

UNIFORM LAW FOR COMPULSORY REGISTRATION OF MARRIAGES

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Marriage is an institution which admits men and women to family life. It is a stable relationship in which a man and a woman are socially permitted to have children implying the right to sexual relations.

Common civil code for marriage can provide uniform and legal criteria to our society. All the social eradicable evils show themselves why there is a need of changing the panorama.

The Hindu Marriage Act still provides that it is still necessary to perform religious rituals and ceremonies or customary rites to complete the marriage.¹ In the event of non performance of the required religious rituals or rites it would not be a legally valid marriage.

Registration of marriage is no marriage at all as contemplated by provision of Act.²

Wife has no remedy under section 11 and 17 of Hindu Marriage Act 1955 against husband taking second wife except under Common Law to file suit for declaration.³

After continuous struggle and battle lead by great leaders, in 1955 series of laws were enacted which guaranteed certain rights to Hindu women like, Hindu marriage Act, 1955, the Hindu Succession Act, 1956, and the Hindu Adaptations and maintenance Act, 1956, Legislative measures like the Bombay Prevention oh Hindu Bigamous Marriages Act, 1946, continued the process of reforms.

The above laws to some extent help Hindu women get over the obstructions imposed by the society, however there are certain aspects of these laws that desperately need to change keeping in mind the current society practices. One of them includes compulsory registration of marriage under the Hindu Marriage Act.

Because as from the name it deducted, a uniform civil code from government can fulfill the requirements old laws, as well as a replace the odd protocols.

In Shah Bano⁴ Case is still seen as a turning point in the question of Muslim Personal Law in India, for it proved that despite the high court's call for equality, the legislature would do

¹ See Section 7 of the Act of 1955

² Shaji v. Gopinath, A.I.R. 1955Mad 161.

³ Birendra Bikram Singh and Others v. Kamala devi, A.I.R. 1955 All 243

everything in its power to keep the Personal Law off limits. The ideology behind this was one whereby non-Muslims claimed that Muslims must themselves change and reform their Personal Law and until the Muslim population of India and its spokesmen such as the All India Muslim Personal Law Board or Jumiati al-Ulama called for changing nothing would be done. At the same time, the Muslim saw their law as an essential part of their culture, a feeling which expressed itself during the colonial era. Any attempt to dismantle the personal law, the Muslim feared, would destroy Muslim culture on the subcontinent. The Bano case, however, also mobilized the right winging Hindu movements in their support, not necessarily of women's rights, but a uniform civil code.

In 1995, the Supreme Court of India was asked to review four cases where Hindu men had converted to Islam in order to marry a second wife. The case is **Sarala Mudgal v. Union of India**,⁵In each case, the first marriage had been solemnized under the Hindu Marriage Act of 1954. Justice Kuldip Singh harkened back to a 1945 case where the court had declared "If this were an Islamic country, where the Mohammedan Law was applied to all cases where one party was a Mohammedan, it might be that Plaintiff would be entitled to the declaration prayed for. But this is not a Mohammedan country; and the Mohammedan Law is not the Law of the Land." Justice Singh's ruling was quite fascinating in a number of respects. First, he pointed out that "In India there has never been a matrimonial law of general application. Apart from statute law a marriage was governed by the personal law of the parties." Secondly, he mentioned "that a marriage celebrated under a particular personal law cannot be dissolved by the application of another personal law to which one of the spouses converts and the other refuses to do so." Concluding that "Since monogamy is the law for Hindus and the Muslim law permits as many as four wives in India, errant Hindu husband embraces Islam to circumvent the provisions of the Hindu law and to escape from penal consequences."

Awareness to common people about facts and laws about marriage is very important. The knowledge of marriage registration, Codes, eligibilities, penalties etc must be made known to people.

Every religion and each person has to be awake, in order to erase the dark parts like child marriages, polygamy/bigamy, marriages without consent, etc from the word marriage.

⁴ Mohammad Ahmed Khan Vs Shahbano Begam AIR 1985 SCC 945

⁵ AIR 1995 SC 153

Parliament should take care to see that registration process is simple and free. The legislation should contain severe punishment sufficient enough for offenders to desist from committing such an offence. The parliament would be better to stipulate that disputes connected with marriages or divorce would not be entertained by courts if they are not duly registered as is the case with the documents required to be registered under the Registration Act, 1908.

As from the above conversations, data, analysis and spiral questionnaire rounds, it is clear that this MARRIAGE ACTS/LAWS are still an igniting topic and in some ways they are still unsatisfying in present perception. So there is a requirement of renovating codes and laws. We just want to torch up these sides of our society.

