gupta	Utkarsh Jain	Trapti Jain	Kundan Kachhiwaha	Sanjeet Chourasia	Amber Shrivastava	Kumari Preeti	Paras Chaudhary	Jodinder Jangra	Arunima Chauhan	Ritiz Arora	Jasmeet Kaur	Ratnapriya Shrivastava	Sarfaraz Khan	Swapnil Verma	Pravesh Kabra
GJS (RANK-1)	GJS (RANK-7)	GJS (RANK-8)	GJS (RANK-11)	GJS (RANK-12)	GJS (RANK-13)	GJS (RANK-16)	GJS (RANK-37)	GJS (RANK-54)	HCS(JB) RANK-43	HCS(JB) RANK-50	HCS(JB) RANK-73	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22
Aditya Rajeshbhai Gor	Meghaben	Prahlad kumar	Mayuri Jain	Pankti Soni	Kirti Sharma	Shipra Soyai	Divyakant Pandya	Kaushar Banu	Prince Garg	Jaspreet Kaur	Saru Goyal	Shweta Arya	Avani Vyas	Shweta Yadav	
MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22
Shivangni Bhatt	Satinder Pannu	Prachi Gunwan	Swati Bhargava	Drutika Upadhyay	Kajal Nayak	Yinay Sharma	Abhay Pratap Singh	Manvendra Singh	Preeti Rathore	Priya Chauhan	Aika Soni	Vaishali Chauhan	Hiteshi Sharma	Vikas Thakur	

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SS(1) → SS(2) ← SS(3)

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(b) Round off Rule  

$$\text{Round off} = 3$$

(c) Total no. of Votes [All MLA] = Per MP (No. of Vote)  

$$\frac{\text{Total no. of Votes [All MLA]}}{\text{Total no. of MP}}$$

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Punam | 10:36 AM | Thank you sir ji

Deepak | 10:36 AM | thank u sir, take care

Iqra | 10:36 AM | Have a nice day!

ADARSH | 10:36 AM | Thnq | JUMP TO LATEST

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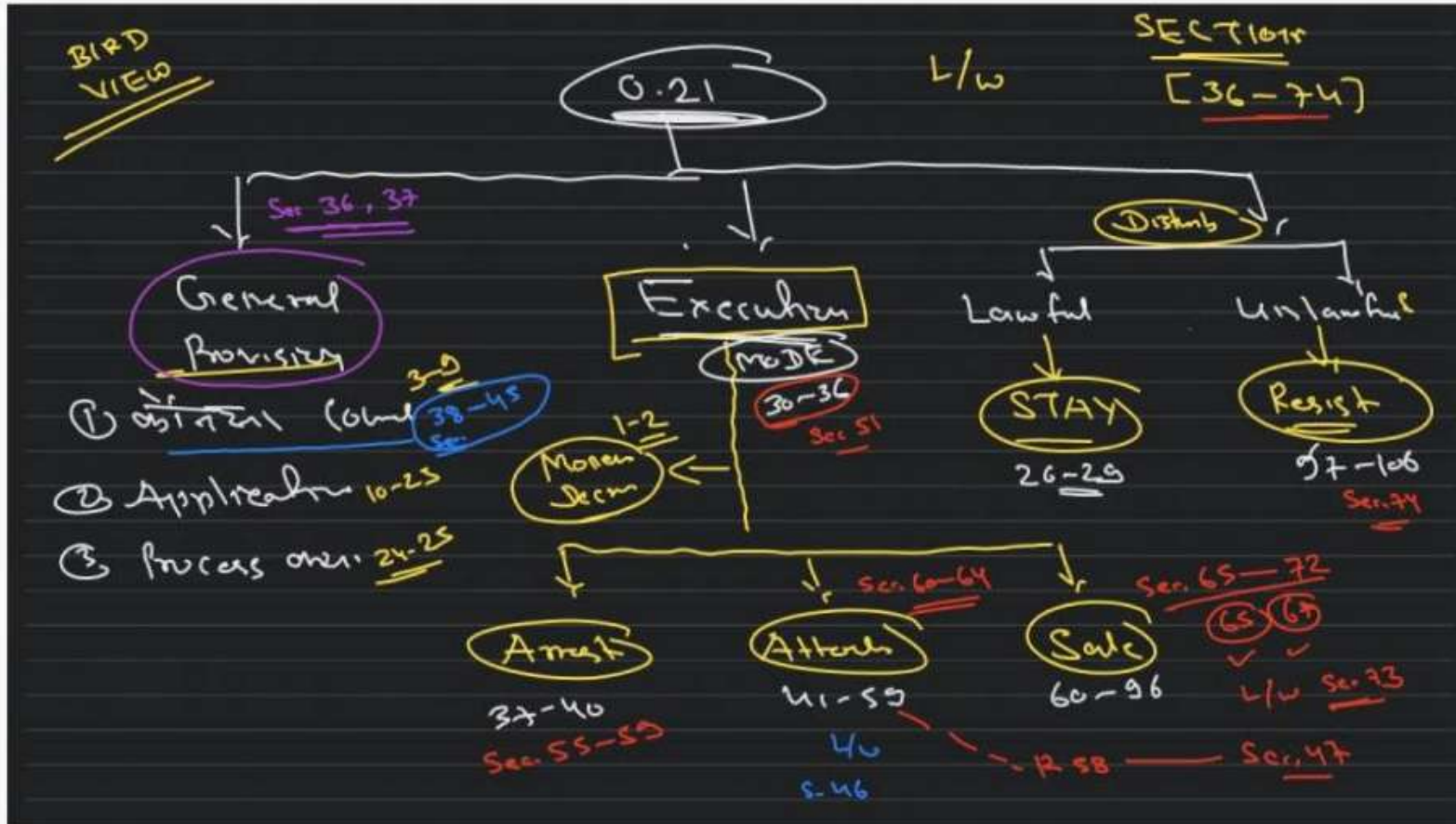
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- Akash 9:01 AM No. Sir hmne to apko sun k hi subscription liya hu sir,, ab jaise aap le. Chle hm ready hai sir
- Sreejolee 9:01 AM bird view
- Nilu 9:01 AM Sir aap agar ashe order 21 nahi padhate to hum kabhi dekhte bhi nahi rule 106 dekh kar hi dar lagta tha
- ADARSH 9:01 AM Screenshot le lo sir

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