

3. National Commission for Women Draft On THE COMPULSORY REGISTRATION OF MARRIAGES BILL, 2005

Statement of object and reasons

The commission has since its inception supported the need for registration of marriages as the Commission felt that for women, registration of marriages is a critical issue and will help :-

- 1) to prevent child marriages and to ensure minimum age of marriage
- 2) To prevent polygamy, unless the same is permitted under any law or custom
- 3) To ensure that prior wives get notice of intended marriage;
- 4) Enable the married women including the women married to NRI/ foreigners to claim her right to shelter and maintenance
- 5) Prevent the practice where men desert women after performing the marriage including act as a deterrent to the practice of selling daughters to any person including a foreigner, under the garb of marriage

As there is no compulsion for registration of marriage, it is necessary that the Central Government should make a provision to register all the marriages that have taken place in their States/UTs or elsewhere. Hence all marriages, in whatever form they are performed should be registered to save women from harassment and hence the desirability to have such a law for registration of marriages.

Non registration of marriage affect women the most. Women most prominently victims of bigamous relationships and property disputes face enormous hardship in establishing their marriage as they have no proof of marriage. It has been seen in a number of cases of bigamy that the wives are losing their cases by reason of their failure to prove the first or second marriage of their husbands.

The Central Government has made it mandatory for all States to make compulsory birth registration and also asked to legislate for compulsory registration of marriages. The reasoning is that the States are in a better position to know the social structure and local conditions prevailing in the respective states. Then applying the logic for mandatory birth registration, the same should also apply making marriage registration compulsory for the whole of India.

In view of the above, there appears no reason as to why an Act providing for compulsory registration of marriages should not be made applicable to the whole of India and citizens of India living abroad
Hence the need for the Bill.

THE COMPULSORY REGISTRATION OF MARRIAGES BILL

2005

A BILL

To provide for compulsory registration of all marriages and matters connected therewith and incidental thereto.

Be it enacted by the Parliament in the Fifty-sixth year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

- 1. Short title, extent and commencement.** - (1) This Act may be called the Compulsory Registration of Marriages Act, 2005.
 - (2) It extends to the whole of India and it applies also to all citizens of India within and beyond India.
 - (3) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.
- 2. Application of the Act.-** This Act applies to all marriages solemnized, contracted or entered into after the coming into effect of this Act, wherein both or one of the parties is a citizen of India.
- 3. Definitions.-** (1) In this Act, unless the context otherwise requires.-
 - a) "Marriage" means and includes all marriages solemnized or contracted between a male and a female, irrespective of the religion or caste of either party to the marriage, and also includes marriages performed as per law, custom, practice or any tradition of either party to the marriage and includes a remarriage.

- b) “local authority” means Gram Panchayat or Municipality or Municipal Corporation as the case may be
 - c) “Government” means in case of State or Union Territory, Government of that State, or Union Territory and in other cases, the Central Government.
 - d) “Memorandum” means Memorandum of Marriage mentioned in Section 13.
 - e) “Register” means a register of marriages maintained under this Act.
 - f) “Schedule” means the Schedule to this Act.
 - g) “State Government” shall include Administrator of a Union Territory.
4. **Application of other laws not barred-** save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force , except to the extent the provisions of other laws are inconsistent with any provisions of this Act.

CHAPTER II

REGISTRATION-AUTHORITIES

5. **Registrar General - Marriages, India.**-(1) The Central Government shall, by notification in the Official Gazette, appoint a person to be known as the Registrar-General – Marriages, India.

(2) The Central Government shall also appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar-General,

such functions of the Registrar General under this Act as he may, from time to time, authorize them to discharge.

(3) The Registrar-General may issue general directions regarding registration of marriages in the territories to which this Act extends, and shall take steps to co-ordinate the activities and unify the records of Chief Registrars in the matter of registration of marriages so as to maintain central records of all marriages registered under the present Act in the manner as may be prescribed from time to time by the Central Government.

6. Chief Registrar - Marriages.- (1) The State Government shall, by notification in the Official Gazette, appoint a Chief Registrar- Marriages, for the State.

(2) The State Government may also appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Chief Registrar, such of his functions as he may, from time to time, authorize them to discharge.

(3) The Chief Registrar shall be the chief executive authority in the State for carrying into execution the provisions of this Act and the rules and orders made there under subject to the directions, if any, given by the State Government.

