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The Significance of Special Marriage Act, 1954: An Insightful Analysis of the Challenges of Implementation

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ABSTRACT

In India, the man-made demarcations of caste, religion, culture play a predominant role in the matters of marriage. Customary marriages in India take place within the caste and faith to which the couple belongs to. Those nuptials which challenge this norm of Indian society are considered socially unacceptable and irreligious. But the Special Marriage Act, 1954 works towards granting legal validity to those marriages where the two consenting parties belong to different faiths or castes. It lays down the procedure through which such marriages are granted legal credibility. However, this paper seeks to analyze the procedure through which the 'special marriages' takes place and highlights the anatomy of the problems pertaining to the same in the light of recent Indian social developments and modernization. It scrutinizes the problems with great precision and meticulously lays down the modification which is absolutely necessary to make the Act undeniably efficient and scale down the threat of honour killings, violence, coercion the intended couple is subjected to by the community. The paper also seeks to shed light on the growing magnitude of caste endogamy and casteism which is having an adverse impact on the inter-caste and inter-religious marriages in India. The major objective of the paper is to provide an insight into the challenges associated with the implementation of the Special Marriage Act, 1954.

Keywords- Religion, Marriage, Community, Customary, Endogamy, Secular, Honour.

I. INTRODUCTION

Following the attainment of Independence in the year 1947, India was recognized as a 'secular democratic republic'³ which is home to a myriad of cultures, traditions and religions. One of the remarkable attributes of the typical Indian society is the institution of marriage which is considered to be sacred and holy. Moreover, the entire affair of marriage does not only concern

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³ *The Indian Constitution of India, 1950.* preamble.

the intended couple but also holds significant importance for the families of the bride and groom. The Indian society till date is fettered by the age-old belief in caste, creed, religion which eventually fosters marriages that are arranged and endogamous. The bride or groom is selected by the parents and the older members of the family from the same cast and social status as the person's family. The entire affair of marriage is quite unbending and requires every individual to wed within their social hierarchy and religion. Any individual who does not fulfill this archaic condition is believed to bring dishonour and disgrace to their family members and is even considered to be irreligious. The extremist or the fundamentalist many a time kill the bride and the groom in order to preserve the dignity and secure the lost honour of the family, thus also referred to as 'honour killing'.

Intermarriage lies at the heart of intergroup relations and increased rates of intermarriage in society are considered a measure of assimilation of different groups.⁴ However, the increasing trends of inter-religious marriages do not indicate the narrowing societal gaps of the traditional Indian society⁵. On the contrary, there have been media reports about the active, often hostile and aggressive attack by fundamentalist forces on the efforts of the young people to intermarry, moreover their families act like criminal gangs, kidnap and imprison them to deprive them of their most elementary human rights in the name of honour⁶. It can be understood by these facts that the greater the social distance between the castes of the two young people intending to marry, the more intense and aggressive were the efforts to prevent the intermarriage⁷. As a result, there was a grave necessity to protect the interest and well-being of those individuals who wished to marry beyond their social station and religious barriers so, the Special Marriage Act, 1954 came into force which grants legal validity to the inter-caste marriage between the two consenting adults through registration under the act. Thus, if two people belonging to diverse spiritual conviction get married with the permission of their folks and according to the customs laid down by their religion, such a marriage is registrable only through the Special Marriage Act of 1954⁸.

It can be inferred that Special Marriage Act provides a gateway for those couples who wish to

⁴ Deanna L. Pagnini & S. Philip Morgan, *Intermarriage and Social Distance among U.S. Immigrants at the Turn of the Century*, 96 American Journal of Sociology 405-432 (1990).

⁵ Saroja K., *Intercaste marriage and social dynamics in India: a critique*, 60 Indian Journal of Social Work 183-192 (1999), <http://103.36.84.132/collect/ijsw/import/vol.60/no.2/183-192.pdf> (last visited Jun 23, 2021).

⁶ Victim of Family Conspiracy, Manushi India, 1990, at 11-13, http://manushiindia.org/test/pdfs_issues/PDF%20files%, 2056/victim of family conspiracy.pdf (last visited Jun 23, 2021).

