

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIAL TEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**

*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*



*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*



## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **SACRED BONDS OR LEGAL CONTRACTS- ANALYZING RELIGIOUS MARRIAGES IN INDIA AND THE UCC DEBATE**

AUTHORED BY - ANSHU KIRAN SINGH

BRANCH - BBA LLB (Hons.), SEM - 8th

INSTITUTION - KIIT School of Law

## **ABSTRACT**

This paper explores the potentialities and impediments linked with the adoption of uniform marriage laws in diverse societies of India. Marriage laws serve as the bedrock of stable families and societal structures, yet in India, these laws diverge significantly across different religious communities. This variance underscores the necessity for uniformity to foster equality and streamline legal processes. The concept of a Uniform Civil Code (UCC) emerges as a solution to achieve legal coherence and address disparities in marriage laws. The paper delves into the different marriage laws under different religions, like, Hindu law, Muslim law, Christian law and Parsi law. The paper also discusses about the Special Marriage Act which deals with the marriages between people belonging to two different communities. Lastly, the paper examines the implementation of UCC in Goa and UCC in Uttarakhand. Considering all the relevant personal laws, possibilities and challenges for implementation of uniform marriage laws are analysed. The possibilities inherent in uniform marriage laws are multifaceted. They promise legal consistency, ensuring that all citizens are subject to the same set of marriage regulations regardless of their religious affiliation. This would promote fairness and eliminate the perception of preferential treatment based on religious identity. However, the implementation of uniform marriage laws is not without challenges. Cultural sensitivities pose a significant obstacle, as different communities may have deeply ingrained customs and traditions regarding marriage. However, this endeavor requires careful consideration of diverse perspectives and open dialogue to navigate the complex terrain of cultural sensitivities, religious freedoms, and political dynamics. By addressing these challenges thoughtfully, uniform marriage laws have the potential to create a more equitable and unified legal framework for marriage, thereby contributing to the overall progress and harmony of society.

*Key words – Uniform Marriage, Personal Laws, Diversity, Equality, Secularism*

## **INTRODUCTION**

*"The greatness of a nation lies in its ability to provide equal rights to all its citizens." – Mahatma Gandhi*

In India, all the laws, be it criminal or civil are equally applicable to every individual. This is known as uniformity of laws and the greatest example of such uniform laws is our Indian Constitution of 1950, which guarantees equality to all the persons living in India. Moreover, article 44 of our Constitution empowers the State to implement a Uniform Civil Code for the entire territory of India.

However, we live in a nation which allows a specific category of men to marry four times and denies others, allows a specific class of females to marry before the age of eighteen and restricts others and also allows some women to claim maintenance from their husbands for a longer period of time than others. Therefore, the uniformity of laws has no role to play in the realm of personal laws. Personal laws are not brought within the ambit of uniformity because these laws reflect the diverse culture of our country respecting all the religious sentiments. Every religious community has its own customs and laws for marriage, divorce, inheritance, succession and adoption. This pluralistic personal law approach has given rise to complexities and inequalities in the modern day society. Hence, the need for uniform marriage laws is rising to bridge the gap between different religions in order to uphold constitutional equality irrespective of their gender or religion.

## **HISTORICAL BACKGROUND**

Before the colonial era, Hindus were governed by their shastras which was interpreted by the Brahmins, the Muslims were governed by their Shariya law interpreted by Qazis and all the other religious sects followed their own personal laws but the Britishers introduced a common law system in India for establishing their rule. However, the British did not include personal laws in the ambit of the common law system to foster their idea of “divide and rule”.<sup>1</sup> However certain personal laws were also codified during this era for the ease of resolving disputes.

As India got its independence, the debate of whether to make the personal laws uniform in the country or not started. The drafting committee of the Indian Constitution made a proposal to include Uniform Civil Code in Article 35 of the Constitution which was contested by the

---

<sup>1</sup> Saha, S. (2023). UNIFORM CIVIL CODE IN INDIA: ISSUES & CHALLENGES (journal-article). Indian Journal of Law and Legal Research (Vol. V, pp. 3796–3796).

Muslim members present in the committee. They wanted to include a proviso stating "Any group, section or community of people shall not be obliged to give up its own personal laws." The inclusion of such proviso was protested by Dr. B. R. Ambedkar and then the debate continued on whether to include the provision for UCC in the Fundamental rights or Directive Principles of State Policy, and the final decision was made by voting. With a majority of 5:4, it was added in Article 44 under the DPSP.<sup>2</sup>

### **MARRIAGE UNDER HINDU LAW**

Under Hindu laws, marriage is considered to be a sacred part of life which unites two individuals not only for their present life but also for the upcoming seven lives. Marriage is one of the sixteen sacraments for Hindus and it was not a subject to dissolution for a long period of time. According to the ancient scriptures under Hindu laws, it is believed that a man is incomplete without marriage.

