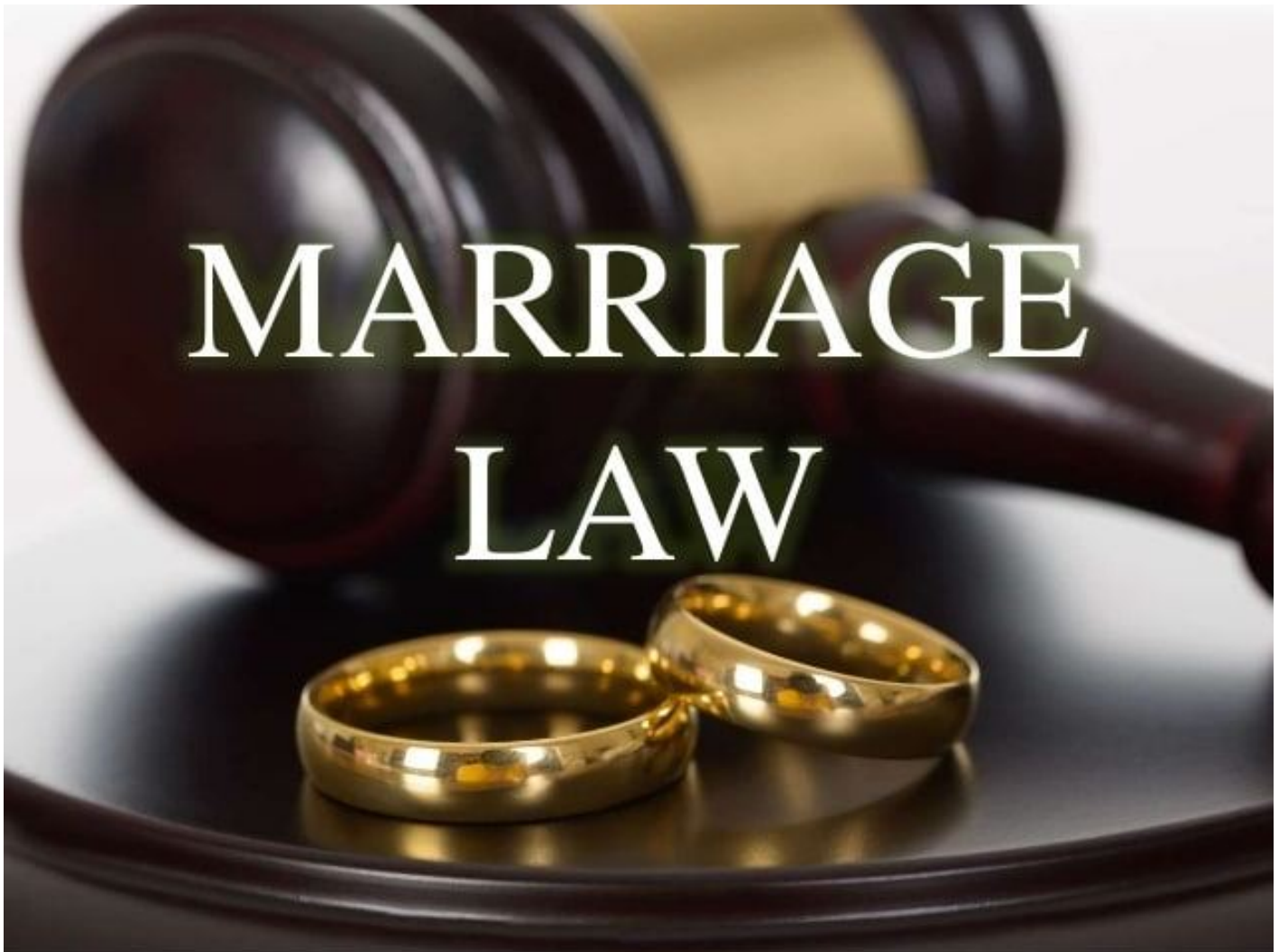


Personal Laws on Marriage in India

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What's in today's article?

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- **What are Laws on Marriage in India?**
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Why in News?

- The Supreme Court has decided to examine whether girls as young as 15 years can enter into wedlock on the basis of custom or personal law when such marriages constitute an offence in statutory law.

What are Laws on Marriage in India?

- In India, there is no single legal framework governing the institution of marriage.
- This is done so with the intent of upholding the tenets of religious freedom and safeguarding the fundamental practices of various faiths and beliefs.

