

ISSN :2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 6

www.ijlra.com

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MARRIAGE REGISTRATION IN INDIA

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Introduction

In Indian society, irrespective of religion, caste, creed, etc., people consider marriage as an auspicious and holy ceremony. According to National Centre for Biotechnology Information, for the majority of Indians, marriage is a once-in-a-lifetime event that is consecrated and praised by society. Marriage is a societal requirement, and families in India are mostly responsible for marrying their children. In society, husbands and wives are respected. Marriage without solemnisation carries a social shame. Marriage stability has been tried through social norms, conventions, rituals, and even law.¹ Hinduism is the most practised religion in India. As per 2011 census data, around 79.8% of Indians practise Hinduism. Marriage is viewed by numerous Hindus as a holy, life-long event that bonds a man and woman altogether. It leads the Hindu pair to the second ashrama. Therefore, many people feel it is the best time to start a family. Several Hindu gods are shown with lovers and descendants. For instance, Lord Ganesh's mom and dad are Shiva and Parvati, while Rama and Sita welcomed twins named Luv and Kush. Nevertheless, not all Hindu texts depict traditional partnerships; for example, in the Mahabharata, Draupadi is wedded to each five Pandava brothers.² 2nd most followed religion in India is Islam. According to census data, around 14.2% of Indians follow Islam. Marriage, according to the majority of Muslims, is a vital building block of life. A contract between a man and a woman to live together as husband and wife is known as marriage. A nikah is an Islamic term for a marriage contract. For most Muslims, marriage is about remaining true to one another for the remainder of their lives, having children, and raising them in the Muslim religion.³ Marriage, Christians consider, is a blessing from Jesus that must not be overlooked. It's the ideal environment for starting a family. It's crucial to get engaged in a cathedral in the presence of God.⁴ Buddhists are not obligated to

¹ Indira Sharma, Balram Pandit, Abhishek Pathak, and Reet Sharma, National Centre for Biotechnology Information, *Hinduism, marriage and mental illness*, Jan, 2013, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3705690/#:~:text=The%20goal%20of%20marriage%20in,united%20and%20prevents%20its%20breakdown>, (Last visted on March 30, 2022)

² BBC, *Hindu relationships*, available at <https://www.bbc.co.uk/bitesize/guides/zh732sg/revision/6>, (Last visited on March 30, 2022)

³ BBC, *Muslim Relationships*, available at <https://www.bbc.co.uk/bitesize/guides/zcjqrxw/revision/5#:~:text=Most%20Muslims%20believe%20marriage%20is,contract%20is%20called%20a%20nikah.&text=keep%20faithful%20to%20each%20other%20for%20the%20rest%20of%20their%20lives>, (Last visited on March 30, 2022)

⁴ BBC, *Marriage and Weddings*, June 23, 2009, available at https://www.bbc.co.uk/religion/religions/christianity/ritesrituals/weddings_1.shtml#:~:text=Christians%20believe%20that%20marriage%20is,declaration%20of%20love%20and%20commitment. (Last visited on March 20, 2022)

engage, and many Buddhists think marriage is a personal decision. Buddhists get nearest to one by holding a benediction or party, but there are no religious aspects to the occasion.⁵ To Sikhs, marriage is a significant component of life, with the goal of forming an equal relationship in the midst of God and assisting each another in uniting their spirits with God.⁶ The practice of obtaining a dowry prior to marriage has been criticised by Jain community meetings on several instances concerning the duration and expense of weddings. There must be no squandering of resources or energy. A wedding, on the other hand, is significantly more significant than any family trip, an anniversary, or graduation.⁷ Marriage has to be commemorated as a memorable event. In all the aforementioned religions, it is clear that marriage plays an important role in all the religions. We will be going to focus on the registration aspect of marriages. In this piece, we are going to discuss the current scenario regarding marriage registration in India, the advantages of marriage registration in India, how different laws deal with the issue of marriage registration, and in the last section, we will conclude the piece on the basis of mentioned sections and point. To substantiate my point and arguments, I will be using several secondary and primary materials. Primary materials like judgements, etc., will be used, and secondary materials will include online websites, books, etc.