The Hindu Marriage Act of 1955 is codified for governing marriages among the Hindus. It is also important to note that the definition of Hindu under the Act includes Sikhs, Jains and Buddhists which shows uniformity in marriage laws already exists among some of the religions in India. Section 5 of the Hindu Marriage Act, 1955, lays down certain essential conditions which should be fulfilled for a valid marriage. For a marriage to be valid, it is important that neither party has a living spouse at the time of marriage, both the parties should be able to give free consent, the male should be of 21 years of age and the female of 18 years of age, both the parties should not be in the prohibited degrees of marriage neither the "sapindas" (exception- if the customs or usages governing them allows that).<sup>3</sup> Bigamy is strictly prohibited under the Hindu law and is punishable under section 494 and 495 of Indian Penal Code, 1860.

Section 7 of the Act states a Hindu marriage is solemnised when the bride and the bridegroom together take "saptapadi" or seven steps around the sacred fire.<sup>4</sup> "Kanyadaan" is also considered to be an important part of the rites and ceremonies of marriage, however, it is not recognised in the Act.

---

<sup>2</sup> **Uniform Civil Code in India: Balancing Uniformity and Diversity in Personal Laws**, Legal Service India (Feb. 26, 2024), <https://www.legalserviceindia.com/legal/article-13954-uniform-civil-code-in-india-balancing-uniformity-and-diversity-in-personal-laws.html>

<sup>3</sup> **The Hindu Marriage Act, 1955**, § 5, No. 25, Acts of Parliament, 1955 (India)

<sup>4</sup> **The Hindu Marriage Act, 1955**, § 7, No. 25, Acts of Parliament, 1955 (India)



Although it is not mandatory to register marriages under Hindu law, section 8 of the Hindu Marriage Act, 1955 states that for facilitating the proof of Hindu marriages, the State Government has the power to make rules regarding registration of marriages under Hindu law.<sup>5</sup>

Section 11 and 12 of the Act deals with void and voidable marriages.<sup>6</sup> Section 11 states that a marriage, which is in contravention with essentials of Hindu marriage laid down in section 5 of the Act, solemnised after the commencement of the Act, would be declared void by a decree of nullity if either of the parties files a petition against the other party. Section 12 states certain conditions when the marriage can be held voidable if the husband is impotent and due to this reason they cannot consummate; or if the husband was not of 21 years of age or the wife was not of 18 years at the time of marriage; or if the consent of the petitioner or the guardian of the petitioner (in case the petitioner was a minor at the time of marriage) was obtained by fraud; or if the wife was pregnant with someone other than the husband, at the time of marriage.

Hindu law is very flexible with adapting the changing needs of the society. The religion is tolerant towards removing various social evils which existed earlier. “Sati pratha” which was a part of the religion for a very long period, was abolished as it demolished the dignity of women. Bigamy was also a practice under this religion in various parts of India but such practices were also abolished and bigamy was made a punishable offence by the policy makers.

### **MARRIAGE UNDER MUSLIM LAW**

Marriage under Muslim law has been derived from various sources of Muslim law like the Quran, Ijmas, Sunnats, and Qiyas. It is considered to be a civil contract between the bride and the groom for the purpose of procreation. According to many Muslim scholars, it is the religious duty of every man to marry.<sup>7</sup> There are certain essential conditions for a Muslim marriage or “Niqah” to be valid. The marriage has to comply with all the formalities mentioned under the Muslim law or the Sharia law. The first essential condition for a valid muslim marriage is that there should be a proposal (ijab) and an acceptance (qubool), similar to any other contract. Marriage is completed only when the party accepts the proposal of the other party. The two different sects of Muslims- Shia and Sunni, have different opinion regarding

<sup>5</sup> **The Hindu Marriage Act, 1955**, § 8, No. 25, Acts of Parliament, 1955 (India)

<sup>6</sup> **The Hindu Marriage Act, 1955**, §§ 11–12, No. 25, Acts of Parliament, 1955 (India)

<sup>7</sup> **D. Rai**, *Marriage Under Muslim Law: All You Need to Know*, iPleaders (Feb. 15, 2022), <https://blog.ipleaders.in/marriage-under-muslim-law/>

the presence of the witnesses during the ceremony. According to the Sunnis, the proposal and acceptance should be made in the presence of atleast two adult males or at least one adult male and two adult females, However, marriages are not held void if the witnesses are absent. According to the Shias, presence of witnesses is not mandatory during the ceremony.

