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Email: thelawwaywithlawyers@gmail.com

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Authored By :- Reeta kumari , Usha martin university Ranchi Jharkhand.

INTERFAITH MARRIAGE AND LEGAL CHALLENGES UNDER SPECIAL MARRIAGE ACT,1954

Abstract

An important component of both the secular framework of Indian society and individual autonomy is interfaith marriage, which is defined as a marriage between people who practice different religions. In order to give such weddings a legal framework without necessitating conversion, the Special Marriage Act, 1954 was passed. The Act presents a number of procedural and societal difficulties despite its progressive goal. Couples are frequently subjected to social pressure, harassment, and threats as a result of the necessary notice period and public notification regulations, which raises grave concerns about privacy and individual liberty.

The article analyzes the Act's legal provisions critically and assesses how well they align with constitutional guarantees, especially those included in Articles 14, 19, and 21.

Keywords

Interfaith marriage, Special Marriage Act, Fundamental Rights,
Privacy. **Introduction**

A partnership between people who practice various religions is referred to as an interfaith marriage. Such weddings are a reflection of societal integration, secularism, and individual choice in a multicultural nation like India. In India, marriage has always been regulated by personal laws and religious norms, which frequently discourage partnerships between people of different faiths. However, acceptance of interfaith marriages has steadily increased, especially among the younger population, as a result of modernity, education, and shifting social ideals. The Special Marriage Act of 1954 was passed in order to legally permit such unions, protecting people's identities and legal rights while permitting marriage without religious conversion. Constitutional values like equality, religious freedom, and the freedom to select a spouse are all embodied in this Act. Interfaith marriages are a topic of ongoing legal and social discussion because, despite legal support, they continue to encounter social hostility, familial opposition, and difficulties like stigma and honour-based violence.

Historical Background and Evolution of Marriage law in India

Hindu, Muslim, Christian, and Parsi personal laws have historically governed marriage in India. These systems frequently prohibited people from getting married outside of their religion because they saw marriage as a sacred institution rather than a legal contract. As a result, interfaith unions encountered legal challenges as well as social rejection. It became necessary to have a consistent marriage legislation throughout the British colonial era. The Civil Marriage Act of 1872 was designed to allow weddings regardless of religious beliefs, but it was unpopular and unworkable because it required people to renounce their faith. India adopted a secular constitutional framework that prioritized equality and individual liberty after gaining independence. As a result, the Special Marriage Act of 1954 was passed, allowing people of various religions to wed without having to convert. It is a step in the right direction toward acknowledging marriage as a question of personal preference and legal inclusivity.²

Overview of the Special Marriage Act,1954

A secular statute known as the Special Marriage Act of 1954 establishes a framework for marriage regardless of caste, religion, or community. It promotes equality, individual freedom, and constitutional ideals by permitting people of various faiths to get married without converting. Indian nationals are covered by the Act both domestically and internationally. It establishes requirements that must be met for a marriage to be deemed lawful: the man must be at least 21 years old, the female must be at least 18, both parties must freely consent, and the couple must not be in a relationship that is forbidden unless custom permits it. In contrast to personal laws, it views marriage not as a religious institution but as a legal transaction.

In addition, registration, divorce, judicial separation, child legitimacy, and succession are all covered by the Act. Nonetheless, some clauses, such as the requirement for public disclosure,

²The Role of Religion & Caste in Marital Laws: Conflict and Coexistence in Interfaith Marriages. | EBSCOhost <https://share.google/UxpMksdEZaKFWUpCu>
³HISTORICALFRAMEWORKOFINTERFAITHMARRI.pdf <https://share.google/BfUUIDnTLIH4Et86F>
have drawn criticism for perhaps compromising privacy and subjecting couples to social pressure.³

Legal Procedure under the Special Marriage Act,1954

The law and equality are guaranteed by the Special Marriage Act of 1954's solemnization process. The first step is for the parties to give the Marriage Officer of the area where at least one of them has lived for 30 days a written notification of intended marriage. This creates the appropriate jurisdiction. After then, the notice is posted publicly and entered into the Marriage Notice Book. Following that, there is a 30-day waiting period during which Section 7 objections may be made. The Marriage Officer investigates any objections to confirm their legitimacy. The marriage is consummated in front of the Marriage Officer and three witnesses if there are no legitimate objections. A declaration attesting to the parties' consent is

signed. Following the ceremony, a certificate that serves as final legal documentation of the union is issued and the marriage is registered.⁴The objection mechanism under Section 7 of the Special Marriage Act is also subject to misuse, as it allows third parties to interfere in what is essentially a private decision of consenting adults. Instead of safeguarding legality, it often becomes a tool for harassment by families or community members. This reflects a gap between the intention of the law and its practical implementation, thereby necessitating urgent reforms to balance procedural safeguards with individual autonomy.

