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Interfaith Marriages in India: The Legal Framework and Societal Resistance

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Abstract:

Interfaith marriages in India lie at the intersection of constitutional freedom, statutory regulation, and deep-rooted social conservatism. Although the Constitution guarantees liberty, equality, and secularism, the lived experience of couples marrying across faiths reveals persistent barriers. The *Special Marriage Act, 1954*—intended as a secular avenue for marriage—has become mired in procedural complexity. Its thirty-day public notice requirement often exposes couples to harassment, family pressure, and communal hostility. Judicial pronouncements have repeatedly upheld the right to marry as a fundamental component of Article 21, emphasizing constitutional morality over societal morality. Yet, despite progressive judgments, the implementation gap remains wide, aggravated by the rise of anti-conversion laws and politicized narratives such as “love jihad.”

Societal resistance continues to draw upon patriarchal, religious, and communal anxieties that perceive interfaith unions as threats to cultural purity. Empirical surveys, including those by Pew Research Center and NFHS-5, show that such marriages remain exceedingly rare and socially disfavored. Comparative perspectives demonstrate that while secular democracies treat marriage as a purely civil institution, legally majoritarian systems often subordinate individual choice to religious conformity. Bridging this divide in India demands procedural reform of the *Special Marriage Act*, greater institutional protection for interfaith couples, and educational efforts to promote tolerance. Ultimately, the protection of interfaith marriages serves as a test of India’s constitutional maturity—its capacity to reconcile diversity with universal rights and to transform legal secularism into a lived social reality.

Keywords: Interfaith Marriage, Constitutional Liberty, Secularism.

1. Introduction

India is a society characterized by deep religious plurality, where Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and several other faiths coexist. In such a diverse setting, marriage—the most personal and intimate of human relationships—often becomes a site of legal, cultural, and political contestation. Interfaith marriages, which involve partners from different religious communities, have historically been viewed with skepticism, both socially and legally.

The Pew Research Center’s 2021 report found that only 5% of Indians are in an interfaith marriage, and a majority of respondents believed it was important to prevent both men and women in their community from marrying outside their religion (Pew Research Center). This highlights the depth of societal resistance despite constitutional guarantees.

1.1 Statement of Problem

Despite the promises of liberty under the Constitution, couples entering interfaith marriages face barriers. These arise from:

1. Legal hurdles – such as the cumbersome notice procedure under the *Special Marriage Act, 1954*.
2. Societal resistance – including family disapproval, communal backlash, honor-based violence, and politicized narratives like “love jihad.”

The Supreme Court has consistently held that the “right to marry a person of one’s choice is integral to Article 21 of the Constitution” (*Shafin Jahan v. Asokan K.M.*), yet ground realities often differ sharply from these constitutional ideals.

1.2 Research Questions

1. What is the constitutional and statutory framework governing interfaith marriages in India?
2. How have Indian courts interpreted and protected the right to marry across religious boundaries?
3. What forms of societal resistance do interfaith couples encounter, and how do these challenges intersect with law?
4. What reforms—legal, institutional, and social—can strengthen protections for interfaith marriages?

1.3 Significance of the Study

This study is important for several reasons:

- It contributes to the discourse on constitutional morality vs. societal morality, a distinction elaborated by the Supreme Court in *Navtej Singh Johar v. Union of India*.
- It highlights the gaps in the Special Marriage Act, where the 30-day public notice often exposes couples to harassment (the Kerala High Court in the case of *Aneesha v. State of Kerala* 2021 noted that such requirements need reconsideration).
- It situates interfaith marriage as a litmus test for India’s commitment to secularism, which has been held to be a part of the Constitution’s basic structure (*S.R. Bommai v. Union of India*).
- It also draws on scholarly critiques such as Flavia Agnes work, which argues that personal laws and community control often override individual rights (Agnes 23–27).

1.4 Research Methodology

The paper adopts a doctrinal legal research approach, analyzing constitutional provisions, statutory laws, and landmark judgments. It also incorporates a socio-legal perspective by engaging with judicial pronouncements, official reports, and secondary literature. The doctrinal analysis adopted here also engages with the idea of legal pluralism, acknowledging that India’s marriage laws operate within overlapping regimes of secular and personal laws. This coexistence creates a unique constitutional tension between individual autonomy and community regulation. By interpreting the Special Marriage Act, 1954 as a constitutional bridge between these parallel systems, the paper situates interfaith marriage within India’s distinctive form of pluralist constitutionalism—one that aspires to harmonize diversity with equality before the law.