The second essential condition for a valid marriage under Muslim law is free consent. It is necessary that both the contracting parties give free consent at the time of marriage without any undue influence or fear. In case the bride and the bridegroom are minors, free consent must be given by their legal guardians. Consent in these marriages can be either expressed or implied.

The third essential of a valid Muslim marriage is the age of the contracting parties. According to the Muslim law, the Indian Majority Act, 1875, does not apply to determine the age of the consenting parties, rather it is necessary that the parties have attained puberty. Puberty is the age when a boy or a girl transition into an adult and are capable of consummating. In the absence of evidence whether the parties have attained puberty or not, it is presumed that puberty has been attained after the age of 15. In case the parties are minor, consent is required from their legal guardian and if the marriage takes place without their guardian's consent, it is invalid unless it has been ratified by the minors after they attain the age of majority. Therefore, the legal age for marriage under Muslim law is 15 years for both males and females.

The next essential condition of a Muslim marriage is the receipt of "dower" or "mehr" by the wife or her father from the husband. Mehr is the amount that is paid by the husband as a consideration to the wife for marriage. Dower can be paid either at the time of marriage or promised to be paid any time after the marriage. Although a Muslim marriage is a contract, "consideration" referred here is not the same as defined under the Indian Contract Act. It is rather for the gift of marriage, which is the "wife".

There are two kinds of prohibitions laid down under the Muslim law for a valid marriage- absolute prohibition and relative prohibition. Absolute prohibition is made for marrying within the blood relationship or close relationship or foster relationship. Such relationships are of a mother and son, father and daughter or granddaughter, brother and sister, uncle and niece, aunt and nephew, husband and mother-in-law or grandmother-in-law, husband and stepdaughter or step granddaughter and a lady who has breastfed the child under 2 years of age. Relative

prohibition is made for marrying two women who are each other's blood relative or close relative or foster relative and polygamy. However, under the shia law, a muslim man can marry his wife's aunt but cannot marry her niece without her permission. Also, a man cannot marry more than four times and if he does so, then the fifth marriage becomes irregular until the termination of earlier marriage. Relative prohibition is also made for a Muslim man to marry a woman who worships idols. Such marriages are considered to be irregular under Muslim law. Moreover, marriage during the "iddat" period is also prohibited. Under Shia law, marriage during iddat becomes void and under sunni law, such marriages are considered irregular.

### **MARRIAGE UNDER CHRISTIAN LAW**

Christians are a minority group in India who migrated here long time age. The term Christian according to Section 3 means persons professing the Christian religion and Indian Christian includes the Christian descendants of natives of India converted to Christianity, as well as such converts.<sup>8</sup> Marriage under this religion is held sacred. Christian marriages are also in the form of a contract by a priest or a person licensed under the Christian Marriage Act of 1872. It can also be solemnized by a marriage registrar. The Act is a law governing all the marriages of Indian Christian. It is different from the Indian Marriage Act, 1955 which governs all the marriages in India irrespective of their religion.

Part I of the Christian Marriage Act specifies conditions for a valid marriage under the Act:

- Both parties must be Christians according to Section 3, or at least one must be a Christian, and the marriage must be solemnized in accordance with Section 5 by an authorized person.
- State Governments can grant and revoke licenses for marriage solemnization.
- The marriage must be performed in a prescribed form and recorded in the marriage register.
- Evidence of marriage can be provided through entries in the marriage register or other means, such as eyewitness accounts or the couple's subsequent conduct.
- Marriage at the bride's mother's house doesn't require signing the Marriage Register.
- A Christian marriage, even if one party is Hindu, cannot be dissolved under the Hindu Marriage Act.

---

<sup>8</sup> **Christian Law Regarding Marriage and Divorce in India: Indian Christian Marriage Act, 1872**, Legal Service India, <https://www.legalserviceindia.com/legal/article-1764-christian-law-regarding-marriage-and-divorce-in-india-indian-christian-marriage-act-1872.html> (last visited Mar. 4, 2025)

- A Christian marriage, validly registered under the Special Marriage Act, remains legal if conditions specified in that Act are met.