⁷ *Supra* note 5.

⁸ Rubi Talukdar & Maithili Choudhury, *The Special Marriage Act, 1954*, 57 Psychology and Educational Journal 1007-1010 (2020), <http://psychologyandeducation.net/pae/index.php/pae/article/view/393/234> (last visited Jun 23, 2021).

inter-marry breaking the age-old shackles of race, religion, caste, creed and social ranks. The Special Marriage Act, 1954 is indeed very 'special' as it upholds the validity of the wedlock of two consenting adults and subsequently also allows them to tie knots without renouncing their own religion.

II. PRESENT-DAY STATUS OF CASTE ENDOGAMY AND PROLIFERATING CASTEISM

One of the quintessential features of traditional Indian marriages is that it does not recognize the independent identity of any individual rather they are considered to be the representatives of their families who belong to the same caste and confine them to the archetypal coercive conditionalities in the matters of marriage. The arranged marriages strictly adhere to caste endogamy and this practice has been deeply ingrained in the society at large. Caste is a gravitating force of the Hindu social world and to ensure its continuity, the first step which the caste took was to tighten its circle by caste endogamy which prescribed a ban on intermarriage⁹. The rigid conservative belief associated with intermarriage is not only confined to a particular region, religion or caste rather it is widespread and preponderant among both the higher and lower echelons of the Indian society. Consequently, we can deduce the fact that the edifice of the caste system is standing on caste endogamy, which in turn is perpetuated and strengthened continuously by the institution of arranged marriage, which is almost universally practised by all castes, creeds and religions in Indian society¹⁰.

One cannot deny that there has been an upsurge in the magnitude of casteism which has a damaging effect upon the secular nature of our nation. Furthermore, it has also caused inter-caste conflicts, violence and bloodshed thereby eroding the harmony in those affected areas. Even though caste may shed many of its features, there is no trace of the caste system loosening its grip on the Indian society, instead, there is a growing tendency among most castes to strengthen their solidarity by fusion of sub-castes and formation of caste associations, thereby achieving the numerical strength necessary for extracting enough dough for political, educational, employment and economic opportunities and gains¹¹.

The tightening grip of casteism seems to create a very unhealthy environment for those who wish to wed beyond their caste or religion. It jeopardizes the true spirit of national consciousness and allows the goons or the extremists to coerce and oppress the intended couple to not enter into the wedlock. It puts the free individual will of a consenting adult in peril and confines him to the age-old clutches of caste and creed. Although the Special Marriage Act,

⁹ U. Bambawale & A. Ramanamma, *Conversion in Inter-religious Marriages*, 10 Social Change 2-4 (1980).

¹⁰ *Supra* note 5.

¹¹ Ram Ahuja, *Social Problems in India* (4 ed. 2021).

1954 acts as a gateway for those intending couple but the threat of deeply rooted fundamentalism takes a toll on their well-being and free will. Thus, the Special Marriage Act, 1954 as a piece of legislation provides a possibility for the intending couples to intermarry but it does not in itself enkindle the process of inter-caste weddings.

III. APPLICABILITY OF THE ACT

The Special Marriage Act, 1954 applies to all Indian states and also to Indian nationals who are living abroad. Under this Act individuals belonging to two different faiths, be it Muslims, Hindus, Parsi, Sikhs or Christians can get married¹². The Act prevails not only in cases of inter-religious or inter-caste marriages, or love marriages but is also applicable on intra-faith marriages and also offers an option to register those marriages performed as per the personal laws the couple follows¹³. The personal laws, whether Hindu law or Muslim law lays down a requisite for the fulfillment of customs and ceremonies to solemnize the marriage, whereas the Special Marriage Act does not require the performance of any rituals and ceremonies, rather the solitary prerequisite for getting married is two people having consent¹⁴.

