Subject Name: Hindu Law
Topic Name: Registration of Marriage

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Introduction

The registration of marriage stands as an important step towards establishing a secure legal framework around unions, an aspect often overlooked in traditional ceremonies. Despite the manifold benefits it offers, there exists no steadfast law or custom mandating the compulsory registration of all marriages.

Advantages of Registration

Firstly, it serves as a robust deterrent against bigamy or polygamy. By requiring all marriages to be registered with a statutory authority and making these documents easily accessible, perhaps through platforms like the internet, the enforcement of laws against multiple marriages can be significantly bolstered.

Furthermore, the registration process acts as a shield against exploitation, particularly concerning women. Cases involving Non-Resident Indians (NRIs) or foreigners perpetrating deception become markedly more challenging to prosecute without proper documentation.

Moreover, mandatory registration of marriages, with both partners present before a registering public authority, serves as a potent tool against coerced unions. This measure ensures that no individual can be compelled into marriage against their will.

Another critical benefit lies in the prevention of child marriages. Mandatory registration would swiftly detect such unlawful unions, enabling timely intervention and protection of vulnerable minors.

The significance of marriage registration extends beyond personal affairs, proving invaluable in dealings with various governmental authorities. Documents certifying marriage hold sway in matters ranging from passport applications to legal proceedings such as divorce, maintenance, or dowry disputes. By streamlining this process, valuable time of the courts is conserved, particularly

in cases involving bigamy or polygamy where the solemnization of marriage often becomes a contentious issue.

Additionally, embracing the compulsory registration of marriages aligns with international conventions aimed at eliminating gender discrimination. As a signatory to such conventions, India has a responsibility to uphold this practice, thereby contributing to a more equitable society.

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Statutes on Registration of Marriage

The legal landscape surrounding the registration of marriages in India is governed by several statutes, each delineating its provisions and scope. One such statute is 'The Births, Deaths and Marriage Registration Act, 1886. However, despite its title suggesting otherwise, this Act does not include any provisions for the registration of marriages.

On the other hand, the Hindu Marriage Act, 1955, under Section 8, does outline certain provisions pertaining to the registration of marriages within the Hindu community. Notably, this Act grants discretion to the parties involved, allowing them to choose whether to solemnise the marriage before a Sub-Registrar or register it subsequent to the ceremony, in accordance with customary practices. Importantly, the Act explicitly states that the validity of the marriage remains unaffected by any omission to register it.

Moreover, Section 8(2) empowers the State Government to formulate rules regarding marriage registration. If the State Government deems it necessary, it can mandate compulsory registration. In such cases, individuals failing to comply with the prescribed rules may face punitive measures, typically in the form of fines.

However, it's crucial to note that mere registration alone does not serve as conclusive evidence of marriage. Additional corroborating evidence may be required to establish the validity of the union in legal proceedings.

In Pondicherry, the Pondicherry Hindu Marriage (Registration) Rules, 1969, have been enacted, commencing from April 7th, 1969. Under these rules, all Sub-Registrars in Pondicherry are appointed as Marriage Registrars, operating under the purview of the Indian Registration Act, 1908.

Similarly, in Haryana, the Haryana Hindu Marriage Registration Rules, 2007, have been officially notified, outlining the procedures for marriage registration within the state.

In West Bengal, the Hindu Marriage Registration Rules, 1958, dictate the requirements and protocols for registering Hindu marriages in the region.

Tripura State has also established Tripura Hindu Marriage Registration Rules, 1957, outlining the procedures for marriage registration specific to the state.

Turning our attention to Karnataka, the Registration of Hindu Marriages (Karnataka) Rules, 1966, have been formulated to govern the registration process within the state. Additionally, the Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976, mandates the compulsory registration of all marriages contracted within Karnataka.

In Chandigarh, the Hindu Marriage Registration Rules, 1966, have been framed to regulate the registration of Hindu marriages within the Union Territory.



