



## Marriage Registration: A Global Overview and recommendations of Law Commission in 2017 for Compulsory registration

Kislay Chauhan, Assistant Professor(Contract) , Department of Law, CDLU Sirsa

**Introduction :** Since independence, numerous initiatives have been taken to address the issue of gender inequality. Reform initiatives taken so far have succeeded to a large extent, however, child marriages, bigamy and gender violence continue to persist in our society, despite legislations prohibiting and penalising such practices.<sup>1</sup> Several disputes are pending before the courts regarding

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matrimonial status of the parties.<sup>2</sup> Women are often denied the status of wife due to absence of record proving a valid marriage. The courts have time and again emphasised on making registration of marriage compulsory, to prevent denial of status to women and to children born out of wedlock

Instances of marriage fraud have also come to light in recent times. In the absence of compulsory registration, women are duped into marrying without performance of the conditions of a valid marriage. This deprives women of societal recognition and legal security. Such fraudulent marriages are especially on rise among non-resident Indians.<sup>4</sup> Compulsory registration can serve as a means to ensure that conditions of a valid marriage have been performed

While provisions for registration exist under various laws- such as the Hindu Marriages Act, 1955, the Special Marriages Act, 1954, the Parsi Marriages and Divorce Act, 1936 and the Indian Christian Marriages Act, 1872, however, there is no provision that provides for simply keeping a record of all marriages and is available to any and every individual in the country regardless of religion, region or customs.

The Special Marriage Act 1954, laid down a procedure for registration but the Act was primarily intended to enable couples to opt out of personal laws, but this did not, however, imply that the couple has opted out of religion. It simply meant that religion has no relevance for registration of a marriage under this Act.



## Marriage Registration: A Global Overview

- United Nations has recognised the importance of creating a record of vital events such as birth, death and marriage. Creation of such a civil registry for citizens serves the purpose of creating a legal document that could be used to protect and establish rights of individuals. This also results in the creation of a database that contains vital statistics of important and relevant life events.
- In the Indian context however, the maintenance of vital statistics does not serve the sole purpose of record-keeping by the State. In many ways it enables social legislations to be effectively enforced. In certain countries there is also a specific register relating to registrations specifically of ‘family’ events.
- In South Africa, laws of marriage are laid down in Marriage Act, 1961. The non-registration does not affect the validity of the marriage and marriage can be registered postnuptially. While, a duly signed marriage certificate serves as prima facie proof of the existence of the marriage, the existence of the marriage may still be proved by other evidence. Similarly, Section 8 of the Australian Marriage Act, 1961 provides for registration of marriages.
- The Muslim Marriages and Divorce Registration Act, 1974 of Bangladesh also provides a complete procedure by which all marriages solemnised should be registered and non-registration is punishable with simple imprisonment which may extend up to two years, or fine up to 3000 Taka, or with both
- In Pakistan, every marriage solemnised under the Muslim law is required to be registered compulsorily under the Muslim Family Law Ordinance, 1961. After passing of the Hindu Marriage Bill, in March 2017, even the Hindus in Pakistan are required to get their marriages registered.
- In Turkey, there is no specific law on registration of marriage but the marriage is concluded only through civil ceremony in front of the Registrar. This requirement flows from the Turkish Civil Code enacted in 1926 which was amended by Turkish Civil Code (2001).
- In Indonesia, Article 2 para 2 of the Marriage Law of 1974 provides for compulsory registration of marriages. In Sri Lanka, under Muslim Marriage and Divorce Act, 1951



(promulgated on 1-8-1954) marriages solemnised therein are required to be registered compulsorily under section 17 of the said Act.

### **Law commission recommends (2017) compulsory registration of all marriages**

- The law commission has recommended compulsory registration of all marriages to deal with social evils such as child marriages, bigamy and gender violence.
- The existing law i.e. The Births, Deaths and Marriages Registration Act, 1886 provides for voluntary registration only.
- In a report titled “Compulsory Registration of Marriage”, law commission said “while provisions for registration exist under various laws, however, there is no provision that provides for simply keeping a record of all marriages and is available to any and every individual in the country regardless of religion, region or customs.”
- The commission recommended amending the Registration of Births and Deaths Act, 1969 to include compulsory registration of marriages in its purview.
- Marriages under different personal laws will be recognized provided they are registered under the Compulsory Registration of Births, Deaths and Marriages Act.
- The report refers to instances of France, Germany, Quebec, Italy and Portugal to highlight similar laws in these countries. It states that in the Indian context, such a law “enables social legislations to be effectively enforced.”

### **References :**

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