### **MARRIAGE UNDER PARSI LAW**

The matrimonial laws of the Parsi community are codified in the Parsi Marriage and Divorce Act, 1936. Section 3, 4 and 6 of the Parsi Marriage and Divorce Act lay down the essentials of a valid Parsi marriage. The parties to the marriage must not be related within the prohibited degrees of relationship. The male must be at least 21 years old and the female must be at least 18 years old at the time of marriage. The marriage ceremony, called Ashirwad, must be performed by a priest in the presence of two witnesses other than himself. Children born from such a union are considered legitimate if the above conditions are met. Polygamy is prohibited under this Act. After the marriage ceremony, a certificate signed by the priest, the contracting parties and two witnesses must be obtained and a fee of ₹2 must be paid to the registrar, then the Registrar enters the certificate into the official records.<sup>9</sup>

### **SPECIAL MARRIAGE ACT, 1954**

The Special Marriage Act allows marriages between individuals of different religions in India. It closely resembles the Hindu Marriage Act of 1955, indicating a secular approach to marriage laws and is accessible to all communities, including Muslims. The Act prohibits polygamy and governs succession and divorce procedures, with certain provisions differing in marriages registered in Goa. Certain conditions are mentioned in Section 4 of the Act for a valid marriage: nonexistence of a living spouse at the time of new marriage; free consent of both the parties to marriage; age of male should be at least 21 years and of female should be at least 18 years; marriage should not be solemnised between the prohibited degrees.

Registration is compulsory under this Act. The registration process should be initiated after a month's notice has been given to the sub-registrar under whose jurisdiction either of the parties reside. A public notice invitation is served in the presence of the parties. The registration is complete after 30 days from the service of the notice. The spouses are then required to be present on the fixed date of registration of marriage along with three witnesses.<sup>10</sup>

<sup>9</sup> R. Garg, *Marriage Laws in India: An Analysis of Legal Solemnization of Marriages*, iPleaders (Jan. 12, 2021), <https://blog.ipleaders.in/marriage-laws-india-analysis-legal-solemnization-marriages/>.

<sup>10</sup> *ibid*

### **UNIFORM CIVIL CODE IN GOA**

Until 2023, Goa was the only state in India which followed a uniform civil code for all the people residing there irrespective of their caste, religion and gender. All the religions were bound by the uniform laws of Goa. The UCC in Goa existed from the period of the Portuguese. They enacted their legislation named Portuguese Civil Code of 1867 to govern the province of Goa. However, in 1962, Goa was merged as a part of India and the Indian Government allowed the existing UCC to continue in the state.<sup>11</sup>

Marriage is a type of contract between two individuals in order to constitute a legitimate family under the UCC of Goa. Marriages are registered in the office of Civil Registrar in Goa.

### **UNIFORM CIVIL CODE IN UTTARAKHAND**

The UCC mandates that marriages must be registered within 60 days of being solemnized in Uttarakhand. This rule applies to both residents marrying within the state and residents marrying outside the state. Although failure to register a marriage won't make it invalid, both the parties of marriage may be fined with Rs 10,000. Providing false information regarding marriage intentionally could result in a penalty of Rs 25,000 and a three-month jail term. Additionally, marriages cannot be dissolved without a court order, and violating this provision could lead to imprisonment for up to 3 years.

Moreover, the highlight of this code is that it recognizes live-in relationships and makes it mandatory to register such relationships with the Government. If couples in a live-in relationship fail to provide a statement, they will receive a notice, and a criminal prosecution may follow. Ending the relationship requires submitting a formal statement to the Registrar. Women abandoned by their live-in partners can seek maintenance through the appropriate court and the children born from such relationships will be regarded as legitimate.

The Bill has prohibited specific marriage customs common in the Muslim community, including “nikah-halala” and triple talaq, without explicitly naming them. For instance, under Section 30(1) of the bill, individuals have the right to remarry their divorced spouse without any prerequisites, effectively abolishing the practice of “nikah-halala”.

---

<sup>11</sup> **Uniform Civil Code in Goa: A Legacy from the Portuguese Era**, Legal Service India, [https://www.legalserviceindia.com/articles/goa\\_ucc.htm](https://www.legalserviceindia.com/articles/goa_ucc.htm) (last visited Mar. 4, 2025)



## **POSSIBILITIES OF UNIFORM MARRIAGE LAWS**

Marriage is the building block of a stable family and gives the status of “husband and “wife” to the respective spouses. The present personal laws of different religions portray marriage as completely different for different religions. Under Hindu laws, marriage is held sacred and sacrament whereas for Muslims, marriage is a civil contract. According to the Christian Law, marriage is a conjugal union of a man and a woman which arises from a free consent of each spouse.<sup>12</sup> In Hindus, it is the union of two people for not only this life but for the upcoming seven lives whereas in Christian law, divorce is not considered as a good option. In Muslims, the girl is gifted to a man in exchange of Mehr or Dower.