IV. CONDITIONS OF THE ACT

There are some conditions required to be fulfilled for the solemnization of a marriage under the Special Marriage Act, 1954 which are ascribed under Chapter II, Section 4¹⁵. The conditions for this special type of marriage are not absolutely distinct from the requirements of other customary marriages and are somewhat similar to Section 5 of the Hindu Marriage Act, 1955¹⁶. First and foremost, both the parties should be monogamous at the hour of marriage; i.e. neither party should have a living spouse at the time of marriage¹⁷. Secondly, both parties ought to be mentally fit and must be in a condition to decide for themselves; i.e. no party should be of unsound mind or suffering from any mental disorder or has been subject to recurrent attacks of insanity¹⁸. Thirdly, the male must have completed the age of twenty-one years and the female should have completed the age of eighteen years at the time of marriage¹⁹. Fourthly, the parties should not be within the degrees of prohibited relationship; i.e. they should not be related to

¹² *Supra* note 5.

¹³ Ms. Ritu Singh, *Marriage and Registration under Special Marriage Act: A Socio-legal Study*, 2 Law Mantra Online Journal 1-10 (2015), <http://journal.lawmantra.co.in/wp-content/uploads/2015/05/110.pdf> (last visited Jun 24, 2021).

¹⁴ Kumudin Das et al., *Dynamics of inter-religious and inter-caste marriages in India*, (2010), <https://paa2011.princeton.edu/papers/111281> (last visited Jun 24, 2021).

¹⁵ Special Marriage Act, 1954, § 4, No. 43, Acts of Parliament, 1954 (India).

¹⁶ Hindu Marriage Act, 1955, § 5, No. 25, Acts of Parliament, 1955 (India).

¹⁷ Special Marriage Act, 1955, § 4(a), No. 43, Acts of Parliament 1954 (India).

¹⁸ *Id.* § 4(b).

¹⁹ *Id.* § 4(c).

each other by blood²⁰. Consequently, infringement of any conditions expressed in Section 4 of the Act will render the marriage void.

V. PROCEDURE FOR SOLEMNIZATION OF MARRIAGES

The Special Marriage Act, 1954 requires certain preliminaries and civil formalities for the solemnization of marriage²¹. Both the intended parties to the marriage have to give a notice in writing in the form specified to the Marriage Officer of the district, in which at least one of the parties to the marriage has resided for a minimum period of thirty days²². Once the Marriage Officer receives the notice of marriage, it has to be published by affixing a copy of it at some conspicuous place in his office²³. The Marriage Officer is bound to keep all the notices with records in his office and should enter a true copy of every such notice in the 'Marriage Notice Book', which shall be open for inspection to all, without any fees²⁴. Before the expiration of thirty days from the date on which notice has been published any individual may object to the marriage on the ground that it contravenes the conditions specified in Section 4 of the Act²⁵. Following the expiration of thirty days of the period of objection the marriage will be solemnized, unless if it has been previously objected by any individual²⁶. In any case, if any objection is made against an intended marriage, the Marriage Officer cannot solemnize the marriage until he has inquired into the matter of objection and has arrived at a decision, that the objection earlier made will not forestall the solemnization of the marriage or the prior objection is withdrawn by the individual making it²⁷. But if the Marriage Officer validates the objection and refuses to solemnize the marriage, then within a period of thirty days any of the intended party may prefer an appeal to the district court within the local limits of the Marriage Officer's office and the decision of the District court on such appeal will be binding and the Marriage Officer has to act in conformity with the decision of the court²⁸.

Before the marriage is solemnized the intended parties and three witnesses have to sign a declaration in the form specified in the presence of a Marriage Officer and the declaration should also be countersigned by the Marriage Officer himself²⁹. After all this, the marriage can

²⁰*Id.* § 4(d).

²¹ *Supra* note 13.

²² Special Marriage Act, 1954, § 5, No. 43, Acts of Parliament, 1954 (India).

²³*Id.* § 6(2).

²⁴*Id.* § 6(1).

²⁵*Id.* § 7(1).

²⁶*Id.* § 7(2).

²⁷ *Id.* § 8(1).

²⁸*Id.* § 8(2).

²⁹*Id.* § 11.

be solemnized at the Marriage Officer's office or at some other place the parties may choose³⁰. Each party has to say to the other partner in front of the Marriage Officer and the three witnesses in any language understood by the parties,—“I, (A), take the (B), to be my lawful wife (or husband)”³¹. After the marriage has been solemnized, the Marriage Officer enters details in a certificate which is kept by him in ‘Marriage Certificate Book’ and has to be signed by the parties to the marriage with the three witnesses and this shall serve as conclusive evidence of the marriage³².

