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**ANAND KARAJ MARRIAGES: PAST, PRESENT AND FUTURE**

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**ABSTRACT**

*India as a nation has culture, family values, bonding and upholding the sanctity of relationships, in its blood. A myriad of sects, groups, religions and other such social organisations of people live together in unity and harmony, maintaining peace and perpetuating the country's further generations. Marriage has been given a position deemed as highly sacred, pure and central to an individual's survival in the social hierarchy of interpersonal relationships. Customs and traditions, present in the many religions in our country, related to marriage, have been codified in the law of the land. One such religion in our country, which emerged out of the two religions with the maximum population in India, is Sikhism. Marriage in Sikhism is considered a sacred duty, a very fundamental one to the religion's principles, and has its own customs and rites to have a solemnised marriage. However, according to Indian law, Sikhism is not a distinct religion and its followers are considered part of the Hindu religion, which may lead to a variety of questions as to the validity of the customs related to Sikh marriage, clashes with Hindu rituals, marriage registration and other concerns which are now being steadily taken up to pursue varying pursuits, but the questions stands as follows- separation or reformation or inclusion.*

**INTRODUCTION**

*"The spouse is but One and all others are His brides. The false bride assumes many religious garbs. When the Lord stops her going into another's home, then is she summoned into her Lord's mansion without any let and hindrance. She is adorned with the Name and is dear to her True Lord. She alone is the true bride and the Lord lends her His support" (Guru Nanak, Ramkali, pg 993)<sup>2</sup>*

A society is a complex structure: an accumulation of cultures, traditions, idiosyncrasies, differences and similarities functioning as one unit, uplifting and categorising the territorial unit they occupy. Evolution, harmonisation, economic environment, family structure,

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<sup>2</sup> SIKHISM RELIGION OF THE SIKH PEOPLE, [https://www.sikhs.org/women\\_q.htm](https://www.sikhs.org/women_q.htm).

interaction are all products of a society, which in every other territory vary according to ethics, literature, teaching and upbringing.

The Indian society derives its influence and basic structure from ancient Vedic literature, more importantly profession-based categorisation i.e. the *Varna* System (categorisation of individuals into 4 castes i.e. *Brahmin*, *Kshatriya*, *Vaishya* and *Shudra*)<sup>3</sup>, which although part of the Hindu religion, present in majoritarian numbers, primarily, is criticised till date as reeking of medieval stench, discriminatorily divisive, baseless and cumbersome to follow, since the proactive spillage of this religion-restricted division became a societal norm and gave birth to other social evils such as Untouchability, Manual Scavenging, restrictive education, gender bias, trafficking and other such evils that became blotches on an otherwise puritan and sacred religion and social system. The after-effects have followed into the 21<sup>st</sup> Century, urging lawmakers to form legislations to prevent further damage.

However, the present-day Sikh diaspora, befitting their history, occupies a separate, essentially selfless and contributory societal identity, and has effectively overcome the orthodox segregation given by the earlier texts. A new social fabric that was spun in one thread of egalitarianism, social reform, restructuring and empowerment was introduced with the advent and proliferation of Sikhism as a religion, where division was missing, harmony was at the forefront and ideals were changing. Along with the introduction of new ideologies as to how a fulfilling life should be led, what behaviours should be adopted that benefit one and all, a seemingly dystopian Indian society underwent a radical transformation into a realistic society, envisaged by thinkers and scholars but not achieved in the past. Sikhism emerged as an amalgamation of thoughts, cultures, reforms and unification, the very essence of its existence and representative of the selfless, benign, protective and self-authoritative emotion of Indian societal ethos.

