Concept of Marriage & Legal Position of Pre-Marital Relationships in Present Scenario

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Abstract – "When you decide to lead a clean life, chastity will not be a burden on you; it will be a crown of triumph."

-St. Josemaria Escriva

No one has the right to interfere in other people's personal lives, but when it becomes necessary to save and preserve society's culture, traditions, and dignity, it is necessary to do so, i.e. to investigate a type of intimate relationship that is gaining a lot of attention in contemporary India, namely the pre-marital relationship. It's time to investigate the family's role in pre-marital relationships of young adults in order to challenge the language of individual agency and "freedom" that is frequently linked with pre-marital relationships. The researcher claims in this article that, while pre-marital relationships may appear to be a break from the marriage narrative, they are really modelled after the forms and expectations of a married partnership. The methods in which families position themselves in respect to pre-marital relationships are also examined in this study. Specifically, it discusses the strategies by which the family can obstruct or encourage certain pre-marital relationships over others, thereby highlighting the bearing of the family's involvement in changing the course of a relationship: either from a non-serious form of relationship to a committed one, or leading to the breaking up of the relationship.

Key Words – Pre-marital Relationship, Family, Monogamy, Re-Marriage, Divorce, Urbanization, Acute Modernity, Social Phenomenon, Unilinear

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INTRODUCTION

Hindu marriage is an important institution and it is based on religion, religious rites and for the pursuit of religion. The practice of monogamy, absence of widow remarriage lack of facility for easy divorce and chastity are regarded as important ideals now we see that changes have occurred in the institution of Hindu marriage, because of several factors such as urbanization, industrialization, secularization, modern education impact of Western culture, and marriage legislations; changes are taking place in Hindu ideals, forms and values of marriage.

CONCEPT OF ARRANGE MARRIAGES IN INDIAN SOCIETY

Marriage in the Hindu society had been and is still a very complex affair indeed. There used to be a time when the priest and his assistant took the role of matchmakers. With the passage of time, parents of both girls and boys became wiser and decided to take up this responsibility from the priest. The priest's role was reduced to merely performing ceremonies. The onus of looking for a suitable match was on the shoulders of the bride's father, who happened to be the beneficiary of the whole process in the end. Eventually, things changed still further and everyone in the near and dear ones started having a say in the process. Neither the boy nor the girl had much of a say or a choice.

In fact, speaking about one's marriage in front of elders was deemed forbidden. If someone does open their mouth, it is considered heresy. When discussions used to take place about their marriage, boys would sit mum and girls, of course, would not even know anything about it. This used to happen because the marriages were solemnized at an early age when adolescent boys and girls had hardly any idea of worldly affairs. Child marriage was common, and as people grew older, it became more difficult to find a suitable match, putting them at risk of being single for the rest of their lives. Since elders had a big say, money took preponderance over everything else. Property of the girl's father, and gifts to be given to the extended family, mattered a lot. The size of the marriage procession and the presence of

elephants and horses became a matter of serious discussion, being related to the prestige of both sides. Thus everything that hardly mattered to the young couple was so important. Finally, the girl's family must fork over a sizable sum, just to have it squandered on frivolous costs that have no bearing on the marriage itself. A huge firework is at best amusing, why should one want a loud bang. Maybe it is reminiscent of the war between two factions. In fact, the old custom of going to the bride's house and bring the bride by force, after defeating her father in the war, must have been the reason. Simple marriage's noble ideal has vanished into thin air.

In recent years, Indian society has been experiencing a family relations problem. Problems had existed in the past as well. Changes in the regulations and laws governing family matters, on the other hand, have exacerbated issues and exposed previously hidden cracks. Slowly the situation has gone out of control and the girl's father many times has to worry about payments of loans after his daughter's marriage. People try to give those gifts in their daughter's marriage, which they might have never seen in their life. Despite the fact that the laws were put in place to combat the threat, individuals quickly found how to get around them. When the girl's father goes to the household of the would-be groom for talks, he is frequently greeted with disrespect. He wasn't permitted to take even water from the groom's residence, according to Hindu orthodoxy. The discussions would occasionally drag on to the point of embarrassment, with money suggestions being rejected.

When the bride's father is clever, he would visit the police and file a FIR alleging that the proposal was rejected owing to a demand for money. Such episodes have cast a very bad impression on the psyche of the girls. A few rejections of the proposals tend to make girls become very negative and even parents subsequently hesitate even to talk of any fresh proposal.

