



LEGAL ASPECTS OF MARRIAGE: RIGHTS AND RESPONSIBILITIES

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Abstract

Marriage law is the framework that establishes a legal connection between spouses, which imposes upon them certain rights and obligations with regard to one another. This relationship is formed within the framework of marriage law. These rights may include joint ownership of property, inheritance advantages, and even decision-making authority in the case that one of the spouses becomes incapable of making choices. It is conceivable for these rights to encompass all of these things. Some examples of obligations that are typically included include providing financial assistance, living together, and potentially even being responsible for the upbringing of children. The specific rights and duties may vary from one jurisdiction to another, as well as depending on whether or not the couple has a prenuptial agreement that describes their expectations for their money. This is necessary in order to ensure that the couple is able to meet their financial commitments.

Keywords-: Marriage, Legal, Rights, Responsibilities.

Introduction

In the beginning, marriage was regarded as a social institution that was constructed with the purpose of preventing men from indulging in unrestricted polygamy and establishing paternity in offspring. It is not an exception to the fact that the state has adopted laws that regulate every aspect of human existence throughout the course of its history, and marriage is not an exception to this pattern. When it comes to weddings in India, the personal laws of the faith that the couple who is getting married professes are the ones that regulate the marriage. The procedure that is followed is as described above. The Special Marriage Act of 1954 and the Foreign Marriage Act



of 1969 are the laws that govern marriages between persons of different religions and between people of foreign nationalities, respectively. Both of these laws were passed as part of the United States government. As a consequence of this, we have laws that control the required elements for a legitimate marriage, the grounds for divorce, the maintenance of the spouse and children, adoption, guardianship, inheritance, succession, and other themes that are linked to marriage. As an extra point of interest, we also have a number of secular laws that deal with issues pertaining to marriage. Section 125 of the Criminal Procedure Code, Sections 498A of the Indian Penal Code, the Family Courts Act of 1984, and the Domestic Violence Act of 2005 are some of the legislation that fall under this category.

The observance of customary norms, rites, and ceremonies by the individuals who are participating in the marriage ceremony is given a significant amount of attention and consideration. The saptpadi, saatphas, the exchange of garlands, and vows are all examples of these types of ceremonies. Both Christians and Hindus recognise marriage as a sacrament in their respective religions. The completion of these rites is necessary in order to have a marriage that is legally binding. It is believed that the introduction of permission as a mandatory criteria for obtaining a marriage licence resulted in the acquisition of a contractual element for Hindu weddings. The assertion, on the other hand, is challenged by the fact that the absence of agreement renders Hindu marriages only voidable, as opposed to being void from the outset like contracts. Muslim weddings are based on contracts, with the emphasis being put on making an offer and accepting it in the presence of witnesses who are eligible to witness the marriage. In Hindu texts, the wife is referred to as ardhagini, which literally means "the other half." This terminology is used to describe the wife. This suggests that a guy is not complete until he has tied the knot with a woman. Additionally, the woman has been referred to as the grahlakshmi, dharampatni, and sahadharmini, and she is seen as a vital companion for her husband in the process of carrying out his religious and spiritual responsibilities. Sati pratha was a practice that was encouraged by Hindu customs, which prohibited widows from remarrying and encouraged them to do it. Those individuals who fought for social change were pivotal in the process of eradicating practices that were seen to be associated with regression.



According to Hinduism, marriage is considered to be an eternal union that will continue to exist for a great number of lives to come. Taking this into consideration, the idea of divorce was not recognised previous to the establishment of the Hindu Marriage Act in the year 1955. There are a few allusions to this subject that may be found in the literature of the ancient Hindus. The sages Vashistha, Parasara, and Kautilya all address the conditions under which a woman is permitted to divorce her husband and remarry. This was permitted in circumstances in which the spouse had a lack of character, was unable to have children, or had become a strict individual. Within a culture that was ruled by patriarchy, on the other hand, these works were never brought to light. Women were compelled to remain with polygamous spouses in such a society since men routinely took more than one wife without fear of penalties. This made it difficult for women to leave one husband.

Prior to the year 1955, marriages in the Hindu religion were thought to be monogamous for the exclusive purpose of the woman alone. There is only one religion that does not let a man to have more than four wives who are legally married at any given time, and that religion is Islam. At this period in time, every single spouse has the right to have a monogamous relationship. Section 497 of the Indian Penal Code has been declared unconstitutional, which implies that adultery is no longer regarded as a criminal crime. Instead, it is now a grounds for divorce that either the husband or the wife can use to justify their decision to end the marriage. In addition to being a reason for divorce, the act of bigamy can also be a justification for the errant spouse to be subject to criminal prosecution under Section 494 of the Indian Penal Code. This is because bigamy is considered a domestic violence offence.