Relationships are the primary indication of healthy social construct. They reflect individual as well as collective ideals, virtues, backgrounds, wants and norms, which lead to the development of family structures, say joint or nuclear, societal favour towards non-normative relationships, cultural merging acceptability, foreign influence (Western, Eastern etc) and other influential factors that determine the outlook, norms of a society, how it aligns and progresses with worldly evolution and what kind of precedents are set for future generations. Out of all the

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<sup>3</sup>Nikul Joshi, *Caste System in Ancient India*, WORLD HISTORY ENCYCLOPAEDIA (2020), <https://www.ancient.eu/article/1152/caste-system-in-ancient-india/>.

possible social affiliations, a relationship format that has acquired a veritable status in terms of assumed continuance, legal validity and an acquired social status is the ancient institution of marriage. Marriage is considered a union of two families, a phenomenon to bolster societal evolution while having individual, familial and cultural implications. Determination of inter-family relations, succession matters, family structure, spousal roles, inter-spousal physical relations and other such social functions are served purpose after marital relations ensue between two partners. Socialists term marriage as a “socially supported union involving two or more individuals in what is deemed a secure, endearing and continual relationship, emerging out of a physically intimate bond of some fashion<sup>4</sup>.”

In India, marriage, from a legal standpoint, has personal laws exercising jurisdiction over the conduct, rites, ages and other important factors, but the laws have been codified in a just and evolved manner to prevent any social anomaly or injustice and to promote the existence of diverse cultures and traditions harmoniously. Hence, the major matrimonial laws in our country that govern issues like marriage registration, divorce and other related subjects may be listed as follows (non-exhaustively):

1. **The Hindu Marriage Act, 1955<sup>5</sup>**
2. **The Indian Christian Marriage Act, 1872**
3. **The Parsi Marriage and Divorce Act, 1936**
4. **The Special Marriage Act, 1954**

It is noteworthy here that there is no specific legislation in place for Muslim marriage and divorce, since it is exclusively covered under their personal law (Sharia).

However, our discussion is limited to the scope of the laws related to the marriage of Sikhs. For all purposes, since 1955, Sikh marriage registration has been covered under the Hindu Marriage Act, 1955, according to Section 2(1)(b) of the Act, which includes in its ambit Sikhs, Buddhists and Jains. However, there have been other legislations in place that seek to make Sikh marriage registration a separate entity from that of Hindu marriage, which arose out of the need for distinction from the umbrella term which the minority religion has been subjected to since partition. As of this date, states like Punjab and Delhi have in place

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<sup>4</sup> Ashley Crossman, *The definition of Marriage in Sociology*, THOUGHTCO (August 10, 2021, 6:45 AM ) <https://www.thoughtco.com/marriage-3026396#:~:text=>.

<sup>5</sup>Pinky Anand, *Family Law in India: Overview of Practical Law*, WESTLAW (2019), <https://content.next.westlaw.com/6-581->.

their own laws for registration of such marriages distinctly from The Hindu Marriage Act, 1955. But it poses several questions, namely:

1. Conflict with the provisions of the main legislation
2. Necessity of separate legislation
3. Validity of registered marriages under separate legislations

The purpose of this research article is to delve deeper into these matters, outline these objectives and attempt to develop possible reasonings as to why the enactments are in place, validity of existence, overriding provisions, necessity beyond law and many others. The research article also aims to provide suggestions and arrive at necessary conclusions to enhance academic knowledge and supplement further research. The methodology adopted for the conducted research has been the Doctrinal Legal Research Method, as well as Analytical Legal Research Method. Primary and secondary information has been collected from various online sources, namely articles, websites, journals, databases, international and national publications and other sources in order to study, comprehend and arrive at conclusions.

## **1. History of Anand Karaj marriage in India**

The very birth of Sikhism was at the helm of the pioneering and unorthodox acts of the 10 Gurus that were against the society's norms at the time, establishing, with certainty, the newfound meanings of justice and equality as we see them today. This practice was initiated by the First Guru, Guru Nanak, by shirking the traditional marital practices and rites. It has been noted that according to the known, he, "... *refused to marry by ancient Hindu ceremony of Vedi... [and it] caused a furore... [instead] he wrote 'mool mantar' on a paper, placed it on a low stool<sup>6</sup>,*" and performed the marriage by going around it four times with his bride<sup>7</sup>. Subsequently, the Third Guru, Guru Amar Das<sup>8</sup> Sahib instituted the 'Anand Karaj' marriage. He had composed the Holy Hymn, Anand Sahib, and the marriages were solemnised by chanting the composition along with the prayer, the Ardas. Finally, the Fourth Guru, Guru Ram Das, composed the

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<sup>6</sup> *History of the Sikh wedding*, KAUR LIFE (August 10, 2021, 7:30 AM) <https://kaurlife.org/2016/09/14/history-anand-karaj/>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

‘The Laavan’ i.e. Bani on Ang 773-774 of Sri Guru Granth Sahib Ji Maharaj that is recited during the Anand Karaj<sup>9</sup>.