Current Scenario Regarding Marriage Registration

In this section, we are going to discuss the current scenario of marriage registration. In situations in which marriage registration is indeed a voluntary necessity, the legality of the marriage remains unaffected if it is not documented, and simple registration would not remedy the fault of an already invalid wedding. Marriage must be through a registered document under the Foreign Marriage Act, 1969, the Parsi Marriage and Divorce Act, 1936, the Special Marriage Act, 1954, as well as the Indian Christian Marriage Act, 1872. Under the Indian Christian Marriage Act, 1872, records are formed in the involved Church's marriage record quickly after the wedding ritual, along with the signature verification of the wedding couple, the presiding priest, and the testimonies. Recognition of marriage is required in the region of Goa as per Articles 45 - 47 of the state's Marriages Law, and evidence of marriage is usually obtained by presenting a Declaration of Marriage obtained via the Civil Registrar authorised by the government. Whereas Articles 1075 - 1081 from the Portuguese Civil Code, which is the same common Civil Code in effect in the region, deal with the procedural elements of wedding certification. Registration is not an obligatory administrative requirement

⁵ BBC, *Marriage and Divorce*, available at <https://www.bbc.co.uk/bitesize/guides/zmjmyrd/revision/2#:~:text=say%20about%20marriage%3F-,There%20is%20no%20obligation%20for%20Buddhists%20to%20marry%20and%20most,marriage%20ceremony%20sould%20consist%20of>. (Last visited on March 30, 2022)

⁶ BBC, *Marriage and Divorce*, available at <https://www.bbc.co.uk/bitesize/guides/z49whyc/revision/2#:~:text=A%20Sikh%20marriage%20is%20known,of%20the%20Guru%20Granth%20Sahib>. (Last viewed on March 30, 2022)

⁷ Colostate, *Jain Marriage*, available at <https://www.cs.colostate.edu/~malaiya/jainmarriage.html> (Last viewed on March 30, 2022)

under Hindu and Muslim law.⁸ The Supreme Court in *Seema v Ashwani Kumar* observed that as per the Hindu Marriage Act, wedding registration is not a mandatory condition; hence the partners of the marriage can choose whether or not to register it since the legality of the wedding is unaffected by the absence of registration. The court said that the usage of the word with the aim of easing the evidence of Hindu marriages reveals the legislative aim in establishing clause 8 of the Hindu Marriage Act. In that case, the court observed that there are four laws that require weddings to be legally recorded. Andhra Pradesh Compulsory Registration of Marriages Act, 2002, Himachal Pradesh Registration of Marriages Act, 1996, Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976, as well as Bombay Registration of Marriages Act, 1953 are the laws in question. Five regions seem to have created arrangements for the optional documentation for Muslim weddings. Meghalaya, Orissa, West Bengal, Bihar, as well as Assam

constitute the states in question. The applicable legislation is the Bengal Muslim Marriages and Divorce Registration Act, 1876, Orissa Muslim Marriages and Divorce Registration Act, 1949, as well as Assam Moslem Marriages and Divorce Registration Act, 1935. In Uttar Pradesh, it seems that the state administration has issued a policy requiring panchayats to register weddings and keep statistics of births as well as deaths. The case of *Seema v Ashwani Kumar* is considered an important judgement in the field of marriage registration. The court was of the view that Indian citizens' weddings, regardless of their faith, must be made mandatory to register in the region wherein the marriage is formalised. As a result, they ordered the governments and the federal administration to take measures to notify each state of the method for registration within the time period of three months of the judgment's date, either by changing current laws or by enacting new laws. In this regard, the court stated that while bringing the aforementioned rules into effect, representatives of the public shall be allowed to submit complaints once the states have given the subject proper publicity and have kept the issue open for one month following the date of the advertising seeking complaints. The states must make an adequate notification putting the regulations into effect when this period expires. In addition, the official chosen under the abovementioned state rules will be properly authorised to record weddings. The age and marital status, which might be single or divorced, must be fully specified when registering.⁹ Another landmark case on marriage registration is *Binu Raj G v Sandhya Lakshmi R.*¹⁰ In that case, a question was raised, which is whether the parties may be declared non-suited only because the wedding certificate is missing. The court determined that these requirements are only advisory and that the couples cannot be declared ineligible due to a lack of wedding registration or the failure to produce a document of wedding registration. They can present evidence in the form of a sworn