The right to a conjugal relationship is bestowed upon a couple by the institution of marriage, and the denial of that right is cruel discrimination, particularly when the individuals involved are young and physically well. A person who has been deserted by his or her spouse is eligible for a marital remedy in the form of Restitution of Conjugal Rights under both Section 9 of the Hindu Marriage Act and Section 22 of the Special Marriage Act of 1954. Both of these sections make this provision available. On the other hand, this clause, which seems to be gender neutral, is now



being investigated by the court system for being a breach of human privacy, dignity, and autonomy. This investigation is taking place at your current location.

Legally speaking, women have the right to remain in the house that is designated as the marital house, which is the domicile of the husband. As an additional benefit, she is eligible to receive financial assistance from the wages of the husband. If the court determines that the wife is earning a comparable amount or that she is well equipped to earn, then the woman may be refused maintenance from her husband's income. This is the case if the court decides that she is earning an equivalent amount. The "able-bodied person" test is utilised by the judicial system in order to determine whether or not a man is capable of earning his living. This exam is administered to husbands who are attempting to obtain financial support from their wives.

The partners in a marriage have the right to create joint bank accounts and lockers, to purchase properties in joint names, and to designate each other as nominees in insurance, pension, and gratuity papers. Additionally, they have the right to acquire properties in joint names. Married people have the legal right to receive a pension in the event that their partner passes away or becomes disabled. This right is in place in the event that their partner becomes disabled. It is important to note that marriage does not automatically grant the second spouse a portion of ownership in the property that was obtained by the first partner. The concept of marital property is not accepted in India, with the exception of the state of Goa. As a consequence of this, when a marriage is dissolved through the process of divorce, the parties involved are unable to establish any claim to the property of the other, regardless of whether the claim involves inheritance or any other means. After the death of the husband, the laws of intestate succession prescribe that the woman is entitled to an equal part in all of her husband's property, together with her children. This is the case even if the husband did not leave any descendants. On the other hand, the husband is only qualified to inherit a portion of his wife's personal property after her death; he is not entitled to acquire a portion of her ancestral property.

Following the guidelines that were made public by the Central Adoption Resource Authority, it is said that married couples are authorised to adopt; nevertheless, in order for the adoption to take place, both spouses are required to provide their consent. In addition, a couple who is going



to be adopted cannot be given a kid unless they have been married for a period of at least two years and have a strong bond with one another. Despite the fact that there are certain faiths that adhere to the concept that the husband is the natural guardian of his underage bride, there is a legislation in India that makes it illegal for children to get married. This piece of legislation, which was enacted in 2006 and is known as the Prohibition of Child Marriage Act, was written in 2006. When an adult man who is over the age of 18 enters into a marriage with a minor, he will be subject to a penalty that includes either a harsh imprisonment for a period of two years or a fine that may reach up to one lakh rupees, or both of these measures. In addition, he will be subject to a sanction that may include both of these measures. Furthermore, the consummation of marriage with a child bride is no longer protected by the Indian Penal Code (IPC). Furthermore, the Supreme Court of India, in a case that occurred in 2017, established that it is deemed to be a sort of marital rape that is prohibited according to the law.

HUMAN RIGHTS FRAMEWORK

Certain international agreements that are regarded as being of the utmost significance in the field of human rights expressly acknowledge the right to consent to the institution of marriage. Under any and all circumstances, consent must be given in a manner that is both comprehensive and well-informed, and it must be accompanied by a knowledge of the consequences that would result from getting married. Under circumstances in which either one or both of the individuals involved in a marriage are under the age of 18, it is quite probable that the elements that are essential for consent are not established.

The right to marry and begin a family is included in this category because it is commonly acknowledged as a fundamental human right. Because the right to marriage is inalienable and extends to each and every individual, it is not acceptable to arbitrarily deny the advantages that come with being married. Due to the fact that lawful unions, even those that exist between



spouses of the same gender, are not acknowledged, individuals are deprived of the ability to participate in a fundamental social institution, and their economic well-being is put in peril.