There is no available record of the early Anand Karaj marriage rites and rituals, up until the Singh Sabha Movement<sup>10</sup> of the early 19<sup>th</sup> century brought to light the Hindu and Brahmanical rituals that riddled the Sikh marriage ceremony during the 1800s. “In the past a Sikh marriage was celebrated according to the ordinary Hindu rite, performed by Brahmans, with the only difference being that hymns of the Fourth Guru were sung...in place of the Hindu songs. Later, a dual ceremony was adopted whereby the Hindu rites were performed first, and then the wedded couple circumambulated the Guru Granth Sahib four times, while the Sikh priests reads lavan hymns,” (Dogra, R., & Dogra, U., 2000, pg. 117)<sup>11</sup>. Some Sikhs practiced alternate leading during the phere around a fire. In such cases, “...the bridegroom leads four times and the bride lead three more times,” (Chatterjee, 1978, pg 294-5).

The Singh Sabha Movement, made stronger by the allied and parallely running Nirankari and Namdhari<sup>12</sup> movements, were responsible for the reinstation and revamping of the Anand Karaj marriage ceremony to what it is known as today<sup>13</sup>. The Singh Sabha Movement, coupled with the Nirankari and Namdhari movements, reconstructed the Anand Karaj ceremony to what it is today, (Singh, M., 2005.)<sup>14</sup> Drawing on their understanding of the Guru’s marriage rites and modern-day practices, “... the Nirankaris and the Namdhari<sup>15</sup> claimed credit for introducing novel forms of marriage practices and rituals which disposed of the services of Brahmins<sup>16</sup> and rejected the customary practice of dowry among Sikhs in the mid-18th century. The marriage ceremony (mentioned above) was first initiated by the Nirankaris in 1855<sup>17</sup>. They introduced the practice of going around Sikh scriptures as opposed to the sacred fire of both orthodox Sikhs and Hindu marriage customs<sup>18</sup>. The Namdharis included

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<sup>9</sup> *Anand Karaj Series Part 4: Meaning of The Laavan Sikh*, FAMILY LIFE (2020), <https://www.sikhfamilylife.com/2018/05/anand-karaj-series-part-4/>.

<sup>10</sup> *Supra* note 7.

<sup>11</sup> *Indian Marriage Customs and Rituals*, EXOTIC INDIA (August 10, 2021, 11:00 AM) <https://www.exoticindiaart.com/book/details/indian-marriage-customs-and-rituals-IDL142/>.

<sup>12</sup> *Supra* note 7.

<sup>13</sup> *Ceremony of the Sikh wedding*, WORLD CAT (August 10, 2021, 11:30 AM) <https://www.worldcat.org/title/ceremony-of-the-sikh-wedding/oclc/60880994>.

<sup>14</sup> *Supra* note 7.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

the reading of Sikh scriptures but also incorporated the sacred fire into their marriage ceremony,” (Jakobsh, 2003, pg 112). This contributed to the institutionalization of the Anand Karaj into the Sikh Rehat Maryada in 1945<sup>19</sup>.