1.5 Literature Review

The constitutional framework in India recognizes the right to marry a person of one's choice as a core element of liberty and dignity. Although statutory laws such as the *Special Marriage Act, 1954* operationalize this right, the constitutional guarantee is rooted in fundamental rights that protect autonomy against familial and societal pressures. The Supreme Court has held that marital choice falls within the ambit of Article 21. In *Lata Singh v. State of Uttar Pradesh*, the Court ruled that a major woman is "free to marry anyone she likes," and condemned familial harassment of inter-caste and interfaith couples. More recently, in *Laxmibai Chandaragi v. State of Karnataka*, the Court directed state authorities to protect couples facing threats, emphasizing that constitutional morality must prevail over societal morality. Articles 14 and 15 prohibit discrimination on the basis of religion, caste, or sex. Interfaith marriages, therefore, fall squarely within the equality mandate. The 242nd Report of the Law Commission of India (2012) emphasized that interference with inter-caste or interfaith marriages in the name of honor or tradition is unconstitutional and called for stronger legal protections. Freedom of conscience under Article 25 also extends to matters of personal faith and marital choice. As Rajeev Dhavan argues, the Indian Constitution subordinates community morality to individual rights, particularly in domains like marriage where personal liberty is central (215–18). This principle undercuts the legitimacy of societal resistance to interfaith unions. Secularism, recognized as a basic feature of the Constitution, legitimizes a legal framework where civil marriage exists beyond religion. H. M. Seervai explains that Indian secularism is based on "equal respect for all religions" rather than strict separation, justifying the role of the Special Marriage Act as a secular avenue for marital choice (3070–71). Similarly, Upendra Baxi notes that personal liberty in marriage embodies the Constitution's transformative aspirations by challenging social hierarchies. Despite these guarantees, societal opposition often undermines constitutional ideals. A Human Rights Watch report observed that interfaith couples in India face disproportionate harassment, including police complicity in parental opposition. Newspaper editorials, such as one in *The Hindu*, warn that anti-conversion laws targeting interfaith unions erode the constitutional promise of liberty and secularism.

Beyond the principle of constitutional morality, the issue of interfaith marriage can also be analyzed through the lens of transformative constitutionalism—a doctrine that views the Constitution as a living instrument committed to dismantling social hierarchies and expanding personal liberty. The Supreme Court's recognition of marital autonomy under Article 21 exemplifies this transformative impulse by translating abstract rights into lived freedoms. Further, insights from feminist legal theory illuminate how restrictions on interfaith marriage disproportionately curtail women's agency, reinforcing patriarchal control over female sexuality and choice. Integrating these theoretical approaches deepens the doctrinal understanding of interfaith marriage as a site of both constitutional evolution and gender justice.

2. Statutory Provisions Governing Interfaith Marriages

In India, interfaith marriages are legally recognized but remain procedurally burdensome and socially contested. The principal legislation that facilitates such unions is the *Special Marriage Act, 1954* (SMA), enacted to provide a secular and uniform framework for

marriage between persons of different faiths. While the Act represents a significant step towards implementing constitutional secularism, its procedural architecture has often been criticized for undermining privacy and autonomy. Under Sections 5 to 7 of the Act, a couple must publish a 30-day public notice of their intended marriage, during which objections can be raised by “any person.” Although meant to ensure transparency, this provision has had the unintended consequence of exposing interfaith couples to harassment and violence. In *Pranav Kumar Mishra v. Government of NCT of Delhi*, the Delhi High Court condemned such bureaucratic intrusions, noting that the right to marry a person of one’s choice cannot be curtailed by administrative formalities or social disapproval. Beyond the SMA, personal laws continue to govern most marriages, and these laws generally require both parties to belong to the same religion. The Hindu Marriage Act, 1955, for instance, applies only to Hindus, Buddhists, Jains, and Sikhs, while under Muslim personal law, a Muslim woman’s marriage to a non-Muslim is void unless the man converts to Islam. Consequently, conversion often becomes a prerequisite for marriage, thereby linking religious identity to marital legitimacy. The National Commission for Women (NCW), in its 2020 note *Interfaith Marriages and Women’s Safety*, highlighted that administrative delays, police interference, and misinformation about the Special Marriage Act dissuade many couples from registering their marriages under secular law (3–5). Moreover, the rise of anti-conversion laws in several Indian states—such as Uttar Pradesh, Madhya Pradesh, and Gujarat—has introduced additional barriers. These laws require prior official permission for conversion before marriage and criminalize religious conversion deemed “for the purpose of marriage.” Critics argue that such statutes violate the right to privacy and personal liberty guaranteed under Article 21. Tahir Mahmood has noted that such legislative trends contradict the very spirit of secularism enshrined in the Constitution because they transform marriage from a matter of private conscience into one of state surveillance (212–14). Thus, while the legal framework formally enables interfaith marriage, its procedural and political realities often subvert the promise of individual autonomy and constitutional equality.