(4) The Chief Registrar shall take steps, by the issue of suitable instructions or otherwise, to co-ordinate, unify and supervise the work of registration of marriages in the State and for securing an efficient system for registration within the State.

7. **Registration Divisions.**-The State Government may, by notification in the Official Gazette, divide the territory within the State into such registration divisions as it may think fit and appoint a separate Chief Registrar for each such division.

8. **District Registrar - Marriages.**-(1) The State Government shall appoint a District Registrar for each revenue district and such number of Additional District Registrars as it thinks fit, who shall, subject to the general control and direction of the District Registrar, discharge such functions of the District Registrar as the District Registrar may, from time to time, authorize them to discharge.

(2) The District Registrar shall superintend, subject to the direction of the Chief Registrar, the Registration of marriages in the district and shall be responsible for carrying into execution in the district, the provisions of this Act and the orders of the Chief Registrar issued from time to time for the purposes of this Act.

9. **Registrar - Marriages.**- (1) The State Government shall appoint a Registrar for each local area comprising the area within the jurisdiction of a Municipality, Panchayat or other local authority or any other area or a combination of any two or more of such areas to register marriages and may also appoint a registrar for a particular community residing in such local area .

(2) Every Registrar shall have an office in the local area for which he is appointed.

(3) Every Registrar shall attend his office for the purpose of registering marriages on such days and at such hours as the Chief Registrar may direct and shall cause to be placed in some conspicuous place on or near the outer door of his office, a board bearing in English, Hindi and the local language, if any, his name and designation, namely Registrar of Marriages, for the local area for which he is appointed, and the days and hours of his attendance.

10. Jurisdiction of Registrars.- Every Registrar shall be empowered to register a marriage contracted or solemnized within the local area of his jurisdiction or a marriage contracted or solemnized between persons at least one of whom is a resident within the local area of his jurisdiction.

11. Appointment or re-designation of existing authorities –(1) the central government or the state government as the case may be, shall, by suitable notification:-

- a) Appoint or re-designate any person or authority, as the registrar general or a chief registrar or a district registrar or
- b) Appoint or re-designate any person or authority competent to register marriages under any other provision of law or by practice, a registrar for a particular local area and/or persons belonging to any particular community residing in a particular local area

- (2) All persons and authorities appointed or re-designated under the provisions of this Act shall discharge their functions relating to registration of marriages in accordance with the provisions contained in this Act.

CHAPTER III

REGISTRATION OF MARRIAGES

12. Compulsory registration of marriages.-(1) After the commencement of this Act, every marriage solemnized or contracted between citizens of India or where at least one of them is citizen of India, performed in the country or elsewhere, under any law or custom governing such marriages, shall be compulsorily registered with the appropriate Registrar of Marriages.

Provided that a marriage registered under any other enactment relating to registration of marriages for the time being in force, need not be registered under this Act.

Provided further that nothing contained in any other Act or law shall preclude the parties to a marriage from registering their marriage under the provisions of this Act.

- (2) It shall also be a duty of both the parties to the marriage to take all necessary steps for registration of marriage.

13. Memorandum of Marriage.- (1) The parties to a marriage shall prepare and sign a Memorandum of Marriage in the form contained in Schedule

A and shall present the said Memorandum in person, in duplicate to the Registrar having jurisdiction to register their marriage, within a period of 30 days from the date of marriage.

Provided that a Memorandum of Marriage may be submitted to the Registrar after the expiry of the period of 30 days specified in sub section (1) along with late fee of Rs. 2.00 for each day of delay.

Provided further that if a Memorandum is accompanied by a satisfactory explanation for the delay in filing the same, the Registrar may **waive the late fee payable for the delay.**

- (2) The Memorandum shall be accompanied by the prescribed fee.
- (3) The Memorandum shall also be accompanied by proof of age of both parties.
- (4) Every person submitting a Memorandum to the Registrar shall be entitled to receive an acknowledgement of receipt of the same from the office of the Registrar.

13 A. Exemption from payment of Fee.- The Government may by, suitable order or notification, exempt certain categories or classes or persons from the requirement of payment of any fee including late fee under this Act.

14. Exemption from Personal Appearance for Presenting the Memorandum in Certain Cases.- The Registrar may, upon receiving a written request in this regard, dispense with the personal presence of

either party or both parties to the marriage at the time of receiving the Memorandum, if either party or both parties suffer from such physical or any other disability or circumstance as would, in the opinion of the Registrar, constitute sufficient cause for his/her/their non-appearance, and may allow the memorandum to be presented by a person duly authorized by both parties.