Then arrive the scene of love marriage. Boys and girls who meet in institutions or at the job, are mature persons and start taking their own decisions about the future life. Another twist has now been inserted in this scenario. Looking for a wife is the norm rather than the exception in some cultures. Accordingly, boys from such families would outsmart those who wait for the girl's family to propose. The skewed sex ratio has added more woes, leading to friction. The modern link between two parties is the internet, with all the risks of false data and impersonation. No doubt this is taking the youth to a very different line of thinking. The events are unpalatable to the older generations, and also collectively to the society at large. Only very liberal thinking on part of parents is likely to solve the issue, as the clock cannot be back.

TREND OF LOVE MARRIAGES IN INDIAN SOCIETY

The terms "arranged" and "love" marriage have been widely used to explain shifting marriage patterns in contemporary India, with the former considered as a symbol of traditional India and the latter as a symbol of advancement, progress, and modernity. However, scholarship has problematized this simplistic binary conceptualization, arguing that elements of "choice" are also present in arranged marriages[35] and that the reality of marriages is best captured in the use of in-betweens as in the case of arranged-love marriages[36] Recent ethnographic research indicate that "love" is considered as a crucial cliché for defining modern identity in a globalising society, hence there is a lot of attention on examining "love" marriages[37] and provides insight into the contemporary values of individualism, entrepreneurship, and "enterprise culture" that drive much of India's post-liberalization economy .[38] While reiterating feelings of love and choice, these works also criticise "modernist narratives of gradual and linear changes in marital practises from arranged marriages to self-chosen unions," pointing out that love marriages are experienced and interpreted differently in different parts of the world.[39]

They elude to a new set of intimacies and desires of the young, in particular, companionate marriages, emotional compatibility, and generally the notion of choice that dominate the discourse on marriages.[40] A central feature of these diverse local experiences of the variations of "love" marriage is the continued importance of parental support and approval of the family. For example, Donner[41] in her study of the middle class in Kolkata explains that whilst love and choice in marriages are important to claiming a modern self, the involvement and approval of the family remains intact. In fact, in elucidating the importance of the family, Donner goes on to claim that, more than consumerism, the family continues to form modern India's middle class identities. Similarly, **Fuller and Narasimhan**[42] in their study of IT sector employees in Tamil Nadu, argue that the young middle class desire to marry a spouse with whom there is interpersonal compatibility; however, this choice is exercised within the rules of caste endogamy. In a study of Gujarati Indians and second-generation Gujarati Indians in the United Kingdom, **Twamley**[43] shows that while these two groups of teenagers have different ideas about love and intimacy, they both place a high value on parental approval when choosing a marriage. In a study of Kathmandu's middle class, **Lietchy**[44] also

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35 Sharangpani 2010; Titzmann 2011
36 Uberoi and Singh 2006
37 Donner 2016; Hirsch and Wardlaw 2006; Twamley 2014
38 Gooptu 2013
39 de Neve 2016:1249
40 Donner 2016; Fuller and Narasimhan 2008; Lietchy 2003
41 In the year 2011, 2016
42 In the year 2008, 2014
43 2014
44 2003

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notes that for the middle class subjects modern attitudes do value love but also seek parental consent. "Even though the couple may have chosen each other, they will have obtained parental consent, even if only after protracted arguments and disagreements," as these experiences are often described as "love-cum-arranged" marriages, as a self-chosen alliance turns into marriage only after parental approval: "even though the couple may have chosen each other, they will have obtained parental consent, even if only after protracted arguments and disagreements."[45] Furthermore, works on technologies of matchmaking[46] have also outlined the specific ways in which matrimonial websites, for example, promote what Titzmann calls "family oriented individualism," ensuring that the desires of both the individual and the family are met in the spouse-selection process.

The importance of parental approval or lack thereof in "love" marriages is best captured by the ethnographic works undertaken by Grover and De Neve[47] who evaluate the post-marital arrangements of those who opted for "love" marriages. According to Grover, love marriages are less likely to end in divorce than arranged weddings, not because love marriages are more equitable and empowering for women, but because the woman does not have any family backing to exit the marriage.[48] De Neve [49], In his research on the migrant labour force in Tirrupur, Tamil Nadu, he finds such love tales in which parents refuse to support their children because of their choice marriage. According to the young men, their parents' withdrawal of support has a negative impact on their financial situation and career mobility, prompting them to state that if given another choice, they would choose an arranged marriage over a love marriage.

While de Neve and Grover focus on the post-wedding arrangements of love marriages, I focus on the pre-marital events that may or may not lead to marriage in my essay. I demonstrate how the family and the moral framework of parental approval is applied to pre-marital relationships, which are perceived by the youth as symbols and spaces of their individuality, independence, and introduction into the contemporary world of opportunities, based on the works listed above.