When it comes to the marriage process, women have the right to be free from discrimination at every point, including before they get married, while they are married, and after the marriage has ended. In order for married women to attain equality with men within the framework of marriage, they need to have the right to manage, own, and inherit property, as well as the ability to work outside the home and travel without the consent of their husbands. In addition, they need to have the right to travel without prior permission from their husbands. It should be possible for both men and women to commence the divorce process, and legislation should be implemented to safeguard the rights of women who are going through the divorce process. that an additional point of interest, the right to nondiscrimination ensures that same-sex couples are afforded the same legal protections in the context of marriage that heterosexual couples are.

These legal principles give rise to the following duties of governments:

Ensure that weddings are entered into as a consequence of free and total permission from both persons involved on both sides of the relationship. It is of the utmost importance to take action in order to protect the right of a woman to give her permission to a marriage. These solutions include addressing cultural norms that condone the marriage of young girls, changing legislation that sets different marriage age limitations for boys and girls, and enacting laws that restrict the payment of bride-price. All of these steps are intended to address the issue under consideration.

A broad interpretation of the right to marry should be adopted in order to make it necessary for persons of the same gender to be able to enter into de facto relationships and weddings with one another. The freedom to marry is a fundamental human right; consequently, there is a need for governments to spread the advantages of marriage to a larger category of partnerships in order to guarantee that all persons are able to take use of this right. The legal protections and privileges that are associated with marriage should be extended to de facto unions, such as domestic partnerships between couples of different sexes, as well as to couples of the same sex. This includes legal rights and privileges that are associated with marriage. It is essential to observe



that both partners in a marriage are entitled to the same legal protections. In situations where governments are expected to give equal rights inside marriage, they are also obligated to ensure that married women have the same rights and duties as married men, and they are also obligated to eliminate legal and cultural obstacles that encourage women to be subservient to their husbands.

Create structures that safeguard the equal distribution of property and make it possible for couples to decide whether or not to divorce. The governments that do not allow divorce or that only allowed males to commence divorce procedures are the ones that force women to remain in violent or restrictive unions as a result of their policies. In addition, if the reasons for divorce are limited or if males are given precedence when it comes to the division of property after a divorce, this discourages women from filing for divorce, which is an indirect infringement of their rights. In other words, this is a violation of their rights.

INDIAN MARRIAGE LAWS

Hindu Marriage Law of 1955

In order to lawfully govern the events that occur in life after marriage, the court has formulated certain laws that are applicable to Hindus who reside in India. There are a few of the provisions that are listed below:

- According to Hindu marriage law, a person is not allowed to have more than one husband or wife at the same time. Therefore, if a person wants to get married after their first marriage, they are required to obtain the divorce certificate; alternatively, they need have the death certificate in case their prior spouse has passed away.
- The Supreme Court of India, which is the highest court in India, has established the minimum age requirements for marriage at 18 years old for all women and 21 years old for all males.
- Both the bride and the groom must be able to give their assent to the marriage that they are about to enter into. The fact that they are suffering from any kind of mental disease is

unacceptable. In the event that this is discovered to be the case, the former spouse is required to provide formal consent to the marriage.

- Neither the bride nor the groom can be sapindas, which implies that they should in no way be related to each other by lineage.

According to Section 5(4) of the Hindu Marriage Law, there are some circumstances that need not be met in order to not be eligible for marriage registration:

- If it is discovered that one of the spouse's relatives or family members is of the same ancestry, then the certification of such a marriage might be halted.
- In the event that it is discovered that the prospective groom's bride has previously been married to his brother, maternal brother, or any other individual belonging to either the paternal or maternal lineage, such weddings may be deemed illegitimate.
- The Hindu Marriage Act of 1955 does not permit incestuous marriages.

Section 18(b) specifies that if a party is found guilty of being in an affair with another person while married, they will be penalised an amount of ₹10,000 and may end up behind bars for one month.

Muslim Marriage Law

Within the borders of India, there is no legal structure that has been established to regulate marriages that take place amongst Muslims. In the context of the Muslim religion, the marriage ceremony is carried out in accordance with the nikahnama, which is a type of civil contract. Within the Muslim community, one of the essential conditions that must be satisfied before a marriage may be recorded is that both parties must be psychologically prepared for the union. This is one of the prerequisites that must be accomplished. Both the proposal (ijab) and the acceptance (qubool) are the two processes that are required in order to establish the status of a contractual agreement.