## 2. Anand Karaj: Rituals and Rites

The marriage ceremony, known as Anand Karaj, means “*Blissful Event*”. Sikhs regard marriage as a sacred bond of mutual dependence between a man and a woman; a true partnership of equals in marriage is made between those who are united in spirit as well as in mind and body. Marriage is regarded as a strong lifetime bond between the bride and groom and a union between both the families of the bride and groom<sup>20</sup>. The ceremony has been recognised by the Indian Government since 1909<sup>21</sup>. Sikhism is strictly against the orthodox practice of dowry exchange at the time of marriage, and upholds the ideals of equality to the man and the woman during the wedding proceedings, and nothing less. A celebration of a divine, familial union, a Sikh Wedding is solemnised in totality after days of processions : pre as well as post-wedding ceremonies and rituals. The rich culture and strict adherence to religious codes of conduct make the Sikh wedding a study in contrasts<sup>22</sup>. Almost 30 ceremonies in total make up for the elaborate ceremony, that is a Sikh wedding, and they may be listed as follows:

1. **Roka and Thaka:** Parental approval sought by both parties.
2. **Kurmai :** Formal engagement ceremony that takes place at the groom’s house or at the gurudwara<sup>23</sup>.
3. **Akhand Paath** – Generally, the weekend before the date of the Anand Karaj is fixed, and devotees from the family sit down at the house/the gurudwara to read the entire Guru Granth Sahib<sup>24</sup> within 48 hours’ time.
4. **Kirtan** – Kirtan is a performance of religious music<sup>25</sup>.

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<sup>19</sup> *Supra* note 3.

<sup>20</sup> *Supra* note 9.

<sup>21</sup> Sikh Wedding (Anand Karaj) - Rituals & Traditions, Ceremonies, (ANAND KARAJ) - RITUALS & TRADITIONS, CEREMONIES, <https://www.culturalindia.net/weddings/regional-weddings/sikh-wedding.html>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

5. **Ardas**<sup>26</sup> – On the days leading up to the Anand Karaj, the family members visit the gurudwara daily to offer prayers<sup>27</sup>.
6. **Karah Prasad and Langar**: Offering of sweetmeats and community lunch.
7. **Shagan**<sup>28</sup> – The bride's family sends the groom's family gifts prior to the wedding.
8. **Chunni Chadana** – A few days before the Anand Karaj, the groom's female relatives visit the bride's place to gift her with the auspicious wedding outfit, jewels, etc<sup>29</sup>.
9. **Maiya** – A cleansing ceremony<sup>30</sup> where the bride/groom is made to sit down on a stool and oil is applied to their hair while turmeric paste is applied on their body<sup>31</sup>.
10. **Karahi Chadana** – Five days before the wedding, a large Wok is set up in which all items to be cooked would be made in that itself and served.
11. **Warna**: Any amount of currency is waved around the bride's/groom's head clockwise and the money is then given away to charity<sup>32</sup>.
12. **Gaana** – Here, a red thread<sup>33</sup> is tied on the right wrist of the groom and on the left wrist of the bride.
13. **Gharoli**<sup>34</sup> – The bride or the groom's sister-in-law visits a nearby gurudwara and fills up a special earthenware pot, Gharoli, with holy water, which is then used to bathe the bride/groom after their Vatnaa<sup>35</sup>.
14. **Vatnaa**: A special turmeric, barley and mustard paste that is applied on the bride/groom's body for beautification. There is song and dance around, a hearty procession.
15. **Mehendi**<sup>36</sup> – The ceremony is practiced two or three days before the wedding. Henna paste is applied to the bride's hands and feet in elaborately beautiful patterns<sup>37</sup>.
16. **Chooda and Kalire**<sup>38</sup> – The maternal uncle of the bride gifts her Chooda, a set of 21 red and white bangles. After the Chooda ceremony, the relatives of the bride come up<sup>39</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*



to her and tie umbrella-shaped metallic ornaments called Kalire to her bangles and offer their blessings.

