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Naming Rights as a Constitutional Right: Rethinking Surnames, Identity, and Autonomy in India

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Names and surnames constitute important aspects of legal and personal identity, yet the law governing naming practices in India continues to be fragmented and deeply influenced by social norms relating to caste, patriarchy, religion, and lineage. Although surnames serve significant administrative functions, they also operate as markers of social hierarchy and inherited identity, often limiting individual autonomy. In contemporary India, changing family structures, increasing assertions of personal identity, and evolving constitutional jurisprudence have raised important questions concerning the right to choose, reject, or modify one's surname. This article examines the constitutional dimensions of naming rights and analyses whether the freedom to determine one's surname can be located within the broader guarantees of dignity, privacy, equality, and personal autonomy under the Constitution of India. It explores the historical evolution of surnames, the existing statutory framework governing names, and significant judicial pronouncements relating to identity and self-determination. The article further evaluates the social implications of surnames from feminist, anti-caste, and LGBTQ+ perspectives and undertakes a comparative analysis of international practices and human rights standards. Adopting a doctrinal research methodology, the study argues that identity should not be viewed solely as an inherited status but also as an expression of individual choice. It contends that the recognition of optional surnames and the introduction of a more inclusive and uniform legal framework would better align Indian law with constitutional values of dignity, equality, and personal liberty. Ultimately, the article advocates a shift from lineage-based identity towards identity grounded in autonomy and self-definition.

Keywords: *identity, surname, right to name, personal liberty.*

INTRODUCTION

In the Indian socio-legal context, surnames serve as potent identity markers, often revealing caste, community, and regional origins and, consequently, shaping social stratification through deeply embedded societal norms. Individuals often struggle with the idea of preserving their ancestral name and fashioning their own identity. While surnames are pivotal for legal identification and are often linked to entitlements such as inheritance, citizenship, and official documentation, they also carry deep social and psychological connotations. Although India has made formal strides against caste-based discrimination and gender inequality, surnames continue to reflect and reinforce these structures. This issue is particularly relevant in the current era, marked by rising instances of divorce, single parenthood, and broader feminist assertions of identity autonomy. Despite the constitutional promise of dignity and personal liberty under Article 21,¹ Indian legal frameworks offer limited scope for voluntarily changing or detaching a surname.

The procedural hurdles, ranging from gazette publication to inconsistent state-level rules, make name and surname changes disproportionately inaccessible. This article examines the intersection of personal identity, legal recognition, and the right to self-naming. It argues for a re-evaluation of India's fragmented legal approach to surnames in light of evolving constitutional values. This study adopts a doctrinal research methodology and relies primarily on constitutional provisions, statutory frameworks, judicial decisions, and international instruments. Secondary sources, including books, journal articles, and scholarly commentaries, have also been consulted to analyse the evolving discourse surrounding surnames, identity, and personal autonomy.

HISTORICAL EVOLUTION OF SURNAMES AND NAMING PRACTICES

Surnames can be considered markers of identity, which have evolved from fluid identifiers to fixed family names and have been significantly influenced by social, religious, cultural,

¹ Constitution of India 1950, art 21

and political factors. There is a distinction between personal names and hereditary surnames.²

In ancient India, individuals were not uniformly identified by hereditary surnames. Instead, names often reflected gotras, clans, occupations, places of origin, or personal attributes. Brahmins, for instance, frequently identified themselves through their gotras, while occupational titles such as Sharma, Acharya, and Gupta gradually acquired hereditary significance. These naming practices primarily served descriptive and cultural functions rather than acting as rigid indicators of social hierarchy.³

During the colonial period, British administrative policies played a crucial role in institutionalising surnames and reinforcing caste identities. Through the Census of 1871 and subsequent enumerations, Britishers started recording caste, religion, occupation and community. This process transformed fluid social identities into fixed legal and administrative categories and strengthened the association between surnames and caste.⁴

Even in Post-Independent India, the Indian Constitution ushered in a new social and legal order founded on the principles of equality, secularism, and social justice. Through the provisions aimed at eliminating discrimination and the constitutional abolition of untouchability, the State sought to promote a more inclusive and egalitarian society.⁵ Despite these constitutional ideals, traditional naming practices have continued. Surnames in India remain paternal, and patriarchal transmission of surnames remains the norm; women frequently adopt their husband's surname after marriage, and children generally inherit their father's surname.⁶

