



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

THE SPECIAL MARRIAGE ACT, 1954: BALANCING INDIVIDUAL CHOICE AND STATE OVERSIGHT

~Shreya Mishra

The Special Marriage Act, 1954 (SMA) was established to foster a secular marriage based on an individual consent instead of being based on religion of the people. The act was intended to empower personal choice; the Act enables individuals to marry beyond the limits of personal laws while maintaining legality and rights of a marital relationship. In a country of constitutional democracy dedicated to liberty, equality, and secular values, the SMA holds a key role at the crossroads of family law and fundamental rights.

However, in spite of its forward-thinking purpose, the current implementation of the SMA has faced significant criticism. The procedural stipulations especially the obligatory notice and objection process have raised concerns regarding privacy, autonomy, and unequal treatment. This article explores the framework and aims of the Special Marriage Act, reviews its procedural mechanisms through the lens of constitutional jurisprudence, and contends that certain provisions may be transforming a law of choice into a platform for state and social monitoring.

The Special Marriage Act frames marriage as a civil institution, separated from religious rituals or personal law. In contrast to religious marriage laws, it uniformly applies to all individuals, regardless of faith, caste, or community. The Act thus signifies a legislative effort to harmonize pluralism with secular governance, providing an alternative to marriage systems governed by religious laws. To establish this secular uniformity, the act provides for a standardized legal threshold for marriage, regardless of the religious backgrounds of the individuals involved.

Section 4 of the Act details the essential criteria for a valid marriage, which include monogamy, voluntary consent, minimum age stipulations, and the absence of prohibited degrees of

relationship, unless allowed by custom. These standards largely reflect those found in personal laws, indicating that the Act does not diminish the significance of marriage but simply situates it within a neutral civil structure. Crucially, the SMA does not force individuals to relinquish their religious identity; it merely presents an option. In this regard, the Act aligns with constitutional principles by recognizing marriage as an exercise of personal freedom rather than a religious obligation. The most contentious element of the Special Marriage Act resides in its procedural stipulations, particularly from Sections 5 to 8. Section 5 requires that parties intending to marry submit a written notice to the Marriage Officer of the district where at least one party has lived for thirty days. This notice is then made public under Section 6, and Section 7 allows any individual to lodge objections to the marriage within thirty days.

While the apparent goal of this system is to avert invalid marriages such as those involving coercion, minors, or prohibited relationships, the actual outcomes are considerably more disturbing. The publicizing of personal details places couples, notably those in interfaith or inter-caste marriages, at risk of familial pressure, community backlash, and in extreme cases of violence. What was intended as a protective measure has increasingly turned into a tool for scrutiny. This procedural burden is specific to the SMA. Marriages conducted under religious personal laws do not necessitate public notice or allow objections from third parties. The resulting inequality raises substantial concerns about fairness and proportionality, particularly when examined through the lens of constitutional rights. Such differential treatment gains constitutional significance when evaluated in light of the Supreme Court's broad understanding of personal liberty.

The Supreme Court of India has consistently maintained that the decision regarding a life partner falls firmly within the scope of personal liberty as defined in Article 21 of the Constitution. In *Lata Singh v. State of U.P.*¹, the Court determined that adults possess an unequivocal right to select a partner of their choosing, and that interference from family or community members is unconstitutional. This ruling emphasized that societal disapproval cannot supersede individual freedom. This principle was reaffirmed in *Shafin Jahan v. Asokan K.M.*², where the Court annulled the invalidation of an interfaith marriage, clearly stating that the ability to choose a partner is a fundamental aspect of individual autonomy. The Court warned against paternalistic governmental actions that compromise adult consent in personal matters. Moreover, the right to privacy delineated in *Justice K.S. Puttaswamy (Retd.) v. Union*

¹ *Lata Singh v. State of U.P.*, (2006) 5 SCC 475

² *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

of India³ offers an essential constitutional framework for assessing the notice requirement of the Special Marriage Act (SMA). The verdict acknowledged autonomy regarding family, marriage, and sexual orientation as a core component of privacy. From this viewpoint, mandatory public notification of the intention to marry seems challenging to justify, particularly when less intrusive alternatives could fulfil the same regulatory intention.

The concept of constitutional morality, as stated in *Navtej Singh Johar v. Union of India*⁴, further strengthens this critique. The Court asserted that constitutional values should take precedence over existing social morality. When this judgement is applied to the SMA, this principle indicates that legislative and executive actions must safeguard individual choice, even when it contradicts prevailing social norms. This imbalance is not merely procedural but engages substantive constitutional principles relating to autonomy and choice. A significant constitutional issue with the Special Marriage Act is the disproportionate burden it places on couples who choose civil marriage. The Act subject these couples to increased scrutiny and public exposure; the Act unintentionally penalizes those who make a constitutionally protected choice. This unequal treatment becomes particularly concerning given that the Act was intended as a progressive option rather than turned disincentive.

The Supreme Court's reasoning in *Joseph Shine v. Union of India*⁵, which highlighted dignity and individual agency in intimate relationships, is relevant in this context. The judgment dismissed laws that infantilize adults or impose unnecessary state control over them. Under this lens, the procedural requirements of the SMA appear misaligned with contemporary constitutional interpretations. However, these issues were acknowledged by various High Courts also. The courts have embraced a rights-centred approach in applying the SMA. In several cases, courts have allowed exemptions to the thirty-day notice period or instructed authorities to protect couples from intimidation. Such judicial interventions demonstrate an attempt to align the Act with constitutional guarantees surrounding liberty and privacy. These rulings suggest a developing judicial consensus. While the aims of the SMA are legitimate, its processes must be interpreted and enforced in a way that does not undermine those aims. The courts' readiness to adjust procedural mandates highlights the evolving interplay between statutory law and constitutional values.

³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

⁴ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

⁵ *Joseph Shine v. Union of India*, (2019) 3 SCC 39

Ultimately, The Special Marriage Act, 1954 remains an essential legal framework for ensuring marital choice in a diverse and pluralistic society. Its dedication to secularism and individual consent embodies the transformative aspirations of the Indian Constitution. However, the procedural structure of the Act especially the compulsory notice and objection provisions has increasingly conflicted with constitutional principles of privacy, autonomy, and equality. For the SMA to truly serve as a facilitator of choice rather than as a tool for surveillance, reforms in legislation and administration are required. Aligning the Act with the developing jurisprudence on personal liberty would not lessen its safeguards but would instead reinforce its original intent, i.e., clearly to uphold the freedom to marry as an expression of individual dignity and constitutional morality.