PRE-MARITAL EXPERIENCES

There are differing expectations for men and women with regard to age at marriage, as women come under more pressure to marry "early. "Women's age at marriage was a matter of concern for all men and their families, as the men and their family preferred the bride to be a younger woman. Despite this pressure, women were willing to delay marriage in order to pursue career goals and the desire to find a good

partner. Men and women use this period of "non-marriage" to have a variety of love relationships, and as a result, this period is connected with individuality, freedom, and liberty ideas. The perspective that premarital relationships are expressions of individualism is further propelled by the fact that these experiences take place in the "away from home" space[50] that is, at work or in leisure spaces that are not immediately under the surveillance of the family. These meetings are thus idealised even more, because, as the young middle class argues, their inception is exclusively dependent on the couple's "unique" dynamics and emotional compatibility.

The reality is that these experiences, as I noticed, adhere to the moral frames established by the family. I must conclude that the family is in charge of these connections, defining their dynamics and approving or condemning them. Family is so important in defining pre-marital relationships that as the relationship progresses, the partners assess each other's capacity to "fit in" with their family, sometimes actively correcting their partner's behaviour.

Now it is mandatory here to explain the myriad, often contesting, affections, emotions, and perceptions associated with pre-marital relationships, which on one hand are viewed as the epitome of individualism and the stepping stone of the desire to write one's own biography[51] and on the other hand are enmeshed in the performances of familial duty and fulfilling parental expectations. These contestations and inconsistencies, on the other hand, are not often perceived as binary opposites, but as complimentary components of the modern self-making effort, and are smoothly intertwined into the love experience.

Pre-marital relationships are viewed by young people as a highly independent experience, as they relish the ability to now build their own biography. And once a moral framework established by the family is brought to the relationship, this picture does not necessarily hold for long. This elicits particular forms of discipline in order to guarantee that the family's expectations are met by the selected spouse. The importance of the family's active engagement in creating the relationship's destiny cannot be overstated. The family, on the other hand, presents itself as just directing the connection, which is an important step in the family's contemporary self-fashioning.

INDIVIDUALISTIC EXPERIENCE IN PRE-MARITAL RELATIONSHIP

In the early 1990s India undertook certain economic liberalization reforms ushering the Indian state into a "New" Era.[52] As the economy "opened," more

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[45] de Neve 2016:1224
[46] Agrawal 2015; Bhandari 2014; Titzmann 2013
[47] 2011
[48] 2011:9–10
[49] 2016

[50] Scalco 2016
[51] Beck 1992, 2000
[52] Fernandes 2011; Varma 2007

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opportunities for professional ambitions emerged, especially for the middle class, who extended their domination to the private sector as well.[53] As a few young people and their parents indicated, getting a well-paid job in the private sector, particularly in multinational corporations, became a goal for the middle class since, in addition to high pay, it provided "exposure" to metropolitan and global cultures. This new set of professional options has prompted individuals to relocate to Delhi's metropolitan suburbs, notably Gurugram (previously Gurgaon), which houses the headquarters of all major corporations. Some employees rented residences in Gurugram to make their journey easier, and they visited their families in Delhi on weekends.

In some ways, the workplace falls between between Scalco's "Home" and "Away from Home" distinctions. According to her, the former refers to areas where people are subjected to close observation or where life is dominated by family-like sociality. "Away from home," on the other hand, refers to places where people have the possibility to "escape familial authority." [54] Scalco explains that there are no hard and fast borders between these two social places, and that the fictive distinction is more important for her interviewees' self-fashioning and understanding.[55] This technique may be used to my ethnographic study, where I discovered that my respondents' "away from home" spaces were the workplace, an educational institute, or leisure cultures. While the individual did come under scrutiny from coworkers in various cases, there was no direct monitoring by the family, and the nature of the surveillance varied as well. For example, unlike in a family-controlled environment, kids were rarely called out on their conduct immediately and harshly reprimanded. The number of "away from home" locations is growing all the time, encompassing not just work spaces but also leisure cultures made possible by the changing urban landscape, which includes malls, bars, cafés, and other public spaces..[56]