THE LEGAL FRAMEWORK AROUND NAMES IN INDIA

When a child is born in post-independent India, their name, including their surname, is recorded under the Registration of Births and Deaths Act, 1969 (RBD Act).⁷ While the Act

² Romila Thapar, *Early India: From the Origins to AD 1300* (Univ of California Press 2004)

³ Patrick Olivelle, *The Law Code of Manu* (Oxford University Press 2005) 11–14

⁴ Bernard S Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton University Press 1996) 8–10; Nicholas B Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton University Press 2001) 43–46

⁵ Constitution of India 1950, arts 14, 15 and 17

⁶ Leela Dube, *Women and Kinship: Comparative Perspectives on Gender in South and South-East Asia* (United Nations University Press 1997) 123–126

⁷ Registration of Births and Deaths Act 1969, ss 8–14

outlines the registration process, it does not specifically address how surnames are assigned, leading to the assumption that a child inherits the father's surname. Section 15 of the RBD Act allows for '*correction or cancellation of entries*', but it does not grant a substantive right to choose a name.⁸ Procedures vary by state, often requiring notarised affidavits, newspaper notices, and gazette notifications,⁹ which can be challenging for single mothers, adoptees, and children of separated parents seeking surname changes. Furthermore, changing a surname complicates official documents, such as Aadhaar and PAN, discouraging individuals from adopting their preferred names.¹⁰

Although the Gazette of India, under the Department of Publication, Ministry of Housing and Urban Affairs, provides a centralised name change process for residents of Delhi and Central Government employees, most Indian states have their distinct procedures, portals, and authorities for publishing name changes. This lack of uniformity and cumbersome process not only creates confusion about the procedure but also affects individuals whose documentation is split between state and central authorities. For instance, a person whose birth was registered in Uttar Pradesh but who now resides and works in Maharashtra may face conflicting protocols for updating official records.

In India, the registration of a child's name is mainly governed by the Registration of Births and Deaths Act 1969. The Act remains largely silent on the question of surname selection, even though it provides the legal framework for recording births and names. Section 15 of this Act permits the correction or cancellation of entries under certain circumstances; however, it does not confer a substantive right upon individuals to choose, reject, or detach themselves from a particular surname.

Further, the complexities associated with surname changes extend beyond gazette publication. Individuals frequently encounter difficulties while updating identity documents such as Aadhaar Cards, Permanent Account Numbers (PAN), passports, educational certificates, and other official records. The absence of synchronisation among various

⁸ *Ibid* s 15

⁹ Registration of Births and Deaths Act 1969; 'Change of Name/ Public Notices' (*Department of Publication*) <<https://deptpub.gov.in/document-category/con-guidelines/>> accessed 08 June 2026

¹⁰ *Jigyaa Yadav (Minor) (Th Guardian/Father Hari Singh) v Central Board of Secondary Education and Ors* (2021) 7 SCC 535

authorities often results in inconsistencies across documents, thereby creating practical and legal difficulties.

Another challenge lies in the absence of a uniform procedure governing name and surname changes across India. Different states have adopted varying rules, portals, and administrative requirements, leading to inconsistencies in the procedure and uncertainties.

Issues concerning surnames become majorly significant in the context of passport applications, where the requirement of parental details has historically created complications for single mothers, adoptees, and children of divorced or separated parents.¹¹ Although there have been reforms which have sought to adopt a more inclusive approach, practical challenges and administrative hurdles continue to persist.

CONSTITUTIONAL DIMENSIONS AND JUDICIAL TRENDS

The Indian Constitution does not expressly recognise a fundamental right to choose or reject one's surname; several constitutional provisions collectively support the idea of identity-based autonomy. Article 21 of the Constitution, which guarantees the right to life and personal liberty, has been judicially interpreted to encompass the rights to dignity, identity, and personal autonomy.