⁸ Dr. Poonam Pradhan Saxena, *Family Law I* 121, (1st ed., 2022).

⁹ *Seema v. Ashwani Kumar*, (2008) 1 SCC 180

¹⁰ *Binu Raj G v. Sandhya Lakshmi R*, AIR 2020 Ker 126; AIR Online 2020 Ker 222.

affidavit attesting to their relationship's legitimacy. During its 205th edition, the Law Commission of India recommended that the administration should take the requisite measures to make marriage registration compulsory for all groups, regardless of faith, within a set length of time.¹¹

Advantages Of Marriage Registration

Documentation of marriage is essential, especially in the public realm of a human's dependents, and it extends beyond personal concerns. Apart from having the prospects to efficaciously address a wide range of social evils, such as child weddings and deceptive marriages, as well as the prospect of rejection to avoid economic obligations and secrecy in the scenario of myriad marriages. Registration of marriage could even also assist beneficiaries in establishing a connection in the event of a wage earner's passing, such as trying to assert his pension, applying for work on an empathetic basis, filing an assertion for defined contribution fund, allowance, insurance advantage, or ex-gratia reimbursements and compensation in instances of accidents, custodial passings, as well as fatalities due to societal confrontations or brutalities. Wives benefit greatly from marriage registration since it allows them to preserve their rights with little problems in confirming their position and claims. With a certificate proving the partnership, the issue may become clearer. In an affidavit submitted to the Supreme Court, the National Commission for Women detailed the difficulties that women face as a result of the shortage of marriage registration. Compulsory documentation might go a long way toward addressing the issues of independent as well as willing agreement in marriage, as well as preventing the trafficking of minor girls by unethical parents as well as other family relatives to strangers under the guise of marriage. In marital cases, compulsory certification may also assist in diminishing parents' entire authority over their children's life. Among Indians, parents, as well as seniors, play a large role in choosing mates for their children as well as dependents, regardless of actual age, since the prevailing issues of caste, society, religion, as well as the wicked practises of money bargaining are maintained as well as re-entrenched in marriage situations. Compulsory certification may provide the partners to the wedding a dominating position, relegating the parents to a secondary another, as it might be hard for parents to invalidate a documented marriage and force wedding their kids to certain other people of their choosing.¹² There are several advantages of registration in marriage. One of such advantages is that it is considered an important document to obtain another important document. It is important to apply to get documents like a passport and visa of the country and to open a joint account. It is also required to get the marriage certificate for the same.¹³ Married people are entitled to a number of tax incentives that are not

¹¹ 205th edition, Law Commission of India

¹² Dr. Poonam Pradhan Saxena, Family Law I 121, (1st ed., 2022).