A more effective way of ensuring registration of marriage and divorces will be to enact proper legislation, rather than expecting state governments to remedy the evils by executive action. Since, personal laws are in the concurrent jurisdiction of the centre and states, parliamentary legislation on the subject would be an ideal choice.

We would prefer registration being made optional but if it is made compulsory, the State government should take into consideration the opinions of all social groups including Muslims while drafting the rules.

There is a great inhibition against marriage registration which needs to be effectively removed. Advantages of registration of marriage and disadvantages of non registration are not specified in any law or policy documents and therefore there is little clarity in the mind of the people in this respect. The proposed law should also provide that no judicial relief will be granted in a dispute matter of the concerned marriage or divorce is not duly registered under its provisions.

Not only in the Muslim society, while in the Christian, and Parsee there is a system of private registration of marriages by the priest who performed the marriages, which needs to be streamlined and linked with Registration of Marriages with State registry.

A marriage certificate should be issued just as local authorities gave a birth certificate or a death certificate.

The solution is to insist on regularization of marriage and the ceremonies will then be optional. The registrar will demand a signed declaration that neither party has a spouse living, something that will deter everyone. Political will is the need of the hour for such a law, which is

extremely necessary to curb child marriages and bigamy. This law has to be made widely disseminated through all medium of communication.

In many situations, a couple goes through much hardship if registration of marriage is not done. It is the duty of the government to make it compulsory and also it is the right of citizens to have a easy procedure of registration.

We have to take a holistic approach when we talk about crimes against women. There has to be an integrated approach to the marriage law, dowry law, divorce law, property rights, and maintenance and child custody. We have to work together the people, the judiciary, the NGOs, the police, lawyers and National Commission for Women. Attitudinal change has to be brought out and last but not the least gender disparities removed from the cradle itself. Because laws will be meaningless if the social attitudes subjugating the girl are not removed.

Every social service organization needs support to act as effective advocates and educators. Human rights – based development and education programs can create dynamics leading to a change in customs hierarchies and prejudice linked to the tradition of all social eradicable and for this purpose Marriage Registration should be promoted.

Registration of Marriage will ensure the minimum age of marriage which will enable to prevent the under age marriages. Child marriage is both a response to a deprivation and a harmful practice that keeps family ensnared in poverty. Married children are generally isolated-removed from their peers and communities. For girls, early pregnancies leads to higher risks, including death during deliver, jeopardizing the health of these young mothers and their babies. Teenage girls are more susceptible than mature women to sexually transmitted diseases.

Till such time that we change the social fabric of the society, dowry will survive in a greedy consumer and commoditized society where girls are battered and harassed and even killed for a motorcycle or a car.

Strong law should be made to catch such NRI boys/girls who fraud and cheat to get married, when proved guilty should be punished harshly so that others do not dare to repeat similar cases. These judgments should be then posted on the website and circulated through print and electronic media to make others aware of it. These criminals should be removed from NRI status (snatching of green card etc, and the concerned country's embassy should be informed).

Create awareness among girls about NRI marriages. This should form the part of curriculum at the secondary or higher secondary level. Parents are the important ,who should be

made aware of these marriages. Centralized registration all of Marriages. Six month of notices the local courts before the marriage is solemnized (or establishing institution for the purpose). There should be space on every State's website for NRI marriages The website should also have : The Six month notice, given by both girl/boy should be displayed on website immediately with date and time. It will help in cross checking information. It should also have detailed CV with family description and addresses of both boy and girl along with their recent and old photographs. The website should also have space for comment by people who know them. This will allow other people who know them to tell concerned people about the boy or girl. in case of NRI marriages.

There are better ways of legislating and implementing this type of far-reaching laws. But none of it will work until the functioning in government offices is made easier, cleaner, better in every aspect. What is the role of the citizens of the country in all this? Is not Democracy supposed to be the rule "of the people, by the people, for the people"? Should not the people or their elected representatives be the ones to initiate such a far-reaching law which would affect almost every citizen of the country? Is the Supreme Court's directive legally kosher?

The present Justice delivery system should be made adequate so that it may become cheap and quick. By this way we can secure social justice which is the main aim of our Constitution.