"With economic liberalisation, new social and physical spaces have formed in metropolitan areas, enabling urban adolescents to connect, in theory in less socially controlled ways," writes Brosius. Colleges (including schools), malls, cinema halls, clubs, pubs, and cafés are all possibilities."[57] The rising use of technology in everyday life, which also allows for virtual and instant "away from home" spatiality, is another element supporting similar attitudes and features of pleasure, consumerism, hedonism, and emotions of "individual space and control." In fact, most contemporary media studies study has focused on the influence of media on intimacies and selfhood.[58] These "away from

home" venues and places inspire the kids with feelings of "creating their own histories.".[59]

Individuality and independence extend to their love life when they begin to date or pick romantic interests, not necessarily in the context of marriage. My interactions with middle-class teenagers indicated that they classified these experiences based on sexual engagement and the "seriousness" of the relationship, or the degree of commitment. Some interactions, known as "onenight stands," are primarily sexual in nature and frequently restricted to a short period of time, sometimes consisting of only one encounter.

The phrase "dating" refers to spending time with someone for a longer length of time without necessarily committing to marriage and, in some cases, incorporating sexual encounters. The adjectives "serious" and "long-term" are used to describe a relationship with the intention of being married. Live-in arrangements are sometimes part of these partnerships, albeit this type of intimacy or romantic arrangement in which the couple lives together before marriage is still not typically recognised. They were also "distance" relationships at times, when partners resided in separate cities for work reasons. It was also the "serious" relationship, rather than "one-night encounters," that was more openly acknowledged and shown. These categorizations appear to be affected by public representations and discourses of romantic relationships and sex, which have increasingly featured in many forms in the medium of film, television advertising, and love and romance festivities from the early 1990s. For example, many researchers have noted that the Bollywood films of the past decade, including Break ke Baad[60], Shudh Desi Romance[61], Ye Jawani hai Deewani[62], and Tamasha[63], tell stories of "Pre-marital relationships, including break-ups, and struggles to find 'self' in the contemporary nexus of profession, money, and love, and also live-in relationships."[64] Indeed, it may be claimed that Bollywood cinema has facilitated a broader public discussion of pre-marital relationships, to the point that the names "boyfriends" and "girlfriends" are used more openly in intergenerational encounters. Mazzarella writes on the impact of condom advertisement in the 1990s, which undermined the "public morality and austere aesthetic of Gandhi and Nehruvian quality," implying that sex may be pleasurable and enjoyable. Brosius describes the significance and popularity of Valentine's Day, which, although being "unspectacular, if not inconsequential" to her respondents, "contributed to the circulation and expansion of romantic, eroticized love as a genuine part of lifestyle." Valentine's Day is given special

[53] Jodhka and Prakash 2016
[54] 2016:327
[55] 2016:327
[56] Brosius 2010, 2013; Mazzarella 2002; Srivastava 2014
[57] 2013:272
[58] Gershon 2011; Miller 2011

[59] Beck 1994; Giddens 1991
[60] After the break 2010
[61] Pure Desi Romance 2013
[62] This Youth is Crazy, 2013
[63] Spectacle, 2015
[64] Bhandari 2017:3

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attention because, for the first time in Post-Colonial India, romantic love became part of a rhetoric of an apparently unlimited way of life in which decision-making is reportedly based on two individuals in love with each other, she explains.

Valentine's Day legitimised the desire to be "in love" without necessarily desiring to marry the same person, and it supported an individual's choice of spouse. Brosius' findings are consistent with the experiences of a small number of respondents in this respect in general, since it is obvious that their romantic interactions are fueled not only by sentiments of love and caring, but also by manifestations and realisations of independence and individuality. This is due to the fact that the decision to engage in a romantic encounter, as well as the procedure by which one does so, is not made with the explicit permission of one's parents or family. I've presented a few real-life experiences of teenagers without revealing their identities by using a false name, such as:

Raj is a 27-year-old project manager in Gurugram for a major international corporation. His parents live in west Delhi, which makes the trip to work arduous. So, in the second year of his employment, he and two other coworkers rented an apartment in one of Gurugram's residential zones. Raj began dating a coworker when he was 23, but the relationship did not continue long because they "grew apart," he claimed. He began dating another coworker around two years ago, with whom he is currently in a "serious" relationship. Raj explained that none of his parents were aware of these interactions. "See, with the first one, it was a short-term relationship, so I never told my parents about her," he explained. The problem is that I don't want my folks to believe that I go to the workplace to do all of this! Especially because it isn't something important. Also, I was fairly young at the time. While I am extremely close to my parents, don't get me wrong, I prefer the concept of having my own life separate from them and not constantly being accountable to them. When things grow serious and I realise someone is going to be a big part of my life, I'll definitely notify my parents.