17. **Sehra Bandi** – On the day of the wedding, before the wedding party departs from the groom's home, the turban is tied around the groom's head by his father. He is handed over a fake sword by his father that he has to carry during all the wedding ceremonies. The sister of the groom then ties the Sehra, a curtain made of golden ribbons or flowers or even string of pearls, around the turban and covering the groom's face.
18. **Soorma and Kalgi** – The groom's sister-in-law applies a black dot of kohl on the side of his forehead. The sister of the groom then ties a piece of jewellery on his turban and stands between him and the door to receive gifts and blessings.
19. **Baraat:** With great pomp and show, song and dance, the groom and his relatives travel to the bride's place, the groom traditionally atop a mare.
20. **Milni**<sup>40</sup> – The baraat is welcomed at the gate of the wedding venue, which is traditionally the Gurudwara, by the bride's side. They are welcomed in by the bride's side who sing hymns and utter their faith in God<sup>41</sup>.
21. **Anand Karaj** –The ceremony takes place at the Gurudwara prayer hall during the daytime or afternoon. The Guru Granth Sahib is placed at a site of prominence and the marriage ceremony is designed around it. The bride and the groom sit side-by-side - bride on the left side of the groom, facing the Guru Granth Sahib. The ceremony starts with the couple and their parents standing up to offer Ardaas to 'Waheguru', after which singing of Shabads or hymns is done. The couple then bows down before the Guru Granth Sahib. The father of the bride places a saffron colored scarf on the groom's shoulder and the other end of the same on his daughter's hand. Thus, they are joined and ready to take the Lavaas or vows of marriage<sup>42</sup>.
22. **Lavaan Pheras**<sup>43</sup> – The person conducting the marriage recites the four Lavaa or stanzas from the Guru Granth Sahib. After he has completed reading the first stanza, the couple rises and slowly walks around the Guru Granth Sahib<sup>44</sup> in clockwise direction, with the groom leading the bride. After completion of the round, they come back to their positions but remain standing for the remaining three hymns<sup>45</sup>.

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Supra* note 7.

<sup>43</sup> *Supra* note 22.

<sup>44</sup> *Id.*

<sup>45</sup> T. Singh, *Unity of Wife and Husband's Soul*, GURBANI (August 11, 2021, 10:35 AM), <https://www.gurbani.org/articles/webart278.php>.

23. **Anand Sahib**<sup>46</sup> – After completion of the Lavan Pheras, the raagis sing out the hymns of Anand Sahib. An Ardaas is offered as an indication that the wedding ceremony is now complete. A random Hymn<sup>47</sup> from the Guru Granth Sahib is recited while Karah Prasad is distributed.
24. **Wedding Lunch** – Also involves a ceremony signifying the bride's first meal with the groom.
25. **Doli and Vidaai**<sup>48</sup> – The bride prepares to leave her parent's house after a ceremony known as **Sada Suhagan** where she wears the ornaments and outfit gifted by the groom's side. The bride throws rice grains over her shoulders and into her mother's outstretched hands, thus wishing her parent's eternal prosperity<sup>49</sup>. She gets into a decorated car with her husband and drives away towards her new home<sup>50</sup>.

The Sikh Marriage is a celebration of familial union, a ceremony where two Sikh individuals are bonded in holy matrimony, in an equal partnership. The event is festive, joyous, elaborate and extensive, where families play keen roles and the atmosphere is not extremely formal. The openness of choice, upholding of family culture, belief in blessings and celebration, rejection of orthodox practices and social evils, being checking castes, horoscopes, dowry and other practices, makes the marriage holy and complete<sup>51</sup>.

### 3. **Anand Karaj under the Hindu Marriage Act, 1955: Violation or Simplification?**

India<sup>52</sup> has diverse religions and cultures; therefore, it becomes necessary that the laws meet the desires of its citizens so that they can have freedom, profess and spread their religion without clashing with people from other religions<sup>53</sup>. This way the envision of the framers of the constitution of a Secular, Democratic and Socialist nation can be attained fully in both spirit and letter<sup>54</sup>.

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<sup>46</sup> *Supra* note 22.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Sarab Singh, *Anand Karaj – A union of two souls*, SIKH NET (August 11, 2021, 11:30 AM) <https://www.sikhnet.com/news/anand-karaj-union-two-souls>.

<sup>52</sup> *What is Anand Marriage (Sikh Marriage) Act in India?*, G.S. BAGGA AND ASSOCIATES (August 11, 2021, 11:45 AM), <https://www.gsbagga.com/blog/what-is-anand-marriage-act-in-india/>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

It is odd for a religious community to have its marriages registered under another community's laws. But for decades, Sikhs in India have had to do just that – a fact which community leaders perceive as a fundamental injustice. The demand of Sikhs for a separate law regarding the registration of the Sikh marriage is not unheard of. It has been going on for over a century with the members of the Sikh community made to register their marriages under the **Hindu Marriage Act, 1955**. There were no other means for them, although the Anand Marriage Act<sup>55</sup> was introduced by the Britishers in 1909 it was not executed. In 1909, the Act was passed by the British Governor General to establish the legal validity of marriage ceremony among Sikhs called Anand Karaj. As the Act of 1909 didn't have any provisions of registration of marriage, the Sikhs were to register their marriages under the Hindu Marriage Act.