In the event that the conditions that were mentioned before are met, then there will be no legal hurdles of this kind. Despite this, it was necessary for there to be witnesses there who saw things



from both sides of the argument. When it comes to the minimum number of adult witnesses that must be present, Sunnis and Shias each have their own set of norms that regulate which witnesses must be present. In the event that the witnesses do not appear on either of the two halves of the marriage at the time of the ceremony, the marriage is considered to be fasid, which is another term for irregular. In India, Muslims are the only people who may have the arranged marriage status, which is another type of marriage status.

The muta marriage is a sort of marriage in which the husband and wife will stay together for a certain period of time in order to fulfil their needs, and then they will go their own ways when the allotted period has passed. Muta marriage is not something that Sunnis indulge in as a common practice. All Indian Muslims who had tied the knot after the year 1981 were forced to register their weddings thanks to the Muslim Marriage Law, which was passed as part of a registration regulation that mandated the registration of marriages.

1872 rules that governed marriages between Christians

In the presence of priests, churchmen, or other persons who are linked with the church, such as church management, the marriage of a Christian bride and husband is confirmed. This ensures that the marriage is legally recognised and recognised by the church. A marriage registration certificate will not be provided to a couple that is under the age of 21 in line with the regulation that was first implemented in the year 1872. The legislation that controls weddings amongst Christians was initially enacted in the year 1872. As a result, the groom must be at least 21 years old, and the bride must be at least 18 years old in order to be eligible for marriage. For a marriage to be considered legitimate, it is necessary for both parties to actively start the act of marriage.

On the day of the wedding, it is highly banned for the partners to ask their former spouses to attend the ceremony. This prohibits the partners from inviting their family members. In order to ensure that the criteria are met, the law mandates that there must be a minimum of two witnesses present at the reception for the wedding. Because of this, both parties are impacted in this way.



Special Marriage Law, 1954

All people of the country, regardless of their caste or religion, are required to comply with the Marriage Act, which will be enforced in accordance with this legal requirement. It is now possible for persons who follow to two different religions to legally marry one another as a result of the enactment of this Act. However, in the case that such a marriage is consummated, there are a few standards that must be followed to for the marriage to be considered valid:

Marriages that involve individuals who originate from various religious backgrounds are needed to be registered with the relevant authorities. This is a requirement. The ability of both spouses to think in a logical and straightforward manner is absolutely necessary.

In order to change the status of the relationship to "married," it is forbidden to convert 37 different forms of partnerships that are in some way tied to the blood lineage of the groom or spouse via marriage. This is being done for the aim of converting the relationship status.

EQUAL RIGHTS WITHIN MARRIAGE, INCLUDING PROPERTY OWNERSHIP AND INHERITANCE

As a result of the institution of marriage, it is possible for women to be prevented from enjoying equality with their husbands. There is a possibility that laws that discriminate against marriage might have a substantial effect on the lives of women. However, there are restrictions that limit a woman's capacity to manage, hold, and inherit property. Additionally, there are rules that require her to obtain permission from her husband before she may travel or work outside the home. Finally, there are regulations that restrict a woman's ability to inherit property. It is a widely held belief that women should be subordinate to their husbands, and there are a number of laws that officially promote this notion. Nevertheless, there is a rising trend towards modernising these regulations, which is a positive development. In the past several years, the area of family law has been the location of some of the most significant accomplishments that the community of women's rights advocates has been able to experience. Reforms of long-standing family and civil norms, such as those that took place in Guatemala, have resulted in unmistakable statements of women's equality with males in the context of marriage. These reforms have been implemented



in Guatemala. In addition, as a consequence of these changes, further particular safeguards against discrimination have been adopted in areas such as the employment, parental authority, and property rights. This is the case in India, among other nations, as well as in other countries.

CONCLUSION

In India, marriages are controlled by personal marriage acts in addition to generic marriage acts. General marriage acts are also in place. A notification must be given to the marriage registrar within the first month following the wedding in order to satisfy the requirements for court marriage registration. This notice must be delivered in order to complete the requirements. In addition, throughout this time period, supporting papers are prepared in order to fulfil additional legal objectives. These objectives include giving evidence of age, proof of identification, proof of address, and other reasons that are comparable. A copy of the notification is sent to the magistrate of the district in which the bride resides in the event that the bride resides in a separate location. This allows for a thorough investigation to be carried out. During the duration of one month that the scrutiny status is in place, any of the parties involved in the marriage have the option to voice their objections to the marriage. In the case that the Registrar determines that it is essential to do so, he is vested with the ability to declare any marriage to be invalid regardless of the circumstances.

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