3. Judicial Approach to Interfaith Marriages

The Indian judiciary has played a pivotal role in safeguarding the autonomy of individuals entering interfaith marriages, often stepping in where social and administrative structures have failed. Judicial interpretation has evolved from mere procedural oversight to an active defense of personal liberty, dignity, and privacy. In *Asha Ranjan v. State of Bihar*, the Supreme Court underscored that the “choice of a partner lies within the core zone of privacy and liberty,” thereby linking marital decisions to constitutional protection under Article 21. This recognition of marriage as an aspect of decisional autonomy has been instrumental in curbing familial and societal interference. The judiciary has consistently reaffirmed that the state bears a positive obligation to protect couples who exercise their right to marry against social coercion and threats to life.

In several High Court rulings, such as *Safiya Sultana v. State of Uttar Pradesh*, courts have intervened to shield interfaith couples from police intrusion and community hostility, asserting that “the right to choose a life partner is an intrinsic part of one’s personal liberty.” These cases represent an ongoing effort to reconcile the *Special Marriage Act’s* bureaucratic

procedures with constitutional guarantees of privacy and equality. Significantly, judicial discourse has also begun to critique the misuse of anti-conversion laws. The Gujarat High Court, for instance, in *Shayara Bano v. State of Gujarat*, granted interim relief to an interfaith couple targeted under the state's Freedom of Religion Act, emphasizing that state oversight of marital faith undermines individual autonomy and secular governance.

The courts have further invoked the principle of constitutional morality—a standard that requires public institutions to uphold the values of the Constitution even against prevailing social norms. As noted by constitutional scholar Gautam Bhatia, the judiciary's approach to interfaith marriage cases exemplifies the tension between “constitutional morality,” which safeguards liberty and equality, and “social morality,” which is rooted in community control (52–54). The judicial trend, especially in recent years, reflects a gradual but firm movement toward privileging individual autonomy over collective orthodoxy. Through a series of rulings across jurisdictions, Indian courts have positioned interfaith marriage as not merely a matter of personal choice but as a constitutional right that embodies the secular and pluralistic spirit of the Indian Republic.

4. Societal Resistance and Challenges

Despite constitutional and judicial recognition of interfaith marriage as an expression of personal liberty, Indian society continues to exhibit deep-seated resistance to such unions. Social disapproval often arises from concerns about religious identity, caste hierarchy, and patriarchal control over women's choices. Families, community elders, and religious groups frequently perceive interfaith marriages as threats to social cohesion and cultural purity. This resistance manifests in various forms — ranging from emotional coercion and social ostracism to physical violence and “honor killings.” The National Family Health Survey (NFHS-5, 2021) reported that interfaith and inter-caste marriages remain below 5% nationwide, reflecting not only limited acceptance but also the fear of social repercussions. Community-based mechanisms, such as *khap panchayats* and caste councils, continue to exercise informal authority, often punishing couples who transgress traditional boundaries.

Media narratives and political rhetoric have further fueled social hostility. Campaigns around so-called “love jihad” — a term suggesting coercive religious conversion through marriage — have intensified communal polarization and moral panic. These discourses reinforce patriarchal assumptions that women are passive subjects incapable of autonomous decision-making. The Pew Research Center's 2021 report, *Religion in India: Tolerance and Segregation*, found that nearly two-thirds of Indians believe it is important to prevent women in their community from marrying outside their religion. This data underscores the persistence of gendered and communal anxieties that shape public attitudes toward interfaith unions.