Introduction of Uniform Civil Code (UCC) in India has been a matter of debate recently. Uniform marriage laws will form a major part of the Uniform Civil Code and it would aim to create a single framework for marriage that would be applicable to all the citizens in India irrespective of the religion they follow. Uniform marriage laws will bring all the marriage related laws of different religions under the same roof. The concept would be based on providing equal rights to every individual and simplifying the legal system by eliminating the irrationality that has arisen in recent times because of the existence of multiple personal laws.<sup>13</sup> Uniform marriage laws under the UCC would include legal uniformity, gender equality, simplification of legal processes, secularism and national integration.

The 21st Law Commission of India which was headed by Justice Balbir Singh Chouhan suggested that implementing UCC might not be necessary at this time. The committee instead suggested certain reforms under the existing personal laws for the time being. They believed that such amendments would aim to ensure equality among all irrespective of their religion. However, the implementation of uniform marriage laws would be challenging as it would require careful consideration of India's diverse culture. It would involve legislative changes and possibly a re-evaluation of the existing practices to ensure that the new laws are fair and respectful for all the religions. Then the 22nd Law Commission of India was established with Justice Rituraj Awasthi as the head. After consultation, the commission issued

<sup>12</sup> **A.H. More**, *Conditions for Valid Christian Marriage*, The Legal Quotient (Nov. 4, 2022), <https://thelegalquotient.com/family-laws/christian-laws/valid-christian-marriage/702/>

<sup>13</sup> **Uniform Civil Code in Family Law: A Progressive Step for India**, Legal Service India, <https://www.legalserviceindia.com/legal/article-13479--uniform-civil-code-in-family-law-a-progressive-step-for-india.html> (last visited Mar. 4, 2025)

a consultation form for the public to know the public opinion on UCC.<sup>14</sup>

Implementation of Uniform Marriage Laws would ensure a simplified legal system. A single code would govern all the marriages in India and hence promote equality and secularism among everyone. Women belonging to all the religions would have equal rights in their marital relationships. Certain social evils from the society would be removed like polygamy, the legal age to marry would be made uniform throughout the country. This would also help in enhancing the global image of India. It would reflect modernization as the country would be committed to upholding equality and justice within the nation keeping aside the various discrepancies personal laws. Harmonious construction of all the conflicting personal laws into a single code would help in simplifying the process.

The existence of Special Marriage Act, 1954 shows that secular marriage laws can be enacted in India without hurting the religious sentiments. The Special Marriage Act of 1954 is a regulatory law that governs both inter caste and inter religious marriages in India. It also covers marriages between an Indian and a foreigner. Such laws can be implemented and made uniform for all the citizens in India without considering their religion. Registration of marriages could be made compulsory for every citizen. Uniform marriage laws would ensure that all the marriages have a standard legal procedure for solemnization.

### **CHALLENGES OF UNIFORM MARRIAGE LAWS**

Although it seems like uniform marriage laws would bring a great reform in the personal laws of India, it is very challenging to implement the same in a place with such a diverse culture. Some of the major challenges that the Central Government would face while implementing uniform marriage laws are- lack of agreement between all the communities, threat to the freedom of religion, loss of cultural diversity and the fear of majority rule.

As we know, India is a country with a vast culture. People belonging to all the religion profess here. Customary laws and practices are deeply ingrained and vary widely across the country. The constitution of India promises the right to religion as a fundamental right. The existing personal laws are believed to be the protectors of their religion and making a uniform marriage law for all would hurt such sentiments. India is a country with the majority of Hindu population

---

<sup>14</sup> **After Previous Panel Rejected Uniform Civil Code, Law Commission Seeks Public Views Afresh**, The Wire, <https://thewire.in/government/law-commission-uniform-civil-code-notice> (last visited Mar. 4, 2025)

and many religious communities oppose the uniformity as a fear of majority rule. They view it as a threat to their rights and customs. Implementing uniform marriage laws would also be hindered by the political parties as Indian politics is greatly influenced by religions.

