



## Assessing the nexus between compulsory hindu marriage registration and human rights protections

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### Abstract

Marriage occupies a central place in Indian society, especially within the Hindu legal framework, where it is regarded as both a social and religious institution. Despite this significance, the registration of Hindu marriages under the Hindu Marriage Act, 1955 remains largely optional, which has led to several legal and social complications. This research paper examines the issue of non-registration of Hindu marriages from a human rights perspective, with particular emphasis on its impact on women and children. Unregistered marriages often result in denial of matrimonial rights, difficulties in proving marital status, and increased vulnerability to practices such as bigamy, child marriage, abandonment, and marital fraud.

The paper analyses the existing legal framework governing marriage registration, including statutory provisions, judicial pronouncements, and state-level legislations that mandate compulsory registration. It highlights how courts, especially the Supreme Court in *Seema v. Ashwani Kumar*, have repeatedly stressed the importance of mandatory registration as a means to protect women's rights and prevent social evils. The study also reviews recommendations made by the Law Commission of India and legislative efforts aimed at introducing a uniform system of marriage registration across the country.

By adopting a doctrinal research methodology, the paper argues that compulsory registration does not interfere with religious customs but rather strengthens legal protection and access to justice. The research concludes that a central legislation or an amendment to existing registration laws is essential to ensure uniformity, simplify procedures, and safeguard human rights. Mandatory marriage registration is ultimately presented as a crucial step toward gender justice, legal certainty, and social reform.

**Keywords:** Hindu marriage act, 1955, marriage registration, women's rights, human rights, compulsory registration, judicial pronouncements, child marriage, gender justice

### Introduction

Marriage in India is not merely a legal contract but a deeply rooted social and religious institution, particularly within the Hindu community. It governs personal relationships, social status, and legal rights relating to maintenance, inheritance, legitimacy of children, and marital obligations. Despite its significance, the registration of Hindu marriages under the Hindu Marriage Act, 1955 is not uniformly mandatory across the country. This absence of compulsory registration has created serious legal and social challenges, especially for women, who often struggle to establish their marital status in the absence of documentary proof.

Non-registration of marriages has contributed to persistent issues such as child marriage, bigamy, abandonment of wives, denial of maintenance, and prolonged litigation over marital status. In many instances, women are left without legal recognition as wives, making it difficult for them to claim basic matrimonial rights. Children born from such marriages may also face complications concerning legitimacy and succession. These problems highlight a critical gap between the social practice of marriage and the legal safeguards intended to protect vulnerable individuals.

Over the years, Indian courts have acknowledged these concerns and emphasized the importance of marriage registration as a protective mechanism rather than a challenge to religious customs. Judicial pronouncements, along with recommendations from the Law Commission of India and the National Commission for Women, have consistently advocated for compulsory marriage registration to promote transparency, prevent exploitation, and uphold human rights. Several states have responded by enacting laws mandating registration, yet the absence of a uniform national framework continues to cause inconsistency.

This study seeks to examine the legal framework governing Hindu marriage registration and evaluate the necessity of making it compulsory from a human rights perspective. It aims to demonstrate how mandatory registration can serve as a vital tool for ensuring gender justice, legal certainty, and social reform.

### Substantive Analysis: The Legal and Human Rights Framework of Hindu Marriage Registration The Sacred Nature and Legal Recognition of Hindu Unions

In the Indian social fabric, marriage is far more than a civil contract; it is a sacramental institution. This spiritual significance is codified in the Hindu Marriage Act (HMA) of 1955. Section 7 of this Act explicitly anchors the validity of a marriage to traditional customs and rites. Specifically, Section 7(2) highlights the Saptapadi the circumambulation of the sacred fire as the definitive ritual that completes a marriage. The HMA's jurisdiction extends beyond those identifying as Hindu to include Buddhists, Jains, and Sikhs, while excluding Abrahamic faiths like Islam and Christianity, which are governed by their own personal laws.

Despite the emphasis on ritual, Section 8 of the Act introduces the administrative dimension: registration. This section empowers state governments to facilitate the recording of marriages to ensure "proof of marriage." Crucially, Section 8(5) contains a "saving clause" which dictates that the absence of a registration entry does not invalidate an otherwise legally solemnized marriage. This creates a dual system where a marriage can be religiously "complete" and legally "valid" even without a state-issued certificate.