This problem had extremely bothered the many members of the Sikh community especially to those who have moved overseas as they were recognized as Sikhs, but their marriages were registered under Hindu Marriage Act, 1955 as "Hindu". But later on, there was an amendment in Anand Marriage Act, 2012 which was passed by President Pratibha Patil giving her sanction to a bill passed by parliament in which Sikh was able to register their marriage under the Anand Marriage Act, 2012<sup>56</sup>.

#### **4. Registration of marriage under the Anand Marriage (Amendment) Act, 2012**

- No party to the marriage should have a partner living at the time of marriage;
- Both the parties to the marriage-
  - a) should be able to give free and valid consent, should be mentally fit and not of an unsound mind<sup>57</sup>; or
  - b) No party should be suffering from any mental disorder or mental illness thereby affecting their ability to give valid consent for the marriage and procreation of children<sup>58</sup> or
  - c) No party should be suffering from persistent bouts of insanity<sup>59</sup>;

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<sup>55</sup> *Sikh Marriages and Registration Procedure in India*, HELPLINE LAW (August 11, 2021, 1:00PM) <http://www.helplinelaw.com/family-law/SIKHMRP/sikh-marriages-and-registration-procedure-in-india.html>.

<sup>56</sup> *Supra* note 53.

<sup>57</sup> *Supra* note 3.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

- d) The bridegroom should have completed the age of twenty – one and the bride should have completed the age of eighteen years at the time of marriage;
- e) The parties to the marriage should not be related to each other and should not come under the degrees of prohibited relationship unless otherwise allowed under the rituals or customs which governs each of them which allows for such a marriage between both of them<sup>60</sup>.

## 5. Latest Developments: State-Wise Legislations

With the initiation of the inclusion of the registration clause in the Anand Marriage (Amendment) Act, 2012, the move came as a breakthrough in terms of respect provided to the different community existing in the country, providing them with a separate identity and upholding the constitutional provisions and fundamental rights, as enshrined in Article 26 of the Indian Constitution, which are as follows:

*“Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—*

- (a) to establish and maintain institutions for religious and charitable purposes;*
- (b) to manage its own affairs in matters of religion;*
- (c) to own and acquire movable and immovable property; and*
- (d) to administer such property in accordance with law<sup>61</sup>.”*

The revolutionary move by the Parliament has only been supported by the state governments, who have only taken it upon themselves to bolster the ongoing process of recognising the legal and marital registration rights of the Sikhs. A few of these moves may be listed as follows:

### A. NEW DELHI

A 110-year-old demand of the Sikhs had finally been met by the Delhi government when they enacted **The Delhi Anand Marriage Registration Rules, 2018**<sup>62</sup>, wherein Sikhs in Delhi would be mandated to register their

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<sup>60</sup> Reference “Supra Note 2”

<sup>61</sup> Reference “Constitution of India, CAD, [https://www.constitutionofindia.net/constitution\\_of\\_india/fundamental\\_rights/articles/Article 26](https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2026).”

<sup>62</sup> Reference “ResponsiveWebInc, BARE ACTS LIVE DELHI ANAND MARRIAGES REGISTRATION RULES, 2018, <http://www.bareactslive.com/Del/dl184.htm>”

marriages under this Act. The Sikhs, whose marriages have been registered under this Act, are not required to get these registered under the Hindu Marriage Act, 1955<sup>63</sup>.

## B. PUNJAB

In 2006, the Supreme Court in **Seema v. Ashwani Kumar**<sup>64</sup> issued a command to all to make registration of marriage compulsory in all States by enacting legislation.