Provided that while allowing the request for exemption, the registrar shall record his reasons for doing so along with full particulars of the person presenting the Memorandum, on the reverse of the Memorandum.

Provided further that in cases where either one or both parties do not personally appear before the Registrar, the Registrar may, in his discretion, visit the residence of the parties or make such other enquires as he may deem necessary, to ensure that the particulars contained in the Memorandum are correct, before proceeding to register the marriage, and shall record the date/or result of his visit/enquiry on the reverse of the Memorandum.

- 15. Procedure to be followed by the Registrar upon receipt of a Memorandum of Marriage.-** (1) The Registrar shall maintain a register of all marriages for which a Memorandum is submitted to him, and shall on receipt of the Memorandum, register the marriage by recording the Memorandum in the register after confirming from each party to the marriage that the marriage has taken place with his/her consent.
- (2) Each Memorandum filed in the Register shall be treated as a separate entry and each entry shall be numbered in a consecutive

series which will commence and terminate with each calendar year, a fresh series being commenced with the beginning of each year.

- (3) The Registrar shall send the records of all marriages registered by him in the form prescribed by the Registrar General of India from time to time, in respect of each of the marriages registered, to the Chief Registrar of his State as well as to the Registrar General of India.

16. Marriage Registration Certificate.- The Registrar shall issue to the parties to the marriage, a Certificate of Registration of Marriage in the form contained in Schedule B, within 15 days of receiving the Memorandum of Marriage.

17. Refusal to Register.- (1) The Registrar shall not refuse to register any marriage for which a duly filled up and signed memorandum has been received by him except in the following cases:

- (a) When the Memorandum of Marriage does not contain all the information that is required to be furnished therein, or
- (b) when the bride has not completed 18 years of age and/or the groom has not completed 21 years of age, or

- (c) where either party to the marriage, as per the records available in the office of any Marriage Registrar, is already married and has a spouse living, or
- (d) Where either party makes a categorical statement before the Registrar that he or she was forced into the marriage and that the marriage was performed without his/her consent.

Provided that clause (c) shall not apply to a person who, by any law in force at the time of his/her marriage, is allowed to have more than one spouse.

- (2) In the above cases, the Registrar shall, within one week of receipt of the Memorandum of Marriage, intimate his refusal to register the marriage to the parties and in cases falling under sub section (a) or (c) of sub section (1), he shall give the parties an opportunity to remove any defect or infirmity in the Memorandum submitted by them, or provide a proof as to the fact that neither party had a spouse living on the date of their marriage or that the law in force at the time of marriage, permitted such person to have more than one spouse.
- (3) Upon receipt of the corrected Memorandum or a proof as envisages in sub section (2) above, as the case may be, the Registrar shall proceed to register the marriage in accordance with the provisions of Section- 13.

(4) In cases falling under sub section (1) (d), the Registrar shall immediately record the statement of the party alleging that the marriage was performed without his/her consent and shall get the party making the statement to sign the same. The registrar shall also inform the local police for registration of a complaint on behalf of the party who makes the said statement for initiation of investigation into the matter.

18. Certificate of Registration of Marriage to be Conclusive Proof of Marriage.- (1) A Certificate of Registration of Marriage shall be conclusive proof of the Marriage between the parties named in the Certificate.

(2) A Certificate of Registration of Marriage issued under this Act shall ordinarily be received by any court, government or public authority as proof of marriage between the persons named therein and the same shall be presumed to be correct, unless the contrary is proved.

19. Effect of Registration.- The validity of a marriage registered under this Act pursuant to a memorandum having been filed by the parties to the marriage, shall not be called into question solely on the ground that the marriage was performed or not performed in a particular manner or that the ceremony was defective or was not in accordance with law.

- 20. Non registration of marriages.-** No marriage performed to which this act applies shall be deemed to be invalid solely by reason of the fact that it was not registered under this Act.
- 21. Voluntary registration of Marriages.-** Persons married before the coming into force of this Act and whose marriage is not already registered under any other Act previously in force, may also register their marriage under this Act by following the procedure under the Act and the time limit of 30 days shall not apply to such persons.

