

What is meant by a “civil marriage”?

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A civil marriage, sometimes known colloquially as a “court marriage”, is one that takes place under the Special Marriage Act, 1954. To marry under this law, it does not matter which community the parties are from; they may even be from different communities. No ceremonies need to be performed for this kind of marriage. The Marriage Officer of one’s area (for instance, in Delhi, the local SDM, the Sub-Divisional Magistrate) should be informed of one’s intention to marry. The SDM is required to put up a public notice so that if there are any objections with regard to the legality of the marriage, they may be brought to the SDM’s notice. After 30 days, if nobody has objected to the intended marriage, both parties are authorised to sign a declaration before the Marriage Officer in the presence of three witnesses. The advantage of a Civil Marriage is that a legally valid Marriage Certificate is issued to the couple as proof of marriage. This provides relatively greater security to the wife because such a marriage cannot be denied, unlike one involving a private ceremony. Even if one is already married through the religious ceremonies of one’s community, the marriage can still be registered under the Special Marriage Act. The couple will then be governed by this law, instead of by personal law.

What is the minimum marriageable age?

The minimum age of marriage is 18 for a woman and 21 for a man. If a woman was married, in a traditional Hindu wedding, when she was under-age, her marriage is still valid. If she was less than 15 when she married, the Hindu Marriage Act allows her to repudiate her marriage

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between the ages of 15 and 18 on this ground alone. However, if a woman is under-age and marries under the Special Marriage Act, her marriage is automatically void, and may be declared so at the instance of either husband or wife.

What is the law on child marriages?

Child marriage is prohibited. Anybody who marries before the minimum age can be imprisoned or fined. In addition, anybody who conducts, directs or promotes a child marriage can be punished under the law.

It is possible for any person to approach the Courts in advance for

an injunction to stop an impending child marriage.

What laws will apply to a couple who do not share the same religion?

The Hindu Marriage Act only validates marriages between two Hindus; this is also true of the personal law governing Muslim and Parsi marriages. The simplest option is to marry under the Special Marriage Act, which allows the solemnisation of marriage between people of different communities. Couples who marry under this Act come under the purview of the Indian Succession Act for all purposes of inheritance and property distribution.

If a couple wishes to be governed by the personal law of any community, one of the spouses has to convert to the other’s religion. The exception is the case of a marriage between a Hindu and a Christian, which can be governed by Christian law, even if the spouse is Hindu.

What is the legal status of children of a void or voidable marriage?

In the case of both Hindu and registered marriages under the Special Marriage Act, children born of a void or voidable marriage are legitimate. This means that they have rights to the property of their parents, but not to joint family property or ancestral property. □