Sunaina is a 26-year-old analyst who works for a major multinational bank. Sunaina said she feels less under scrutiny in her current relationships than she did in her undergraduate romances when she narrated her love experiences. "Back in college, the parents had a lot more power," she explained. They were always concerned and kept an eye on me. Of course, I had boyfriends back then as well, but it was a little more difficult to meet them and go out with them. There were so many diversions and tensions: parents, friends, examinations, and the fear of the future. When you obtain your first job, though, things change. You're more established, you're earning money, and your parents' authority is waning. They also start treating you like an adult. Sunaina clearly distinguishes a break in her romantic encounters with her new life adventure, that of work, which is accompanied by

sentiments and manifestations of more independent control, freedom of mobility, and a sense of emancipation from the daily surveillances of home. She continues, "My profession requires a lot of travel, so I am away from home." In fact, it was on these official excursions that I met my first lover. We were both on the same team, and we spent so much time together travelling, chatting, and getting to know one other. The relationship, however, quickly ended when we discovered we didn't really fit. I met my current boyfriend at work as well. We met at a workshop and he is a member of the Mumbai team. We just bonded and have been in a long-distance relationship ever then. Sunaina, like Raj, kept her relationship with her parents a secret. You know how parents are, she added. They become all enthusiastic and want to inquire about your partner, and they quickly perceive him as a suitable lad [for marriage]. This makes me feel uneasy. I mean, I'm not ready for that kind of pressure just now. I'm having a fantastic time, working, socialising with friends, and travelling, and I don't want my parents to start interrogating me and putting pressure on me so soon. In addition, I must first examine the individual. What if after a few months I don't like him? I'll need some time to be certain, and then I'll tell his parents.

Other interviews typically described the rationale for not revealing a romantic encounter to parents. These meetings serve as a marker for separating one's personal life from one's familial life. These romantic possibilities are also utilised as occasions to engage in social activities that are not related to the family, such as travelling with the partner, going out to meals, and partying/clubbing. In other words, the young middle class seizes additional leisure and social chances that are not controlled or dictated by the family through the opportunity of romance. They demonstrate that these partnerships are about more than just intimacy and love; they are also about personal experience, independence, and power over life choices.

Given the social and cultural significance of marriage, the young professionals also recognise that this private experience will not endure long, therefore they want to keep it hidden from their parents. While previous works have emphasised the relevance of love and choice in the middle class's self-fashioning of the modern, I suggest that short-term and long-term relationships are equally important components of being modern. However, when the kids begin to include their parents in the relationship, this feeling of individual freedom and choice gives way to a mutual and shared decision on the fitness of the selected partner.

Within a familial context, their capacity to marry as a result of their amorous experience is assessed and authorised. In reality, in order for their family to approve of their decision, the very connection that was kept hidden from their parents and promoted as being individual-centric begins to be disciplined and

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moulded to satisfy the family's needs and expectations..

MORAL FRAMEWORK OF THE FAMILY

Being in a Pre-marital relationship, in many senses, is a luminal state that might transform into marriage, for it is here that the partner (in particular the woman), is most obviously disciplined and who, as a response, might either resist the controlling behavior leading to the breaking up of the relationship or agree to be molded. In this part, I'll discuss several discipline and surveillance strategies that work inside a moral framework provided by family values and expectations. These narratives disproportionately concern attempts to punish women, since research has shown that women are under significantly more pressure to be a desirable mate, reinforcing the cultural norm of hyper gamy and patriarchal life, in which the woman is tamed to fit in with the man's household. The area of sexual behaviour was one such area where the woman was inspected far more than the guy.

The central ritual of a Hindu marriage, kanyadaan (gift of a virgin), as well as social conditioning in which the suitability of the girl is determined by her control over her sexual self, which is established through a rigorous process of socialisation both within and outside the home, have all contributed to the obsession with a woman's virginity.[65] While both men and women enjoyed varied intimacies, it was remarkable that women were significantly more harshly criticised for their sexual behaviour in pre-marital relationships than men, a setting that is very unlike to the official search for a husband. While I've never met a man who insisted on dating or marrying a virgin, they were clearly interested about her sexual history. The guys believed that a sexual connection was only normal if a woman was in love with a man. They did not, however, like the idea that the woman had been sexually active with several people, including having "one-night stands." The references to women with an active sexual past conveyed a strong undertone of immorality and "loose" character, even if the word "morally loose" was not used.

These views were shared even by males who had a long history of sexual activity with various partners. Women, on the other hand, seldom coveted a virgin male and were less scandalised by a guy's sexual history, frequently arguing that times have changed and both men and women are more sexually active. In other words, women appeared to be more accepting of both their own and men's sexual experiences, but men appeared to more hesitant to embrace women's sexual history.