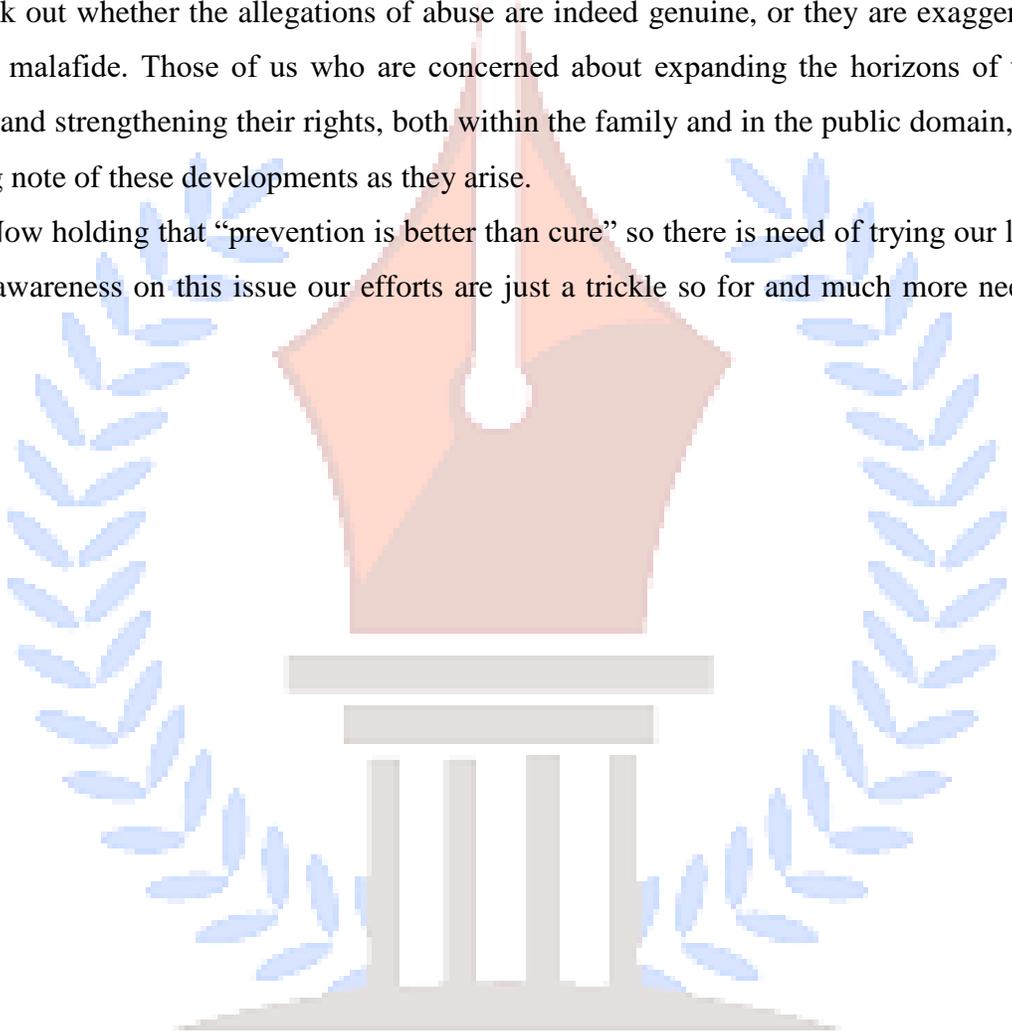
Also Like to recommend debarring such criminals from leaving India for the next three years after he completes the punishment. It can help in reducing the crime against women by NRIs.

One of the tragedies of independent India is that we have not yet learnt to distinguish between reasonable and unreasonable laws, between implement able and unimplementable laws, just as we have failed to create a law enforcement machinery capable of providing genuine recourse to all those whose rights have been violated.

The social organizations that argue that it is unnecessary to insist on State Registration, they fear that a registration law could undermine the importance of religious institutions in the conduct of marriages. But will it trump personal laws concerning marriage and divorce? That may not be the case, though civil authorities could hereafter have a more influence role in these matters, especially in the event of a dispute and there is nothing wrong with that.

By a great deal of struggle and hard work, women's organizations have won a measure of social legitimacy in persuading our society, especially lawmakers, to recognize the serious threat to women's lives due to the erosion of society. However, if instances of manipulation of such laws become common, we will get less and less sympathy for the plight of women in our society, even for those women who are facing threats to their lives. We need to sift the grain from the chaff and check out whether the allegations of abuse are indeed genuine, or they are exaggerated and although malafide. Those of us who are concerned about expanding the horizons of women's freedom and strengthening their rights, both within the family and in the public domain, ought to be taking note of these developments as they arise.

Now holding that "prevention is better than cure" so there is need of trying our level best to raise awareness on this issue our efforts are just a trickle so far and much more needs to be done.



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