In *K.S. Puttaswamy v Union of India*, the Supreme Court recognised privacy as a constitutionally protected right and affirmed that decisional autonomy forms an integral aspect of individual liberty. The ability to determine one's identity, including one's name, may therefore be viewed as an extension of personal autonomy and dignity.¹²

Furthermore, Article 19(1)(a), which guarantees freedom of speech and expression, raises the question of whether choosing one's name constitutes a form of self-expression. Since names are closely associated with an individual's personality and social identity, the freedom to adopt, reject, or modify a surname may arguably fall within the broader ambit of expressive autonomy. Articles 14 and 15 reinforce this position by guaranteeing equality before the law and prohibiting discrimination on grounds of caste and sex. Similarly, Article 17 abolishes

¹¹ *ABC v State (NCT of Delhi)* (2015) 10 SCC 1; *COMPENDIUM OF INSTRUCTIONS/GUIDELINES RELATING TO ISSUE OF PASSPORTS IN INDIA/ABROAD* (Ministry of External Affairs 2020)

¹² *Justice K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1

untouchability and reflects the constitutional commitment to dismantling caste-based hierarchies, which are often perpetuated through hereditary surnames.¹³

Indian courts have increasingly recognised identity and autonomy in matters relating to names and family lineage. In *ABC v State (NCT of Delhi)*, the Supreme Court upheld the right of an unwed mother to be the sole guardian of her child and recognised the legitimacy of maternal identity. Similarly, in *Binoy v Reshma*, the Kerala High Court acknowledged that questions concerning a child's surname following the dissolution of marriage must be resolved in accordance with the welfare of the child rather than rigid patriarchal norms.¹⁴

Judicial recognition of identity-based rights has also been evident in *Jigyada Yadav v CBSE*, wherein the Supreme Court affirmed an individual's right to seek changes in educational records and emphasised the importance of preserving identity and dignity. In *NALSA v Union of India* and *Navtej Singh Johar v Union of India*, the Supreme Court further recognised self-identification, dignity, and autonomy as essential facets of constitutional liberty. These decisions collectively indicate a gradual shift towards recognising identity as a matter of individual choice rather than inherited status.¹⁵ Thus, while the statutory framework governing names remains fragmented, constitutional jurisprudence demonstrates an increasing judicial inclination towards protecting identity-based autonomy and recognising the individual's right to define oneself.

SOCIAL VS LEGAL IDENTITY: WHAT'S IN A NAME?

Although surnames serve an important function in legal identification, they also operate as instruments of social power. In India, surnames frequently reveal an individual's caste, religion, region, and family lineage. Surnames such as Sharma, Iyer, Yadav, Singh, and Nair often carry social meanings that extend beyond mere identification and may expose individuals to stereotyping and discrimination. Consequently, surnames can influence access to housing, employment opportunities, and even matrimonial choices, thereby perpetuating

¹³ Constitution of India 1950, arts 14, 15, 17, 19(1)(a) and 21

¹⁴ *ABC v State (NCT of Delhi)* (2015) 10 SCC 1

¹⁵ *Jigyada Yadav (Minor) (Th Guardian/Father Hari Singh) v Central Board of Secondary Education and Ors* (2021) 7 SCC 535; *National Legal Services Authority v Union of India and Ors* (2014) 5 SCC 438; *Navtej Singh Johar and Ors v Union of India Th Secretary, Ministry of Law and Justice* (2018) 10 SCC 1

caste consciousness despite the constitutional commitment to equality and the abolition of untouchability.¹⁶

Surnames also reflect deeply entrenched patriarchal norms. In most Indian families, children inherit their father's surname, while women are often expected to abandon their maiden names and adopt their husband's surname after marriage. Such expectations reinforce the notion that a woman's identity is derived from her relationship with male members of the family. Questions relating to identity become even more complex in cases of divorce, where women may choose to retain, discard, or revert to their previous surnames. Similarly, surnames often disclose religious and communal affiliations, thereby increasing the possibility of profiling and prejudice.

The issue assumes particular significance for members of the LGBTQ+ community. Transgender persons, same-sex couples, and individuals estranged from their biological families may seek identities that do not correspond to traditional notions of lineage and family structure. In *National Legal Services Authority v Union of India* and *Navtej Singh Johar v Union of India*,¹⁷ the Supreme Court emphasised dignity, self-identification, and individual autonomy as essential facets of constitutional liberty. These principles suggest that identity should not be confined to biological or patriarchal norms.