SURVEILLANCE AS CORNERSTONE OF RELATIONSHIPS

These romantic relationships also modeled themselves on the framework of the family in another way, namely, the exercise of control and authority externalized through surveillance. This is indeed notable, for often men and women resist surveillance from their parents, fighting for individual space and freedom. This same area, however, is quickly claimed by a boyfriend or girlfriend, who keeps a close eye on the partner. As one of the researchers put it, "in my attempts to schedule interviews, where at times, instead of getting permission from parents, my interviewees discussed my request to meet them with their boyfriend or girlfriend, my interviewees discussed my request to meet them with their boyfriend or girlfriend." The boyfriends were curious about the types of questions I'd ask, since they were wary of feminist discussions about their relationships or in-depth discussions about previous relationships. On the other side, the girlfriends were uneasy and sceptical of why a young lady would desire a private talk with their partner. In each scenario, it was clear that power and control had switched, now resting with a romantic partner rather than the parents, who therefore continued to uphold the idea of accountability that regulates family relations."

As a result, the relationships are based after family dynamics, with the exception that the responsibility for accountability is moved from the family to the boyfriend or girlfriend. Furthermore, this is frequently considered as a sign of great closeness rather than a restricting component of the partnership. In fact, accepting to be subjected to such monitoring is a rather crucial criterion for marital eligibility, since it demonstrates a desire to join a new family.

RESISTANCES AND NEGOTIATIONS IN RELATIONSHIP

Disciplining activities are not always left unchallenged or uncriticized, and women have a variety of reactions to them. It's crucial to remember that resistances don't always necessitate a structural overthrow, though this does happen occasionally when a woman ends a relationship. but also exist in small pockets[66] as women adopt strategies, pick fields of battle, and negotiate within the power structure of their household.[67]

Some women explained to me that they agree to follow the rules and norms regarding dress codes and food at the beginning of the marriage, only to overturn them once they have established themselves in the new household. Some others explained that while they agree to the demands of their boyfriend with regard to his family, they too make demands on his behavior regarding his interaction with their family. There are also

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[65] Dube 1988; Fruzetti 1982

[66] Scott 1985, 1990
[67] Gold and Raheja 1994; Jassal 2012; Jeffery and Jeffery 1996

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individuals who claim to genuinely follow the model of the devoted wife and daughter-in-law, as long as their desire to work for a living is not blocked.

However, some women did take the tough decision of ending the relationship, especially when they were of marriageable age and were putting their reputation on the line, and consented to go on the potentially lengthy and hard task of finding a suitable partner.

THE INVOLVEMENT OF PARENTS

In an essay entitled "The Family and the Reproduction of Inequality"[68] Béteille, argues that especially amongst the "service" class (referring to professionals, civil servants, managers and others), certain fundamental changes are occurring in the reproduction of inequality where the family (more than caste) plays an important role. As a result, it's critical to comprehend family dynamics, particularly those components of modernity that help in the curating of intimacies and spouse-selection procedures. The use of technology in everyday life, notably the use of the internet for matching, is one such feature of modernity. Recent works, such as Titzmann[69] argue that matrimonial websites propagate a "family-oriented individualism" and Agarwal[70] explains that these websites in fact enable a new form of "doing kin work." The family, therefore, has not been displaced by modern lifestyles but has been crucially reconfigured in everyday realities.[71] As I argue, the family also interacts in the arena of pre-marital relationships in ways that allow it to present itself as "modern" by discreetly obtaining a desired end rather than overtly dictating the destiny of the relationship. It should be noted that this is not the case in all pre-marital relationships; there are couples who insist on marrying their chosen match despite their parents' desires.

It's also vital to remember that even pre-marital decisions are influenced by family. This is evidenced by the fact that inter-religious premarital partnerships were uncommon in my fieldwork. Even if the selected spouse was well-educated and financially solid, the ones that I was made aware of were typically broken off, exactly because the parents would not have supported an inter-religious union. In terms of inter-caste connections, there was more leeway. However, they were primarily connections between upper castes, and I did not come across a single "serious" relationship between an upper caste member and a member of a so-called lower caste. This supports Béteille's theory that the family is an essential site of inequality reproduction since it assures that the selected partner comes from a similar social and economic background. Furthermore, because the man's family was opposed to him marrying a woman from a higher caste and absolutely opposed any intentions to marry a lady who was more educated or

professionally accomplished than their son, the concept of hyper gamy essentially ruled the "serious" premarital relationships.