**The Punjab Anand Marriages Registration Rules, 2016**<sup>65</sup> were declared by the Punjab government in pursuance to the 2006 legislation and 2012 Amendment to the Anand Marriage (Amendment) Act, 2012, for the purpose of registration of Anand Marriages in Punjab<sup>66</sup>. To register Anand marriage, Registrar (also known as Tehsildar or a Naib Tehsildar<sup>67</sup>) or Sub Divisional Officer under whose jurisdiction such marriage solemnized are compulsory to be presented at the venue. Rules and regulations of Anand marriage in case of Foreign National (FN), Persons of Indian Origin (PIO)<sup>68</sup>, Overseas Citizens of India (OCI), Non-resident Indian (NRI) must be checked prior<sup>69</sup>.

## C. MUMBAI

Following the Delhi government's most recent move in enacting a separate legislation for the registration of Sikh marriages, the community in Mumbai<sup>70</sup> has also cited demands, citing uniformity, recognition as valid grounds as well as citing violation of Article 25 (B) of the Indian Constitution, wherein many

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<sup>63</sup> Indira Basu, *Need for Anand Marriage Act for Sikhs & Why It's in the News Again*, THE QUINT (August 11, 2021, 1:30PM), <https://www.thequint.com/explainers/explainer-anand-marriage-act-anand-karaj-sikh-hindu-marriage-act-delhi-govt#read-more>.

<sup>64</sup> *Seema v. Ashwani Kumar*, (2006) 2 SCC 578.

<sup>65</sup> *Supra* note 3.

<sup>66</sup> THE PUNJAB SIKH ANAND KARAJ MARRIAGE ACT 2018, <http://punjablaws.gov.pk/laws/2698.html#:~:text=>.

<sup>67</sup> *Supra* note 3

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Sikh community in Mumbai want separate law for marriage, HINDUSTAN TIMES (August 12, 2021, 7:00 PM), <https://www.hindustantimes.com/mumbai-news/sikh-community-in-mumbai-want-separate-law-for-marriage/story-1cujsyqcYdoFHahy1dtsO.html>.

communities are construed as Hindus, namely Sikhs, Jains, Buddhists etc, which is not the case. However, there has been no further development to the demand.

## 6. INFERENCES

Freedom of Religion has been enshrined as a Fundamental Right according to our Indian Constitution, provided under Articles 25-28. Article 25 states the following:

*“(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.*

*(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-*

- a. regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;*
- b. providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus<sup>71</sup>.”*

However, the meaning of such detailed provisions can only be upheld if the separate recognition and distinction between varying religions is made, instead of collusion for simplicity which may create communal conflicts. With Punjab being the torch-bearer and continuing state to the Parliament's rectifying amendment, it has been the states showing more activism towards providing the Sikh community a respectable, differentiable identity. However, there seem to be no signs of amending the original Hindu Marriage Act, 1955 and its clauses, which stand in contravention with the recently enacted separate legislations, leading to confusion and the question of necessity arises- do we need separate laws or an amendment would suffice? Or both?

After conducting the research, a few inferences can be made in order to come to a long-term resolution:

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<sup>71</sup>Responsive Web Inc, BARE ACTS LIVE CONSTITUTION OF INDIA, 1950, <http://www.bareactslive.com/ACA/ACT401.HTM>.

1. An amendment to the original legislation, wherein the word 'Sikhs' can be removed from Article 2 (1) (b), which would be able to provide justification to the enactment of separate legislations.
2. Widening the ambit of Anand Marriage (Amendment) Act, 2012, thereby making it applicable over all states and making registration under this Act by Sikhs, and only Sikhs, obligatory, and no other. This would remove multiplicity of laws and enable governments to concentrate on other important matters.
3. Removal of state legislations post enactment of central legislation to reduce confusion and conflict.

It is in the interest of the Judiciary as well Legislature if the Central government takes up the onus of making these changes in order to simplify, reduce contradictions and receive demands well. Law-making and adjudication is a sensitive subject, especially in relation to matters that veer towards personal laws and setups, like marriage, divorce etc. However, a lot of consideration, uniformity and systematisation is evidently needed.