CHAPTER IV

MAINTENANCE OF RECORDS

- 22. Preparation and Maintenance of Indexes.-** The Registrar shall prepare year-wise Indexes of all entries in his Register, in such Form and in such manner as may be prescribed from time to time by the Registrar General- Marriages, India.
- 23. Register and Indexes to be open for public inspection.-** The Register and Indexes maintained under this Act shall, at all reasonable times, be open to inspection to all persons.
- 24. Certified Extracts of Records.-** (1) Either party to a marriage who has submitted a Memorandum of his/her marriage in accordance with

Section 13, may make an application in writing, along with prescribed fee, to the Registrar for-

- (a) Obtaining a Certificate of Registration of Marriage and the Registrar shall issue the same with 15 days from receiving the application, notwithstanding the fact that a Certificate of Marriage Registration has already been issued to the parties under Section 16.

 - (b) Obtaining a copy of the Memorandum of Marriage and the Registrar shall issue the same after signing and putting his seal on the same.
- (2) A Certified copy of the Memorandum issued by the Registrar under sub section (1) (b) shall be deemed to be a public document, admissible for the purpose of proving the contents of the original.
- (3) The Registrar may upon receipt of an application along with the prescribed fee, issue a Certificate of Registration of Marriage or a certified copy of the Memorandum of Marriage in respect of a marriage registered with him, to a person who is not a party to the marriage, provided the person applying for the same, discloses in his/her application, his relationship with the parties, if any, and the purpose for which the Certificate/Certified Copy is required by him/her.

Provided that if the Registrar refuses a request made under sub section (3) he shall do so in writing disclosing therein his reasons

for such refusal, and shall communicate his refusal to the applicant within 15 days of having received the request.

CHAPTER V

OFFENCES and PENALTIES

25. **Penalty for destroying or altering Register.-** Any person destroying, tampering with or dishonestly or fraudulently altering the register or any part thereof shall be punished with imprisonment for a term which may extend to five years and/or fine of Rs. Five Thousand.

26. **Penalty for neglecting to comply with provisions of section 13.-** Any person who willfully omits or neglects to submit to the Registrar, the Memorandum as required by section 13, shall be punished with a fine of Rs. Five Hundred.

27. **Penalty for making false statements in the Memorandum.-** Any person who makes or verifies any statement in such Memorandum which is false in any material particular and which he or she knows or has reason to believe to be false, shall be punished with simple imprisonment for two months and /or fine which may extend to Rs. Five Thousand.

28. Operation of other penal laws.- Punishment for any offence under this Act shall be in addition to the punishment provided for the offence by other Penal laws.

CHAPTER VI

FEE FOR REGISTRATION, SEARCHES AND COPIES

29. Fees to be fixed by State Government.- The State Government shall prepare a table for fees payable

- (a) Along with the Memorandum of Marriage;
- (b) Along with an application for a Certified copy of the Memorandum of Marriage;
- (c) For issue of a Marriage Registration Certificate under Section 24.
- (d) For searching the Register and/or Indexes.
- (e) For such other matters as appear to the State Government, necessary to effect the purposes of this Act.

- 30. Publication of Fee.-** A table of fees payable under this Act, alongwith a complete list of categories or classes of persons exempt from payment of the fee, shall be published in the Official Gazette and a copy thereof in English, Hindi and the local language of the place shall be prominently displayed in the office of the Registrar.

CHAPTER VII

MISCELLANEOUS

- 31. Duty of Registrar to forward complaint in respect of child marriages.-** It shall be the duty of every Registrar to forward a complaint to a Judicial Magistrate of the First Class or a Metropolitan Magistrate, if on the basis of a Memorandum received by him, he is satisfied that a marriage has taken place in which the bride is less than 18 years of age and/or the groom is less than 21 years of age.
- 32. Registrars to be public servant.-** Every Registrar, including the Registrar General, the Chief Registrars and the District Registrars, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 to 1860).
- 33. Indemnity to persons acting under this Act.-** No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

34. Complaints against the Registrar.- (1) Any party aggrieved by the failure of the Registrar to discharge his duties and obligations under this Act or by any other act or omission on the part of the Registrar may lodge a complaint with the District Registrar.

(2) On receipt of a complaint under sub-section (1), the District Registrar shall acknowledge receipt of the complaint and, if the complaint appears to have any merit, shall expeditiously dispose of the same by calling for an explanation from the Registrar and/or issuing appropriate directions to the Registrar or by sending a recommendation to the Chief Registrar of the State for suitable action against the Registrar.