VI. ANATOMY OF THE PROBLEMS PERTAINING TO THE SPECIAL MARRIAGE ACT, 1954

Special Marriage Act, 1954 holds significant importance in the present decade, where the couples who decide to flout the existing moral standards and customs of the society by choosing a partner from another faith is no secret. The right to choose a partner of one's own choice has been engrafted in our freedom of choice and expression³³ and is constitutionally guaranteed. The State cannot arbitrarily immure or limit an individual's constitutionally guaranteed freedom in the guise of societal conditions, traditions and religious beliefs. Although the Special Marriage Act, 1954 empowers the couples to defy the norms of the orthodox society and wed beyond the human boundaries of caste, religion, creed but certain provisions of the same Act seems to cause hardships and restrict an individual's right to marry a partner of his/her own choice.

The Section 4(c)³⁴ lays down the requisite that for a marriage to be solemnized the male must have completed the age of twenty-one years and the female must be eighteen years old. Through this provision, it becomes apparent that the intending couple must attain the age of majority along with physical and mental maturity so that they are competent enough to take decisions affecting their own lives without any societal interference. However, the provisions which follow next seems to countermand this very assumption as it lays down certain conditions to be fulfilled before the marriage is successfully solemnized.

Section 5³⁵ requires the couple to provide a notice in a written format to the marriage officer moreover, a true copy of such notices must be retained in a book called the ‘Marriage notice

³⁰*Id.* § 12(1).

³¹*Id.* § 12(2).

³²*Id.* § 13.

³³ India Const. art. 19, cl. 1(a).

³⁴ Special Marriage Act, 1954, § 4, No. 43, Acts of Parliament, 1954 (India).

³⁵ *Id.* § 5.

book' which would be open for inspection by 'any' individual without a fee³⁶. It is worth noticing that such a notice which is being put out in the 'public domain' contains the personal details of an individual such as name, age, place of residence, profession etc³⁷ which is in contravention of the fundamental right to privacy embedded in Article 21 of the Constitution of India. The information mentioned in the notice is crucial to both the partners intending to marry as well as to the marriage officer for formal purposes, however; such information is of no use to the public at large. Rather the publication of such private information which is easily accessible allows the individuals getting married to be prone to threats and oppression from their families, extremists, goons and fundamentalist who oppose such interfaith marriages and consider it irreligious. The information is not only accessible from the Marriage notice book but also the copy of the notice is affixed at a conspicuous place in the office of the Marriage Officer³⁸. Furthermore, if either of the parties of the intended marriage does not permanently resides in limits of the district of the Marriage Office to which such notice has been given under Section 5 of the Act then the notice must be transferred to the Marriage Officer of the district in which either of the parties reside and such Marriage Officer is bound to affix this notice at a conspicuous place in his office³⁹. As a result, it becomes absolutely facile for the families, relatives, caste and community members to track down the couple to harass, coerce, oppress them and also subject them to the decayed moral standards and principles imposed by the society. Hence it seems that by the insertion of this provision, access to the private information of the intending couple has become an unchallenging task. Ordinarily, it is due to the present communal backlashes, political polarization and religious persecution that the couples decide to marry under this Act against the wishes of their families and society but ironically due to the publication of such information and allowing inspection by 'any' person under this Act which causes hardships and suffering and also exposes the individuals intending to marry to the grave threat of 'honour killing' by the orthodox society.

However, there is no scope for a speedy procedure for immediate marriage rather the couple have to wait for a period of thirty days from the date from which the notice has been published. If there happen to be no previous objections against such notice only then the marriage can be solemnized at the end of the thirty days⁴⁰. 'Any person' may object to such notice if they find

³⁶ *Id.* § 6(1).

³⁷ Devika Sharma, Special Marriage Act, 1954: Too special to be constitutional | SCC Blog SCC Blog (2021), <https://www.scconline.com/blog/post/2021/02/20/special-marriage-act/> (last visited Jun 23, 2021).