What are Hindu Marriage Laws?

- The matrimony of a Hindu couple is governed by the **Hindu Marriage Act, 1955**.
- The Act deals with the registration of the marriage (after its solemnization) of a man and woman belonging to **Hindu, Sikh, Buddhist, or Jain** community.
- The inclusion of the other three religions within the ambit of the term 'Hindu' is in pursuance of the definition of the term under **Article 25(2)(b)** of the Indian Constitution.
- The conditions laid down in the Act are as follows –
 - There should not be an already existing spouse (of either of the parties) alive at the time of formalization of the marriage.
 - No party is incapacitated to give consent to their marriage due to unsound mind.
- The legal age permitting marriage between a man and wife are being met; **21 for men, 18 for women**.

What are Muslim Marriage Laws?

- There is no codified law for governing Muslim marriages in India.
- The main difference that lies between Hindu and Islamic perception about marriages is that **the former believes the institution to be a sacrament while the latter believes that it a civil contract (nikahnama) between a Muslim man and woman**.

What are Christian Marriage Laws?

- Christians are the second-largest religious minority community after Muslims in India.
- The marriage of Christian couples is governed by the **Indian Christian Marriage Act, 1872**.

- The Act stipulates the primary condition of the presence of a priest of the Church or minister for the solemnization of the wedding.
- **Age of the bride and groom:** The age of the bride and groom, just like other marriage laws, has been set as 18 and 21 respectively within the Act.

What are Parsi Marriage Laws?

- Parsis are members of a religious minority community that follow the tenets of Zoroastrianism.
- Their marriages are regulated by the **Parsi Marriage and Divorce Act of 1936**.

What is Special Marriage Act, 1954?

- The Special Marriage Act, 1954 unlike its communal counterparts discussed above, applies to Hindus, Muslims, Sikhs, Christians, Jains, Buddhists, and Parsis.
- In fact, this Act is a regulatory law governing both **inter-caste** and **inter-religious marriages in India**.
- Special Marriage Act, 1954 is **also applicable in cases where an Indian marries a foreigner in India**.
- Same-sex marriage is not legally recognized in India.

News Summary

- A petition was filed by the **National Commission for Protection of Child Rights (NCPCR)** against a recent order of the Punjab and Haryana High Court that a girl, on attaining puberty or the age of 15 years and above, could be married on the basis of **Muslim Personal Law**.
 - Under the Indian Christian Marriage Act, 1872, Parsi Marriage and Divorce Act, 1936, Special Marriage Act, 1954 and Hindu Marriage Act, 1955, the minimum age of marriage for a man is 21 years and for a woman is 18 years.
 - However, under the Muslim personal law in India, which continues to remain uncoded and unconsolidated, **persons who have attained puberty are eligible to get married i.e. on attaining the age of 15 years**.
- The Supreme Court has decided to examine whether girls as young as 15 years can enter into wedlock on the basis of custom or personal law when such marriages constitute an offence in statutory law.

Should Minors be allowed to get Married?

- The Kerala High Court had recently observed that provisions of POCSO (**Protection of Children from Sexual Offences Act**) would apply if the bride or groom was a minor, irrespective of the validity or otherwise of the marriage.

- The NCPCR has contended that **laws such as POCSO and the Prohibition of Child Marriage Act are secular in nature and should apply to all sections of the society.**
 - The NCW (**National Commission for Women**) had argued that the **practice of marrying below the age of 18 would expose Muslim women to abuse and harassment.** It was arbitrary and discriminatory.
 - The Prohibition of Child Marriage (Amendment) Bill, 2021 has sought to amend the Prohibition of Child Marriage Act, 2006.
 - The Amendment aims to **increase the minimum age of marriage for women from 18 to 21 years.**
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Q1) Are Personal Laws subject to Fundamental Rights?

Personal laws are derived not from the Constitution but from the religious scriptures. The laws thus derived must be consistent with the Constitution lest they became void under **Article 13** if they violated fundamental rights.

Q2) What is Uniform Civil Code?

The Uniform Civil Code (UCC) calls for the formulation of one law for India, which would be applicable to all religious communities in matters such as marriage, divorce, inheritance, adoption.

Source: [Marriage of minor Muslim girls | Supreme Court to check legality of personal law](#) | [Indian Express](#)

Source: <https://vajiramandravi.com/current-affairs/personal-laws-on-marriage-in-india/>

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