Similar concerns arise in the context of adoptees and children raised by single parents. The law has traditionally associated identity with blood relations and paternal lineage. However, changing social realities raise an important question: must identity always be inherited, or can it be consciously chosen? In *ABC v State (NCT of Delhi)*,¹⁸ the Supreme Court recognised the rights of an unwed mother and acknowledged the legitimacy of non-traditional family structures.

Ultimately, legal identity and emotional identity do not always coincide. Individuals may seek to reject surnames because they associate them with abuse, caste hierarchies, patriarchal traditions, or painful family histories. For others, abandoning a surname represents an

¹⁶ Constitution of India 1950, arts 14 and 17; Dirks (n 4)

¹⁷ *National Legal Services Authority v Union of India and Ors* (2014) 5 SCC 438; *Navtej Singh Johar and Ors v Union of India Th Secretary, Ministry of Law and Justice* (2018) 10 SCC 1

¹⁸ *ABC v State (NCT of Delhi)* (2015) 10 SCC 1

assertion of individuality and personal autonomy. Therefore, identity should not merely be understood as an inherited status but as a reflection of individual choice and human dignity.

INTERNATIONAL STANDARDS AND COMPARATIVE PRACTICES

Comparative legal systems demonstrate that surnames need not be rigidly tied to lineage or patriarchal traditions. In the United States, individuals enjoy considerable freedom in choosing and changing their names, and there is no mandatory requirement regarding surname selection. Similarly, the United Kingdom and several other common law jurisdictions permit name changes through relatively simple procedures, thereby recognising personal autonomy in matters of identity.¹⁹

Certain European countries have adopted more egalitarian approaches to family names. In Spain, children traditionally inherit surnames from both parents, reflecting a greater emphasis on gender equality and shared parental identity. Iceland follows a distinctive system based on patronymic and matronymic naming practices, which allows individuals greater flexibility and does not necessarily require hereditary family surnames.²⁰ By contrast, South Korea historically adhered to a strict patrilineal surname system, although legal reforms have gradually introduced greater flexibility in matters relating to family names and lineage.²¹

International human rights instruments also recognise the importance of legal identity and human dignity. Article 6 of the Universal Declaration of Human Rights affirms the right of every person to recognition before the law, while the International Covenant on Civil and Political Rights reinforces the principle of legal personality and equality. Furthermore, Article 7 of the Convention on the Rights of the Child recognises a child's right to a name and identity from birth.²²

Recent developments in countries such as Canada, Germany, and Argentina have reflected an increasing movement towards gender-neutral and inclusive naming practices. These

¹⁹ Carlton FW Larson, 'Naming Baby: The Constitutional Dimensions of Parental Naming Rights' (2011) 80(1) *George Washington Law Review* 159 <<https://www.gwlr.org/wp-content/uploads/2012/06/80-1-Larson.pdf>> accessed 08 June 2026

²⁰ Patrick Hanks and Flavia Hodges, *A Dictionary of Surnames* (Oxford University Press 1988) 16–18

²¹ Dae-Kyu Yoon, *Law and Political Authority in South Korea* (Westview Press 1990) 201–203

²² Universal Declaration of Human Rights 1948, art 6; International Covenant on Civil and Political Rights 1976, arts 16 and 26; Convention on the Rights of the Child 1990, art 7

reforms seek to accommodate diverse family structures and recognise identity as a matter of individual dignity and autonomy rather than merely hereditary status. Comparative practices thus demonstrate that legal systems can preserve administrative certainty while simultaneously providing individuals with greater freedom in matters relating to names and surnames.

SHOULD SURNAMES BE OPTIONAL?

The question of whether surnames should be optional ultimately concerns the relationship between individual identity and state regulation. Arguments in favour of recognising optional surnames are rooted in the constitutional values of personal autonomy, dignity, and privacy. As recognised by the Supreme Court in *Justice K.S. Puttaswamy v Union of India*, decisional autonomy constitutes an essential aspect of personal liberty under Article 21 of the Constitution. Consequently, the freedom to choose, reject, or modify one's surname may be viewed as an extension of an individual's right to determine their identity.²³

From a feminist perspective, the traditional practice of inheriting paternal surnames and expecting women to adopt their husband's surname after marriage reflects patriarchal assumptions regarding lineage and identity. Recognising optional surnames would provide individuals, particularly women, with greater freedom to retain or redefine their identities independent of marital or familial expectations.