³⁸ Special Marriage Act, 1954, § 6(2), No. 43, Acts of Parliament, 1954 (India).

³⁹ *Id.* § 6(3).

⁴⁰ *Id.* § 7(2).

it to be in contravention to the conditions mentioned in Section 4 of the Act⁴¹. Such a provision seems to nullify or breach the fundamental rights of equality, freedom of speech and expression and right to privacy mentioned under Article 14, 19 and 21 of the Constitution of India respectively. It threatens an individual's free will and autonomy to choose a partner of his own choice and make decisions which he thinks to be in his own best interest. The objection by any person also opens the scope for invalid objections or those made with mala fide intention. However, the punishment prescribed⁴² for the same is quite trouble-free as it only imposes a cost in the form of compensation of not exceeding one thousand rupees and the same may be awarded in whole or part to the parties of the intended marriage. Such meagre amount of compensation does not act as a deterrent for such unreasonable objections instead it further delays the solemnization of marriage till the Marriage Officer inquires into the objection and arrives at a decision within the next thirty days⁴³. The act through this provision makes the intended couples prone to another challenge which acts as an obstacle in their process of getting married. Along with that the presence of witnesses⁴⁴ at the time of marriage is another condition that proves to be a hassle for those run-away couples who do not have anybody to sign the papers as a witness.

However, the provisions setting a prerequisite for the mandatory publication of the notice, objection period of thirty days along with the inspection of the marriage notice book by 'any person' are the idiosyncrasy of this particular act. No other legislation governing intra-faith marriages imposes any such stipulation with regards to marriage. In comparison there appears to be discrimination between the legislations governing the inter and intra-faith marriages nevertheless there is only one ground for differentiation between the two kinds of marriages which is that in one both the partners belong to the same faith while in the other both belong to two different faiths. But a mere difference in religious belief or faith of both the partners cannot be a reason for having such a wide difference between the two laws. It is indecipherable as to how the couples marrying under the Special Marriage Act, 1954 are dissimilar to those who are marrying under their personal laws. There appears to be a discrepancy between the objective sought to be achieved by this Act and the steps which are taken through its provision for achieving it. The Special Marriage Act, 1954 although allows the citizens of India and Indian nationals in foreign countries to wed beyond man-made demarcations of religion, caste, community but at the same time it treats such marriages with apprehension by imposing such

⁴¹ *Id.* § 7(1).

⁴² *Id.* § 9(2).

⁴³ *Id.* § 8(1).

⁴⁴ *Id.* § 9(1) (a).

conditions which are not applicable in intra-faith marriages.

The Act also requires the intending couples to wait for a period of one month after the publication of notice which is supposed to be the period of objection. However, this period seems to be too long for those who are under constant threat from their families and community. The act provides enough time and scope for family, caste and community to harass individuals who intend to take recourse to it⁴⁵. Even though the Act enables two consenting adults to marry each other without paying heed to the faiths to which they belong to but the law does not make it easier in practice as it seems that such couples still need societal approval to provide validity to their marriage.

Thus, it seems that the negative aspects outnumber the positive aspects of the Act. Some changes must be made to the Act in the light of the problems which are being highlighted in order to achieve the dream of secularism and to empower those couples who are wishing to marry under this Act by providing them legislation that is just, fair and reasonable and which does not bend with age or societal oppression. It is only then the couples belonging to different faiths and communities could be persuaded to get married under this Act thereby making the country achieve its dream of secularism in the true sense.

VII. MODIFICATIONS WHICH MUST BE MADE TO THE SPECIAL MARRIAGE ACT, 1954

Implementation of the Special Marriage Act, 1954 was one of the most progressive social stratagems undertaken to encourage inter-caste and interfaith marriages. It sought to facilitate a 'modern marriage' in the 1950s and established provisions for granting legal validity to the same. However, when the same 'modern marriage law' is examined closely it seems to be outdated and inefficient. There is a need for a contemporary and progressive law governing special marriages which is in tune with the present-day Indian social realities. There is an absolute necessity to bring about a radical change in order to do away with the obstacles imposed by this Act of 1954.

