

Do Maharashtra's Neo-Buddhists really want – and need – a separate marriage law?

As the state government appoints a committee to consider the issue, a debate rages within the community of Ambedkarite Buddhists.



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Once every few years, sections of Maharashtra's Neo-Buddhist community rise up to assert their religious identity by demanding their own personal law, separate from the Hindu Marriage Act that currently governs them.

Last week, the community was back in the headlines as the state government, heeding these demands, **constituted** a 13-member committee to consider the need for a draft legislation to govern Buddhist marriage and inheritance. The committee includes state social justice and empowerment minister Rajkumar Badole, other senior office-bearers of the social justice and legal departments, lawyers, a retired judge and some representatives of the community.

A separate personal law, according to those who support the demand, would ensure that Buddhist marriage rituals are always considered valid in a court of law. In Maharashtra, they claim, there have been several cases in which the High Court or various district courts have deemed Buddhist marriages illegal under the Hindu Marriage Act.

The government's decision to form a committee, however, is facing opposition from another section of the Neo-Buddhist community. According to this group, Babasaheb Ambedkar, who led the conversion of lakhs of Dalits to Buddhism in 1956, would never have approved of personal laws on the grounds of religion.

While the supporters of a separate law have been more vocal than the latter, both groups claim to be speaking for the majority of the community.

Hindu Act, customary laws

Maharashtra is home to more than 70% of India's 84 lakh Buddhists, most of them descendants of the Dalits who converted along with Ambedkar to break away from Hinduism's oppressive caste system.

By this time, Buddhists had already been clubbed together along with Jains and Sikhs to be governed by the set of four Hindu code bills: the Hindu Marriage Act of 1955 and the Hindu Succession Act, Hindu Minority and Guardianship Act and Hindu Adoptions and Maintenance Act of 1956.

Technically, for a marriage to be registered under the Hindu Marriage Act, the wedding must include the ritual of *saptapadi*, or the seven steps around the holy fire. "But this is a purely Vedic ritual applicable only to Hindus," said lawyer Prakash Ambedkar, the grandson of Babasaheb Ambedkar and leader of the Bharipa Bahujan Mahasangh political party.

For non-Hindus – Jains, Sikhs, Buddhists, Scheduled Tribes and even some Other Backward Class communities whose rituals don't involve *saptapadi*– the Act makes provisions for customary laws, said Prakash Ambedkar. "Under customary

provisions, marriages based on the rituals of these other communities are also considered valid.”

This has not satisfied minority communities. In 2012, after years of persistence, the Sikhs were granted their own personal law with the passing of amendments to the Anand Marriage Act of 1909. For some Buddhist leaders in Maharashtra, however, the struggle still continues.

Three court cases

Nitin Raut, a Congress leader and former legislator from Nagpur, describes the draft Buddhist Marriage and Succession Act as his “baby”. In 2007, after framing the draft law and proposing it in the state Assembly, Raut went on a day-long **hunger strike** to demand that his “non-official bill” be passed.

Raut believes that the provisions of customary laws within the Hindu Marriage Act have not been enough to safeguard the legal status of marriages that take place with Buddhist rituals.

In Maharashtra, Neo-Buddhist weddings typically require the bride, groom and an officiating priest to chant prayers and take oaths before images of the Buddha and Babasaheb Ambedkar. The union is then registered under the Hindu Marriage Act with the local government registrar.

But as examples of how things often go wrong, Raut and other activists frequently cite three landmark cases in the Bombay High Court where marriages of Buddhist couples were declared invalid. The first is the Shakuntala-Nilkanth **case** of 1973, which involved a woman whose husband had abandoned her and remarried.

Shakuntala’s maintenance allowance plea was dismissed because the court held

that her marriage was not valid: the couple had married through Buddhist rites even though they had not legally converted at the time of marriage and were still “Hindu” on paper. The High Court ruled that “the fact that such marriages are taking place for the last 10 to 15 years is not enough to establish custom”.

After the similar cases of Baby-Jagtap in 1981 and Rekha-Ashok in 1985, says Raut, the court itself directed the state government to consider making amendments to the Hindu Marriage Act. “So far, nothing has been done,” he said.

‘We don’t need a separate law’

While Raut’s demand for a Buddhist marriage law focuses heavily on these cases of “wronged” couples, other community leaders see the issue as simply a matter of identity.

“Buddhism is entirely different from Hinduism – the point of converting with Babasaheb was to assert that we are *not* Hindus anymore,” said Jogendra Kawade, president of the Peoples Republican Party and former MP from Nagpur. “We don’t walk around holy fires. Our marriage rituals need legal recognition of their own.”

For Prakash Ambedkar and his supporters, however, this idea is against the spirit of Ambedkar’s teachings. “Babasaheb strongly believed that there should be a common personal code for people of all religions,” said Prakash Ambedkar, referring to his grandfather’s decision to resign from the Cabinet in 1951 when the government refused to pass his inclusive draft of the Hindu Code Bill. Muslims, Christians, Parsis and Jews already had their own personal laws, but with the Hindu bill, Ambedkar did not want codes that favoured any one kind of conservative Hinduism.

The current versions of the Hindu Code Bills, amended over the years, are more inclusive than they originally were. “Today the inheritance laws in the Hindu Succession Act, for instance, give women equal right to property and reflect the spirit of Buddhism that Babasaheb had envisioned,” said Sandeep Nandeshwar, a lawyer working at the Nagpur bench of the high court. “We don’t really need a separate Buddhist law.”

Some community leaders believe that the government’s committee was appointed without widespread consultation with the community, and claim that the demand by Raut, Kawade and others is politically motivated.

“The feeling of community identity among Buddhists is a little weak in Maharashtra right now, so a small section of radical Buddhist leaders is demanding a separate law,” said Maruti Kumbhar, Mumbai president of the Satyashodhak OBC Parishad, an organisation that is trying to convert OBCs to Buddhism.

According to Nandeshwar, there can simply be no legal debate about his view that Maharashtra must not have a separate law for Buddhists. “There are many Buddhists outside the state and personal laws are clearly a national subject,” he said. “The state has no power to make laws for specific religions.”