Similarly, from an anti-caste perspective, surnames often function as visible markers of caste and social hierarchy. The ability to voluntarily reject caste-identifying surnames may contribute towards weakening caste consciousness and advancing the constitutional vision of equality and social justice. Furthermore, permitting optional surnames would accommodate the interests of adoptees, children of single parents, and individuals from non-traditional family structures, thereby promoting a more inclusive understanding of identity.²⁴

Nevertheless, several objections may be raised against the recognition of optional surnames. Critics argue that surnames facilitate genealogical tracing, assist in determining inheritance

²³ *Justice K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1

²⁴ Constitution of India 1950, arts 14, 15 and 17; Bhimrao Ramji Ambedkar, *Annihilation of Caste* (Navayana Publishing 2015) 41–45

and succession, and help maintain accurate public records. Concerns have also been expressed regarding the possibility of fraud and identity concealment if individuals are permitted unrestricted freedom in matters relating to surnames.

However, these concerns should not be overstated. Contemporary identification systems increasingly rely on unique identifiers such as Aadhaar numbers, passports, and digital records rather than surnames alone. Administrative efficiency and legal certainty can therefore be maintained without compelling individuals to retain hereditary surnames. In this sense, recognising optional surnames does not undermine the state's interest in identification; rather, it seeks to reconcile administrative necessities with constitutional values of dignity, autonomy, and equality.²⁵

RECOMMENDATIONS AND CONCLUSION

In light of the constitutional principles of dignity, equality, and personal autonomy, there is a pressing need to reform India's fragmented approach towards names and surnames. A uniform and accessible legal framework governing name changes should be introduced to eliminate inconsistencies arising from varying state procedures. A standardised mechanism applicable throughout the country would enhance legal certainty and reduce administrative complexities faced by individuals seeking to alter their names or surnames.²⁶

Further, the law should expressly recognise the validity of having no surname. While surnames continue to play an important role in social and familial identification, their compulsory use cannot be justified in a constitutional order founded upon individual liberty and freedom of choice. Individuals who wish to dissociate themselves from caste markers, patriarchal traditions, or painful family histories should not be compelled to retain hereditary surnames merely for administrative convenience.²⁷

The existing process relating to name changes should also be simplified through the establishment of a unified digital platform. Instead of requiring individuals to navigate multiple authorities and cumbersome procedures involving affidavits, newspaper

²⁵ Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016; *Jigyada (Minor) (Th Guardian/Father Hari Singh) v Central Board of Secondary Education and Ors* (2021) 7 SCC 535

²⁶ Registration of Births and Deaths Act 1969; *Jigyada (Minor) (Th Guardian/Father Hari Singh) v Central Board of Secondary Education and Ors* (2021) 7 SCC 535

²⁷ *Justice K S Puttaswamy (Retd) and Anr v Union of India* (2017) 10 SCC 1; Constitution of India 1950, art 21

publications, and gazette notifications, a streamlined and technology-driven mechanism could ensure efficiency while preserving safeguards against fraud and misuse.

Moreover, a gender-neutral approach towards birth registration and parental identity should be encouraged. Existing assumptions regarding paternal surnames and lineage often fail to accommodate single-parent households, adoptees, and diverse family structures. Legal recognition of identity must evolve in accordance with changing social realities and should not be confined to traditional notions of family and inheritance.²⁸ Greater safeguards must also be introduced to combat identity-based discrimination arising from surnames that reveal caste, religion, or other social characteristics.

Ultimately, the law must recognise that identity is inherited by birth, but individuality is shaped by choice. Constitutional liberty is meaningful only when individuals are free to define themselves according to their own sense of dignity and personhood. The state's legitimate interest in maintaining accurate records can coexist with the individual's right to self-identification. Therefore, the question is not whether surnames should disappear, but whether they should remain compulsory.

²⁸ *ABC v State (NCT of Delhi)* (2015) 10 SCC 1; *National Legal Services Authority v Union of India and Ors* (2014) 5 SCC 438