For the solemnization of marriage under this Act, it is obligatory to issue a written notice⁴⁶ and such notice has to be recorded in the marriage notice book⁴⁷ and a copy of the same must be affixed at a conspicuous place by the marriage officer⁴⁸. By the inspection of both the notice

⁴⁵ Kameshwar Choudhury, *Anatomy of the Special Marriage Act*, 26 *Economic & Political Weekly* 2981, 2983 (1991), <https://www.jstor.org/stable/41625414> (last visited Jun 23, 2021).

⁴⁶ Special Marriage Act, 1954, § 5, No. 43, Acts of Parliament, 1954 (India).

⁴⁷ *Id.* § 6(1).

⁴⁸ *Id.* § 6(2).

book and the public notice ‘any person’ can file an objection against such intended marriage⁴⁹. This effectuates a grave threat to the privacy of an individual which is also coupled with moral policing and social stigmatization. In the light of the growing magnitude of shimmering violence and intolerance among people belonging to different faiths, the publication of notice of inter-faith marriage is absolutely unfeasible. To scale down the hardship of the intended couple and ease the process of registering the marriage such a provision of mandatory issuance of public notice must be made optional. Instead of freely allowing the world to witness the barrier of religion being broken and have a peep into the private affairs of the couple, it should be the intended couple who must be bestowed with the decisional autonomy in the choice of a partner.

In the case of *Shafin Jahan vs. Asokan K.M. and Others*⁵⁰ the issue of marrying without any interference came up before the Supreme Court of India in which the court stated, “*The constitution recognizes the liberty and autonomy which inheres in each individual. This includes the ability to take decisions on aspects that define one’s personhood and identity. The choice of a partner whether within or outside marriage lies within the exclusive domain of each individual.*

Intimacies of marriage lie within the core zone of privacy, which is inviolable. The absolute right of an individual to choose a life partner is not in the least affected by matters of faith”⁵¹. Hence, the State can only determine the grounds of legal marriage but cannot restrict the ability of an individual in choosing his partner as it is a personal liberty guaranteed by the Constitution of India itself. It denies the need of having societal approval in order to give validity to personal decision and upholds the fundamental right of an individual to choose one’s partner and marry him /her.

Recently, the Allahabad High Court in the case of *Sufiya Sultan and Ors. v. State of U.P. and Ors.*⁵² stated that while giving notice under Section 5⁵³, it would be the discretion of the couple to request in writing to the concerned Marriage Officer whether they would like to publish or not a public notice under Section 6⁵⁴ and follow the procedure of objections under Section 7⁵⁵. If the intended couple decides that they would not prefer to publish a public notice then the

⁴⁹ *Id.* § 7(1).

⁵⁰ *Shafin Jahan vs. Asokan K.M. and Others*, MANU/SC/0340 (2018).

⁵¹ *Id.*

⁵² *Safiya Sultana and Ors. Vs. State of U.P. and Ors.*, MANU/UP/0011 (2021).

⁵³ Special Marriage Act, 1954, § 5, No. 43, Acts of Parliament, 1954 (India).

⁵⁴ *Id.* § 6.

⁵⁵ *Id.* §7.

Marriage Officer shall not be bound to issue any such notice and entertain or inquire into any such objections rather it would be obligatory for him to proceed with the solemnization of marriage. If the intended couple opts for publication of public notice then they can freely do so under the Act and progress with the procedure of objection, and in such a case it would be deemed that the fundamental right of the couple has not been violated. Therefore, the Court held that the issuance of public notice and invitation of objections was completely 'directory' in nature and can be given effect depending upon the discretion of the couple.

Therefore, in the light of the judgment given by the Allahabad High Court such a reform must be brought into place for all the states so that such provision no more acts as deterrence for those who want to register their inter-faith marriages. Such a radical change would uphold the decisional autonomy of the couple and would not further violate the fundamental rights of privacy and freedom of choice embedded in Article 19 and 21 of the Constitution of India, 1950.

The Special Marriage Act, 1954 must be updated and modified to facilitate a more equal vision of marriage among individuals irrespective of whether it is inter-religious or intra-religious. Since there is no such provision of invitation of objections and public notice for marriages taking place under the personal laws then a course of action must be undertaken in order to withdraw such provisions mentioned in the Special Marriage Act, 1954 which seems to be quite discriminatory on the part of the inter-faith marriages. An individual must not be judged based on whom he decides to partner, love and marry and there should be no line of man-made demarcation which differentiates between the two types of marriages and the autonomy of every person must be respected.