Legal and social challenges faced by interfaith couples

Despite being protected by the Special Marriage Act, 1954, interfaith spouses in India suffer substantial legal and societal obstacles. Couples' privacy and autonomy are frequently impacted by the statutory notice and publication requirement, which exposes them to public scrutiny and may result in protests, harassment, and interference from relatives or communities. Strong social resistance stems from well ingrained religious beliefs and cultural standards, which may culminate in threats or acts of violence in the name of honor. Complicating matters are political myths and fallacies, such as claims of forced conversion. Stronger protections and increased public awareness are also required since ineffective protection from authorities exposes the disconnect between law provisions and their actual

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³Inter-Faith Marriage Laws in India: A Conundrum by Drishti Ranjan :: SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4001387

⁴Inter-Caste And Inter-Religious Marriages Under The Indian Legal System: An Analysis Of Theory And Practice. | EBSCOhost <https://share.google/YXn9FzFMq3NMhoXtD> application.⁵ The requirement of a 30-day public notice under the Special Marriage Act, 1954 raises serious concerns regarding the violation of the right to privacy, which has been recognised as a fundamental right under Article 21 of the Constitution. In *K.S. Puttaswamy v. Union of India*, the Supreme Court affirmed that privacy is intrinsic to life and personal liberty. The mandatory publication of personal details of interfaith couples exposes them to social hostility, harassment and even threats, thereby undermining their autonomy and dignity. This creates a conflict between statutory procedure and constitutional protection, making the provision highly controversial.

Judicial approach and constitutional perspective

The Indian judiciary has vigorously upheld interfaith couples' rights by interpreting the law in accordance with constitutional principles. Article 21 recognizes the freedom to marry anyone one chooses as a component of the right to life and personal liberty. The ability of consenting people to select their spouses without intervention from family, society, or the government has been repeatedly upheld by courts. The equality, freedom, and liberty guaranteed by Articles 14, 19, and 21 lend support to this strategy. In general, the judiciary protects individual autonomy in questions of marriage by elevating constitutional morality above social norms.⁶ The judiciary has consistently protected the rights of interfaith couples by upholding their freedom to choose a partner. In *Shafin Jahan v. Asokan K.M.*, the Supreme Court held that the right to marry a person of one's choice is a fundamental right under Article 21.

Similarly, in *Lata Singh v. State of Uttar Pradesh*, the Court affirmed that consenting adults have the freedom to marry irrespective of caste or religion and condemned any form of interference or violence. Further, in *Shakti Vahini v. Union of India*, the Court issued guidelines to prevent honour-based crimes against couples. These judgments highlight the judiciary's commitment to constitutional morality over social morality.

The issue of interfaith marriage under the Special Marriage Act must be examined through the lens of constitutional morality rather than social morality. In *Navtej Singh Johar v. Union of India*, the Supreme Court emphasised that constitutional values must prevail over societal prejudices. Applying this principle, the right to choose a life partner, irrespective of religion, is a manifestation of individual autonomy and dignity under Article 21. Any procedural

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Interfaith Marriages and Negotiated Spaces - Shweta Verma, Neelam Sukhramani, 2018 <https://share.google/HDnxgHs5Pi0cvbzqu>

barriers that indirectly restrict this freedom must be tested on the grounds of reasonableness and proportionality.

Conclusion

The increasing acceptance of personal preference and secular ideals in contemporary India is reflected in interfaith marriage. In order to promote equality and freedom, the Special Marriage Act of 1954 offers a crucial legal framework that permits people of various religions to get married without converting. It embodies the nondiscrimination, liberty, and dignity found in the constitution. However, despite its progressive goal, there are still a number of obstacles in the way of its actual application. Procedures like the notification period can raise privacy issues and put couples at risk of harassment and social pressure. Furthermore, cultural reluctance and ingrained societal beliefs continue to be major obstacles for interfaith relationships.

A re-examination of the procedural requirements under the Special Marriage Act is necessary to align it with contemporary constitutional values. Simplifying the notice process and ensuring confidentiality can help in protecting the dignity, privacy and autonomy of interfaith couples, thereby strengthening the true spirit of secularism in India.

Therefore, even while the Act is a significant step in the direction of a more inclusive legal system, improvements are urgently needed to streamline processes and safeguard individual privacy. To guarantee that interfaith marriages are honoured both legally and socially, greater social awareness and acceptance are equally important.