¹³ MarriageRegistrationPune, *Benefits of Marriage Registration*, available at https://www.marriageregistrationpune.com/benefits_of_marriage_registration.php (Last viewed on March 30,2022)

accessible to single people as per the regulations of the Indian authority and many state authorities. A marriage certificate is necessary to access these advantages. Most financial institutions now demand that couples who want to seek out a bank loan and have one of their partners as a co-borrower must provide a marriage document as confirmation of their connection. This is particularly true if you want to take out a house loan with your partner as a co-borrower via a bank. Defence Forces members who want to live as engaged troops for the debut time must now provide their wedding cards as evidence of marital standing.¹⁴ _

Ways To Get Marriage Registered In India

In this section, we are going to discuss how marriages are being registered in India. Since India has both personal and secular laws, hence, the steps are different. There are several personal laws. Hence, the procedure is different, whereas there is single secular law, and it has a different procedure than the personal one. In India, many weddings are governed by the Hindu Marriage Act of 1955. All Hindus, Sikhs, Jains, and Buddhists are allowed to file for a marriage certificate in India. The pair might even seek certification if their wedding has previously been solemnised. The registrar's sub-office, within whose authority the wedding was solemnised, must be visited. It can be completed at the registrar's sub-office, where one of the spouses has resided for longer than six months. A Hindu wedding can be solemnised as per the traditions and rites of either side.¹⁵ The Special Marriage Act of 1954 allows all Indian citizens, regardless of faith, to have their marriages recorded. The marriage officer issues a document to the pair as part of this certification, which also includes solemnisation. The pair must send a thirty-day notice to the sub-registrar in whose area any of the spouses resides if they are registering within the Special Marriage Act. The registrar posts the notice upon that bulletin wall for thirty days, and if no objections are received during that time, the wedding is registered. A record of the notification must be kept by the area's sub-registrar.¹⁶ The Muslim Marriage Act, which is directed by The Muslim Personal Law (Shariat) Application Act, 1937, governs Muslim wedding certification in India. Nevertheless, each state has its own set of rules for issuing Muslim wedding licences. Marriage certification is required in certain states but is not required in others. The Kazi that conducted the marriage might provide a marriage certificate known as a "Nikahnama." It is recommended for the Muslim wedding be documented by the marriage registrar mainly for administrative purposes such as passports, financial account opening, succession, permission in case of crisis, and so on.¹⁷

¹⁴ Medium, *Benefits of Marriage Registration*, Dec 8, 2015, available at <https://medium.com/@easymarriagecertificate/benefits-of-marriage-registration-ca7ee83d4c95>, (Last viewed on March 30, 2022)

¹⁵ Amrita Chakravorty, IndiaFiliings, *Marriage Registration in India -Step by Step Guide*, available at <https://www.indiafilings.com/learn/marriage-registration-in-india-step-by-step-guide/>, (Last viewed on March 30, 2022)

¹⁶ Id.

The Indian Christian Marriage Act of 1872 establishes the legislation governing the solemnisation of weddings within India's Christian population. Christian weddings in the nation are conducted by an appointed Minister or Priest inside a church, as originally mandated by the British-Indian authority. Following the wedding ritual, the minister or priest records the wedding and provides a document of a wedding in the pair's name, making it legitimate. To formally record a wedding, each partner in the relationship must submit a petition to the relevant authorities

Conclusion

In this piece, I have tried to cover several aspects of marriage registration in India. I have stressed on current scenario regarding marriage registration, the advantages marriage registration has with it, and how can a couple get their marriage registered. The section that deals with the advantages of marriage registration has elaborated several advantages of it and can be persuasive to many people who, as of now, have no plans and did not apply for marriage registration yet. It has been noticed that in many cases, people are reluctant to register their marriages because the process it requires is not simple; hence, it is important and necessary for the concerned authority to take care of this issue, and the process should be simplified so that people who are reluctant to register their marriage will do it. Awareness regarding the advantages of marriage registration should be spread in every corner of this country, and the advantages of marriage registration will work as an incentive. Nevertheless, in a country wherein lakhs of partners refuse to register their marriages amid a variety of issues, the effectiveness of mandatory registration will be determined by how simple the process is.

¹⁷ Itzeazy, *Muslim Marriage Registration in India*, available at <https://itzeazy.in/blog/2017/05/15/muslim-marriage-registration-in-india/>, (Last viewed on March 30, 2022)

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