Furthermore, the objection period must be reduced as thirty days is a long time to expose the intended couple to societal oppression demanding to fall out of their decision of marrying each other and also leaves ample scope for the families and community to trace the couple and harass them. The domicile restrictions imposed for the issuance of notice to the Marriage Officer should also be abolished as it acts as a hurdle for those couples who have decided to marry against the wishes of their family and relatives. Such a change would allow the couple to settle anywhere freely and would protect them from being harassed, tortured and tormented at the hands of conservative families and festering social problems. Coupled with that it is also necessary to prescribe strict punishments for those Marriage Officers who refuse to solemnize the marriage despite the fulfillment of every condition mentioned only to make the couple suffer moreover, it is also necessary to raise the amount of the fine which is charged against

those who make invalid or unreasonable objections against the notice published⁵⁶.

Lastly, the Act functions to give validity to the marriages which are confined within the four walls of the male and female binary relationship. Since there are several laws that now recognize the LGBTQIA+ as a third gender and coupled with that they are also bestowed with numerous rights, it is time for the Special Marriage Act, 1954 to give recognition to marriages which is beyond the male-female binary. A law must be brought into place which defines the contours of the marital relationship irrespective of any differentiation based upon gender, sex and sexual orientation, however; it must be drafted in consultation with the stakeholders of this community.

Thus, if such modifications are made to the Special Marriage Act, 1954 with respect to the recent societal developments then it would definitely remove the hurdles affecting the intended couples from registering their marriages. Since most of the marriages are registered in India under personal laws if changes are brought to the Act it would also encourage people to take advantage of the same. Consequently, such a comprehensive and exemplary code governing the provision of marriage would truly make the Special Marriage Act, 1954 all the more 'special'.

VIII. CONCLUSION

India as a democratic nation is preponderantly a traditional society caged within the rigid bars of the caste system. In this country solemnization of marriage is considered to be devotional, saintly and is a blessed union between the bride and the groom and their families. Caste and religion play a predominant role in the marriages that take place irrespective of the myriad of traditions and cultures. Customary marriages require that the couple belongs to the same caste and religion to have a holy union and those nuptials that take place in defiance of the conventional practices are looked down upon by the society and are regarded as unholy. In the midst of the increasing rate of honour killings and a large number of such cases being under-reported, there is a need to create social awareness among the people and lift the taboo associated with inter-caste and inter-religious marriages.

In the case of *Lata Singh v. State of U.P. and Ors.*⁵⁷ the court clearly expressed that two consenting adults can freely marry each other and the families or the community cannot threaten, harass, oppress, coerce or initiate any act of violence against the couple. It also

⁵⁶ *Supra* note 45.

⁵⁷ *Lata Singh vs. State of U.P. and Ors.*, (2006) 5SCC475.

directed the police authorities of the State to grant special safeguard to such couple who undergo interfaith marriages and ensure that they are not subjected to any threat or violence.

This lays down the base for a good beginning to raise awareness and take steps to eliminate the conservative ideology against inter-religious wedlock and free the country from the strong clutches of the caste system. Inter-caste marriages act as a tool to bridge the socio-economic gap and bring about modernization and social development. Despite the numerous positive aspects associated with inter-faith marriages research shows that only 10% of the total marriages in India takes place between different castes and a mere 2.1% of the marriages are inter-religious⁵⁸. There is a need to glorify, give media exposure and encourage such marriages in order to reduce the caste barrier prevalent in the Indian society⁵⁹, however; there is a long way to go when the autonomy of the individual in the matters of marriage will be respected and the society would keep the happiness of the couple at a higher pedestal than the caste to which they belong to.

⁵⁸ Kumudin Das et al., *Dynamics of inter-religious and inter-caste marriages in India*, (2010), <https://paa2011.princeton.edu/papers/111281> (last visited Jun 26, 2021).

⁵⁹ *Id.*