Moreover, harmonizing various personal laws into a single code would be a complex task for the policy makers. Evaluating the differences and considering a uniform code abiding by the Indian Constitution would be a difficult task. A single law involves a multifaceted process that requires expertise and consistency across various aspects. Firstly, policy makers must thoroughly analyze the existing laws of different religions and identify similarities and differences among them. This process entails a deep understanding of the historical, cultural, and religious contexts in which these laws were developed. Secondly, experts must navigate complex legislative procedures to propose and draft a unified law that addresses the key aspects of marriage, such as age requirements, consent, registration procedures, and dissolution processes. Achieving consistency across these aspects is crucial to ensure fairness and equality under the law.

Moreover, it would not be easy for all the communities to adapt with the uniform marriage laws. It might lead to social discontent between communities and lead to a nationwide protest against such laws. Administration of such uniform laws would also be challenging, and it would require a better administrative framework.

### **CONCLUSION**

In conclusion, implementing uniform marriage laws in India presents both possibilities and challenges. On one hand, uniform marriage laws would aim to create a single framework applicable to all the citizens in India promoting equality, secularism and justice. However, on the other hand, uniform marriage laws would face significant challenges for implementation. The diverse cultural practices, concerns about freedom of religion and fear of majority rule would arise within the different communities.

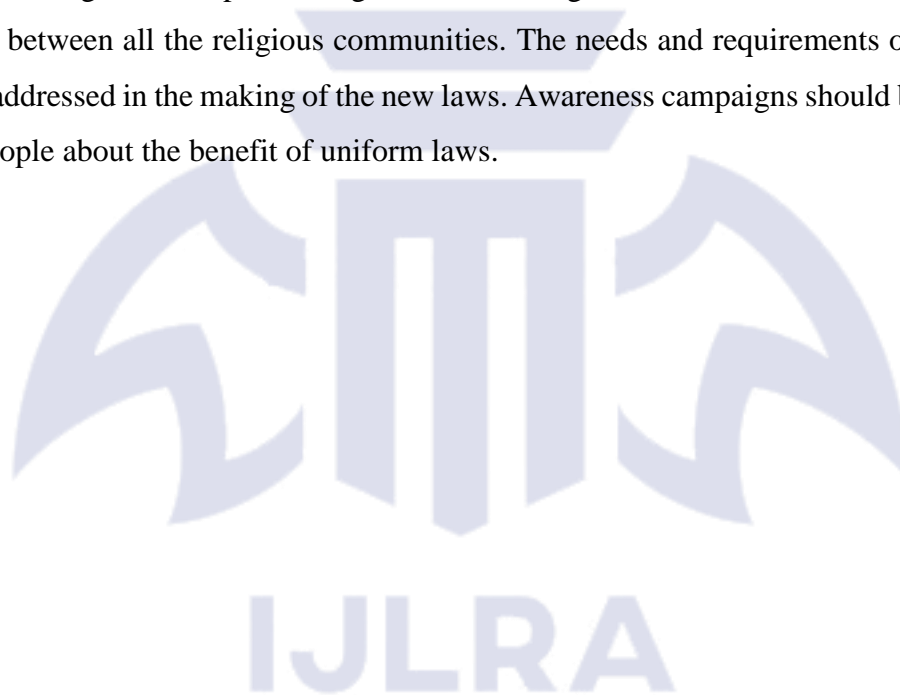
In the case of *S.R. Bommai v. Union of India*<sup>15</sup>, Justice Jeevan Reddy ruled that religion is a matter of personal faith for individual communities, and they have the right to follow their own customs without interference from uniform laws. This ruling upholds the concept of "positive

---

<sup>15</sup> S. R. Bommai v. Union of India, AIR 1994 SC 1918

secularism" in India, which emphasizes the separation of individual spiritual beliefs from state intervention. Article 25 of the Indian Constitution guarantees the right to freedom of religion, allowing individuals to practice their own faith. However, this right is subject to limitations concerning public order, morality, and peace.<sup>16</sup> Therefore, the implementation of uniform marriage laws which are just and equitable for all the citizens should not harm the religious sentiments of people.

As the legal framework evolves, the introduction of Uniform marriages in the form of UCC would represent as a significant step towards rationalizing and simplifying the legal system governing marriages. For implementing uniform marriage laws in India, extensive consultation is required between all the religious communities. The needs and requirements of all of them should be addressed in the making of the new laws. Awareness campaigns should be conducted to teach people about the benefit of uniform laws.



<sup>16</sup> **Uniform Civil Code in Goa**, Legal Service India, <https://www.legalservicesindia.com/article/2157/Uniform-Civil-Code-in-Goa.html> (last visited Mar. 4, 2025)