Scholars have long argued that such resistance reflects the gap between constitutional secularism and lived social realities. Patricia Uberoi notes that the regulation of marriage in India remains a site where “kinship, religion, and the state intersect to reproduce community control over individual autonomy” (102–04). Thus, societal opposition to interfaith marriage cannot be viewed merely as a cultural phenomenon—it represents the endurance of patriarchal and communal ideologies that challenge the egalitarian promises of the Constitution. The

resulting conflict between individual liberty and collective morality continues to test India's commitment to secularism, pluralism, and gender justice.

5. Law Reform Debates and The Way Forward

The debate surrounding the reform of laws governing interfaith marriages in India reveals a continuing struggle between constitutional ideals and social conservatism. Scholars and policymakers increasingly emphasize the need to modernize the *Special Marriage Act, 1954* to reflect contemporary values of privacy, autonomy, and gender equality. Among the most controversial provisions is the mandatory thirty-day public notice, which often exposes couples to harassment and violence. Many commentators regard this notice requirement as a colonial remnant that contradicts the constitutional guarantees of liberty and privacy. Reforming this aspect of the Act would ensure that it functions as a protective, rather than intrusive, legal mechanism.

Beyond procedural reforms, the broader debate over the future of family law includes questions about the desirability and feasibility of a Uniform Civil Code. Advocates of a common framework argue that it could promote secular equality and gender justice by replacing religion-based personal laws. However, critics warn that a homogenized code could marginalize minority communities and undermine India's pluralistic ethos. A more balanced approach would focus on incremental reforms that strengthen secular marriage laws while respecting diversity—such as confidential registration procedures, safe houses for interfaith couples, and penalties for honor-based violence.

Ultimately, the way forward lies in aligning statutory provisions with the evolving constitutional understanding of liberty and dignity. The judiciary's recognition of personal choice in marriage as part of the right to life and privacy provides a clear constitutional mandate for legislative reform. A reimagined legal framework must therefore prioritize individual autonomy over community control and translate the constitutional promise of equality, freedom, and secularism into effective social reality.

Contemporary constitutional scholars have expanded the discourse on liberty and secularism in ways highly relevant to interfaith marriage. Tarunabh Khaitan links dignity to substantive equality, arguing that autonomy in personal relationships is central to anti-subordination principles. Faizan Mustafa critiques the politicization of marriage regulation as an erosion of India's secular identity. Incorporating these perspectives enriches the doctrinal analysis and situates the discussion within the evolving landscape of Indian constitutional scholarship.

The future of doctrinal inquiry into interfaith marriage must therefore extend beyond judicial recognition toward normative development. As courts increasingly interpret liberty through the prism of privacy and dignity, there is scope to articulate a "right to relational autonomy" under Article 21—protecting the freedom to choose and sustain relationships irrespective of religion or community. Such a doctrinal articulation would complete the constitutional circle, ensuring that the State not only refrains from interference but actively safeguards the individual's freedom to love and marry as an essential aspect of human dignity.

6. Conclusion

Interfaith marriages in India represent one of the most visible intersections of law, religion, and social transformation. They embody the constitutional promise of liberty, equality, and secularism while simultaneously revealing the persistent grip of traditional norms and community control over individual choices. Although the *Special Marriage Act, 1954* was envisioned as a secular alternative to religion-based personal laws, its procedural requirements and public disclosure mechanisms have often transformed it into a source of vulnerability rather than protection for couples. The judiciary has repeatedly upheld the autonomy of consenting adults to marry across religious boundaries, reinforcing the principle that personal liberty must prevail over societal morality. Yet, the translation of these judicial pronouncements into everyday social practice remains incomplete.

The resistance faced by interfaith couples is not merely legal or procedural—it is deeply embedded in the cultural anxieties surrounding faith, gender, and identity. This disjunction between constitutional ideals and social realities underscores the limits of formal legal reform in transforming societal attitudes. For the constitutional guarantee of freedom to marry to become a lived reality, legal measures must be accompanied by broader efforts in education, awareness, and institutional accountability. Law must function not only as an instrument of regulation but also as a vehicle of social emancipation.

Ultimately, the future of interfaith marriages in India will depend on the state's ability to reconcile its dual responsibilities—to respect the plurality of its citizens while upholding the universality of their rights. True secularism lies not in the uniformity of belief but in the freedom of choice. Ensuring that individuals can marry across faiths without fear or coercion will thus stand as a test of India's constitutional maturity and its enduring commitment to human dignity and social justice.

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