35. Appeals against orders of Refusal.- Any person aggrieved by an order or refusal under Section 17 or under sub section (3) of Section 24 may prefer an appeal to the District Registrar, within a period of 30 days from the date of refusal, who shall expeditiously decide the appeal and pass an appropriate order.

36. Power to make rules.- (1) The State Government shall, with the approval of the Central Government, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for –

(a) The form of Registers and Indexes required to be kept under this Act.

(b) Maintenance and preservation of records.

- (c) Custody, production and transfer of Registers and other records maintained by the Registrars.
 - (d) Search of records by members of the public
 - (e) Any other matter which has to be or may be prescribed.
 - (f) Provisions for infrastructure facilities wherever necessary.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

37. Power to remove difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, with the approval of the Central Government, by order make such provisions or give such directions not inconsistent with the provisions of this Act as appears to the State Government to be necessary or expedient for removing the difficulty.

Provided that no order shall be made under this section in relation to any area in a State after the expiration of two years from the date on which this Act comes into force.

MEMORANDUM OF MARRIAGE

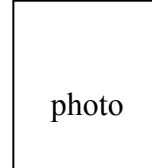
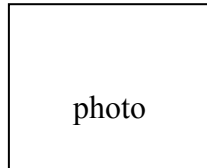
(Schedule -A)

(Please see Section 13)

1. PARTICULARS OF PARTIES:

GROOM

BRIDE



- (i) NAME: _____
- (ii) DATE OF BIRTH: _____
- (iii) FATHER'S NAME: _____
- (iv) MOTHER'S NAME: _____
- (v) PRESENT ADDRESS: _____
- (vi) PERMANENT ADDRESS: _____
- (vii) STATUS AT THE TIME OF MARRIAGE:

UNMARRIED	UNMARRIED
WIDOWER	WIDOW
DIVORCEE	DIVORCEE
OTHER	OTHER
- (viii) THUMB IMPRINT:

RIGHT HAND THUMB	LEFT HAND THUMB
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2. DATE OF MARRIAGE: _____(date) _____(month) _____(year)

3. PLACE OF MARRIAGE: _____
(FULL ADDRESS) _____

4. WITNESSES:

(GROOM'S SIDE)

(BRIDE'S SIDE)

(i) SIGNATURE: _____

(ii) NAME: _____

(iii) ADDRESS: _____

(iv) RELATIONSHIP: _____

(if any)

5. DECLARATION: I hereby declare that the marriage was performed with our consent and that, to our knowledge, our marriage was not barred by any law in force at the time of our marriage. I further declare that all information furnished by me herein is correct.

SIGNATURE: (Groom) (Bride)

6. DATE OF SUBMISSION: _____

Page No. Entry No.
.....

(To be Filled in by the Registrar)

(SCHEDULE- B)

CERTIFICATE No.

MARRIAGE REGISTRATION CERTIFICATE

(Issued under the Provisions of the Compulsory Registration of Marriages Act, 2005)

I, _____ hereby certify that I have registered under the Compulsory Registration of Marriages Act, 2005, the marriage of bridegroom AB with bride CD performed on the _____ day of _____ 200__ at _____, in pursuance of the Memorandum of Marriage dated the _____ day of _____ 200__ received by me and which has been entered as Entry No. _____ at page _____ of the Register of Marriages maintained in my office for the year _____.

Date: _____

(Seal and Signature)
Registrar of Marriages

Local Area: _____

District: _____

State: _____

NOTE:-

Suitable amendment be added to the Special Marriage Act so as to make applicable the provisions of Chapter V (Restitution of Conjugal Rights and Judicial Separation), VI (Nullity of Marriage and Divorce), and VII (Jurisdiction and Procedure) to marriages registered under the proposed Compulsory Registration of Marriages Act to which the provisions of other Acts and laws relating to divorce, shall not apply.

This would be necessary as for eg. an inter religious marriage between a Hindu and a non-Hindu (also not a Christian) registered under the new Act would not be governed by the Hindu Marriage Act or the Divorce Act, 1869, or the Shariat or any other law. The provisions of divorce contained in the Special Marriage Act would be applicable to marriages solemnized under the Special Marriage Act alone.

A clarification in the Special Marriage Act would prevent any confusion regarding application of divorce laws to marriages registered under the new law and not governed by any other divorce laws.