### The Dilemma of Validity vs. Documentation

A pivotal question arises: Why does Indian law recognize unregistered marriages? The answer lies in India's immense cultural and geographical diversity. Many unions occur in rural or remote areas through customary practices, often without formal clergy or official oversight. Declaring these millions of unions "invalid" simply for lack of paperwork would cause systemic chaos, delegitimizing families and stripping women of their legal status overnight. Therefore, the law balances respect for tradition with the practical need for documentation, choosing to encourage registration through awareness rather than penalizing its absence with "invalidity."

### The Human Rights Necessity for Compulsory Registration

While a marriage remains valid without registration, the lack of a certificate often leads to a "rights vacuum." The judiciary, particularly the Supreme Court in the landmark case of *Seema v. Ashwani Kumar*, has shifted the discourse from "validity" to "evidentiary value." Compulsory registration is viewed as a vital human rights tool for the following reasons:

1. **Age Verification:** It acts as a primary deterrent against child marriage by requiring birth documentation.
2. **Combating Bigamy:** A centralized registry makes it difficult for a spouse to contract a second marriage while the first is subsisting.
3. **Matrimonial Rights:** It provides women with the "proof" needed to claim maintenance, alimony, and the right to reside in the matrimonial home.
4. **Succession and Inheritance:** Widows often face insurmountable hurdles in claiming their husband's estate without a formal marriage certificate.
5. **Prevention of Trafficking:** It prevents the exploitation of women under the guise of "fake marriages" to foreign nationals.

### Judicial Activism and State-Level Progress

The case of *Seema v. Ashwani Kumar* served as a catalyst for legislative change. The Apex Court directed states to frame rules making registration mandatory. This led to a wave of state-specific legislation:

- **Punjab (2012) and Haryana (2008):** Mandated registration for all residents regardless of religion.
- **Delhi (2014):** Issued orders for compulsory registration across all communities.
- **Meghalaya and Uttarakhand:** Enacted laws specifically to protect women's inheritance and prevent abandonment.

**The judiciary's stance is clear:** registration is not just a formality but a shield. In *Kanagavalli v. Saroja*, the Madras High Court noted that without registration, men could exploit the difficulty of proving a first marriage to enter into bigamous relationships with impunity. Similarly, the Bombay High Court in *Sushma v. Malti* affirmed that a marriage certificate is definitive evidence that simplifies succession and civil disputes.

### The Path towards Central Legislation

The journey toward a uniform, central law has been long. The 18th Law Commission of India (Report No. 205 and 211) proposed amending the Prohibition of Child Marriage

Act and creating a universal "Marriage and Divorce Registration Act." A significant attempt was made with the 2012 Amendment Bill, which sought to amend the Registration of Births and Deaths Act of 1969. Although passed by the Rajya Sabha, it lapsed with the dissolution of the 15th Lok Sabha in 2014.

The 21st Law Commission (Report No. 270) reiterated that mandatory registration does not interfere with personal laws or religious rites. Instead, it suggests a pragmatic administrative move: integrating marriage registration into the existing infrastructure of the Registration of Births and Deaths Act. This "paperless, automated" approach would provide a consistent nationwide database, aiding in social planning, public health, and family welfare programs.

### Conclusion

The transition from voluntary to compulsory marriage registration is a fundamental step in the evolution of Indian family law. While the sacramental nature of Hindu marriage remains protected under Section 7 of the HMA, the administrative necessity of Section 8 has become a human rights imperative. Mandatory registration serves as a vital safeguard for the most vulnerable members of society primarily women and children by providing undeniable legal proof of marital status. This documentation is the "key" that unlocks a woman's right to maintenance, inheritance, and protection against the vagaries of desertion and bigamy.

Furthermore, a centralized, compulsory system would act as a structural deterrent against social evils like child marriage and human trafficking. To achieve this, India must move beyond the current patchwork of varying state regulations and enact a unified central mandate. Amending the Registration of Births and Deaths Act is the most logical path forward, as it utilizes existing administrative machinery. Ultimately, promoting registration is not about challenging the sanctity of religious rituals, but about ensuring that the "sacred union" is backed by the "secular protection" of the state, thereby fostering gender equality and social justice.

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