In Goa, the Law of Marriages, which has been effective in the territories of Goa, Daman, and Diu since November 26, 1911, remains in force to this day. According to Articles 45 to 47 of this law, marriage registration is compulsory. The primary evidence of marriage typically consists of the Certificate of Marriage obtained from the Register maintained by the Civil Registrar appointed for this purpose by the Government.

The Special Marriage Act, 1954, which is applicable to Indian citizens regardless of their religion, mandates the registration of each marriage by a specially appointed Marriage Officer. Similarly, under the Indian Christian Marriage Act, 1872, marriage registration is compulsory.

Under the provisions of the Indian Christian Marriage Act, entries are recorded in the marriage register of the respective Church immediately following the marriage ceremony. These entries include the signatures of the bride and groom, the officiating priest, and the witnesses. However, the registration process can be complex due to the existence of different rules governing Indian Christians, other Christians, and followers of various Churches.

The Parsi Marriage and Divorce Act, 1936, mandates the registration of marriages within the Parsi community. Marriage Registrars, commonly referred to as 'Parsi Priests,' are appointed by the State Government and operate under government authorities' control and supervision. They are required to periodically submit marriage records to the relevant authorities. Certificates issued by these registrars hold legal weight and are admissible in courts of law.

Similarly, the Foreign Marriages Act, 1969, also stipulates the registration of marriages. This Act pertains to the solemnization and registration of marriages between Indian citizens and either another Indian citizen or a foreigner. Books of Marriage Certificates are to be maintained in all Diplomatic Missions, ensuring documentation of marriages involving Indian citizens abroad. Additionally, the Act includes provisions for the registration of pre-existing marriages solemnised in foreign countries under the respective countries' laws.

Seema v Ashwani Kumar

In the case of Seema v Ashwani Kumar [(2006) 2 SCC 578], the Supreme Court underscored the imperative need for the registration of marriages across the country, issuing directives to both the Central and State Governments to address this matter.

The Supreme Court, in this case, highlighted the critical necessity for the registration of marriages nationwide. It expressed concern over numerous instances where unscrupulous individuals exploit the absence of official marriage records, denying the existence of marriages. All States and Union Territories acknowledged the significance of marriage registration, particularly in combating prevalent issues such as child marriages.

The apex court made several observations and decisions:

1. Historical Significance: The court emphasised the longstanding cultural importance of marriage, tracing its roots back to ancient times, particularly in the Rigvedic age.

2. International Conventions: It noted India's commitment to international conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and highlighted India's agreement in principle to the desirability of compulsory marriage registration. However, practical challenges, such as India's diversity in customs, religions, and literacy levels, led to reservations regarding the feasibility of mandatory registration.

3. Constitutional Provisions: The court highlighted the Constitutional provisions under List II of the Seventh Schedule, affirming both the Central and State Governments' authority to legislate on marriage registration under entries 5 (Marriage and divorce) and 30 (Vital statistics including registration of births and deaths).

4. State Initiatives: It acknowledged certain states' efforts in framing rules for marriage registration, citing Uttar Pradesh's policy of compulsory registration by Panchayats and the maintenance of marriage records.

5. Importance for Women: The National Commission for Women emphasised the significance of marriage registration for women's welfare, including preventing child marriages, ensuring consent in marriages, and protecting inheritance and maintenance rights.

6. Evidentiary Value: The court recognized the evidentiary value of marriage registration in legal proceedings, such as custody disputes and inheritance claims.

Based on these observations, the Supreme Court issued directives to the States and Central Government:

1. Notification of Registration Procedure: States were instructed to notify the registration procedure within three months, allowing objections from the public before implementation.

2. Appointment of Authorised Officers: States were directed to appoint officers authorised to register marriages, clearly stating the age and marital status of the individuals, along with consequences for non-registration or false declarations.

3. Comprehensive Legislation: The Central Government was urged to enact comprehensive legislation on marriage registration, subject to scrutiny by the Court.

The Court mandated prompt compliance with these directives by learned counsel representing various States and Union Territories.