POSITION OF INDIAN LAW

The position of Indian law must be clarified is given as follows regarding Pre-marital relationship, sex and marriage:

Recognition of Sexual Relationship

Indian Law recognizes sexual relationship between consenting adults as legal act.

Casual physical relationship does not create rights among parties provided the relationship is consensual.

Whether or not the consent existed is a question of fact and is determined on case to case basis. Courts have often drawn a presumption in favour of women, particularly where the woman is poor, 5 uneducated, and likely to be exploited. This assumption is not necessarily explicit, but it does increase the rigour with which the opposite party must establish permission.

However, public display, or the public performance of sexual or promiscuous actions, attracts the wrath of the courts and is punished.

Position of Law with respect to relationships in the nature of Marriage

The position of law regarding marriage is a bit confusing as stated below:

These relationships are classified by law into various types. First represents relationships where there is no bar for the parties to marry each other, but, in fact, the parties have not married. Second represents a subset of the first, but the parties may have married in traditional way but it is difficult to prove the facts. Third represents the case where the parties are legally not allowed to marry, because of certain fact, say, existence of prior marriage. Fourth represents a case where law prohibits marriage between the involved parties (for example prohibited by degree of consanguinity, prior).

The position of the law in the fourth type above is that no legal rights exist between parties inter se and law will not protect the neither the woman nor the man. However, there is confusion as to position if the prohibition is discovered later.

A prolonged relationship between parties who are otherwise qualified marry each other but in fact have not done so, creates some rights. In this scenario, the law protects the lady, and she is entitled to support. In this scenario, the law favours a marital presumption. However, the woman may or may not

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[68] 1993
[69] 2013
[70] 2015
[71] Bhandari 2018

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be entitled to a portion of the property, depending on the specifics of the case.

When two people in a relationship present themselves to the public as husband and wife when no such formal marriage can be shown, their relationship is assumed to be common law marriage. Even this relationship, however, must meet specific standards set down by the Supreme Court. A presumption cannot be drawn until the parties have lived together for a long time. Co-habiting implies sharing a home with someone else. Common law marriages do not exist in casual physical interactions.

If two people in a relationship claim to have been married and a third party denies it, the third party must provide specific proof of disqualification of either party from marrying the other, failing which the courts will not intervene in the legal status of the relationship.

When two people in a relationship have a child together, a strong presumption of marriage is drawn. If the parties to the marriage, in general, and the husband/male spouse in particular, seek to reject the partnership, the party bears a heavy burden of evidence. This viewpoint is held in order to safeguard the child's growth.

In the situation of the second wife and her rights, there is a legal split.

AN ANALYSIS OF CASES FOR PRE-MARITAL SEX AND INDIAN LAWS

1. In the recent case of **D. Velusamy Vs. D. Patchaiammal**[72] in the Supreme Court headed by Division Bench constituting of Markandey Katju and T.S. Thakur held that a `relationship in the nature of marriage' is akin to a common law marriage. Common law marriages require that although not being formally married: -

(a) The couple must hold themselves out to society as being akin to spouses.

(b) They must be of legal age to marry

(c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.

(d) For a substantial period of time, they must have deliberately cohabited and presented themselves to the public as spouses. A'relationship in the nature of marriage' under the 2005 Act, in our judgement, must also meet the foregoing criteria, as well as the parties' living together in a'shared home,' as described in Section 2(s) of the Act. It is hardly a 'domestic relationship' if you only spend

weekends together or have a one-night stand. In the case of **S. Khushboo Vs. Kanniammal & Ors.**,[73] and in **Lata Singh Vs. State of UP**,[74] the Supreme Court has held that a relationship between unmarried adults is not an offence but a legal relationship. In the case of **Mallika Vs. Kulandai**[75] determined that co-habitation of about 4 years and presence of an issue to be sufficient to consider the relationship as marriage. As a result, a presumption of marriage might be formed for this legal connection under Section 114 of the Evidence Act 1872. "When a man and woman have cohabited continuously for a number of years, the law presumes in favour of marriage and against concubinage," the courts have repeatedly concluded. In **Tulsa & Ors. Vs. Durgatiya & Ors.**,[76] this Court has clarified that "Where the partners lived together for a long spell as husband and wife, a presumption would arise in favour of a valid wedlock".In **Badri Prasad Vs. Dy. Director of Consolidation & Ors.**,[77] the Hon'ble Court has opined that "A strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin." This principle has been further reaffirmed time and again in various cases.[78] Again in the case of **Vimala (K) Vs. Veeraswamy**[79] a three-Judge Bench of the Supreme Court held that Section 125 of the Criminal Procedure Code of1973 is meant to achieve a social purpose and the object is to prevent vagrancy and destitution. Explaining the meaning of the word `wife' the Court held:

"The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. When an attempt is made by the husband to negative the claim of the neglected wife depicting her as a kept-mistress on the specious plea that he was already married, the court would insist on strict proof of the earlier marriage. The term `wife' in Section 125 of the Code of Criminal Procedure, includes a woman who has been divorced by a husband or who has obtained a divorce from her husband and has not remarried. The woman not having the legal status of

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[72] D. Velusamy Vs. D. Patchaiammal Criminal Appeal Nos. 2028-2029 of 2010 arising out of Special Leave Petition (Crl.) Nos.2273-2274/2010 decided on Oct 21, 2010

[73] 2010 AIRSCW 2770;
[74] AIR 2006 SC 2522;
[75] 2000 Crlj 142, Madras High Court
[76] AIR 2008 SC 1193
[77] AIR 1978 SC 1557
[78] Gokalchand Vs. Parvin Kumar, AIR 1952 SC 231; S.P.S. Balasubramanyam Vs. Suruttayan, AIR 1994 SC 133; Ranganath Parmeshwar Panditrao Mali Vs. Eknath Gajanan Kulkarni, AIR 1996 SC 1290; Sobha Hymavathi Devi Vs. Setti Gangadhara Swamy & Ors., AIR 2005 SC 800; and Bharatha Matha & Anr. Vs. R. Vijay Renganathan & Ors., AIR 2010 SC 2685
[79] (K) [(1991) 2 SCC 375],

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a wife is thus brought within the inclusive definition of the term `wife' consistent with the objective.”

In the case of **Bhagwan Dutt Vs. Kamla Devi,**[80] the Apex Court opined that the wife should be in a position to maintain standard of living which is neither luxurious nor penurious but what is consistent with status of a family. In the case of **Badri Prasad Vs. Dy. Director of Consolidation & Ors.,**[81] this Hon'ble Court has opined that “A strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin.” In general, Indian Law does not permit maintenance or other rights for second wife. The principle is explained in **Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav**[82] and **Savitaben Somabhai Bhatiya v. State of Gujarat.**[83] However, in the case of **Vidhyadhari and Ors. Vs. Sukhrana bai and Ors.**[84] The Apex Court has granted Succession Certificate to the second wife despite the subsistence of the first wife. As a reason for the judgment the Court pointed to the fact that “continued to stay as his wife for long time and was a person of confidence”. In light of the above discussion, it is indeed fair to blame Hon'ble High Court of Madras for interpreting the physical relationship as marriage though its conclusion (allowing maintenance) is valid. However, the same will not stand as it is in direct conflict with established legal opinion.

CONCLUSION

Premarital relationships are frequently perceived as places of extreme individualism or as a societal phenomenon that poses a threat to family values and customs. However, since the family scrutinizes and shapes these connections, I have argued in this article that pre-marital experiences reflect marital expectations, obligations, and patterns. Furthermore, this article emphasises that middle-class youth's intimacies and marriage ideals are growing in gendered contexts, as well as being impacted by modernization processes such as the use of technology and global lifestyles. Individualistic experiences coexist with familial control, and local hierarchies of caste and community overlap with globalizing surroundings of middle class position, these processes and effects may appear to be pulling in opposite ways. However, I argue that this seeming contradiction is in fact constitutive of the modern` and not opposed to it[85]. This is because the "Modern" does not exist as a distinct break in time and place, but rather as a collection of oppositions that breeds conflict. This idea of modernity also opposes a Unilinear model of advancement, such as one in which

"loving" champions "arrangement" feelings.[86] In this modern analytical framework, I locate the current paper and am compelled to examine the extended period of singlehood that young adults in India, like those in other Southeast Asian nations, are experiencing. I present four broad views to interpret pre-marital relationships in contemporary India based on these ethnographic investigations and theoretical foundations of the "modern.".

Firstly, like the work of de Neve[87], this research is also an ideological rejection of the "individualism" that might be seen to define pre-marital relationships. I absolutely make the case that India's post-liberalization era has provided numerous options, which individuals have taken advantage of to experiment with romances and intimacies. Pre-marital relationships are openly encouraged, and dating is commonplace. More significantly, these encounters are seen as very individualistic since they are based on an interpersonal link between the two people, free from the family's scrutiny. However, as I dissect the mechanics of premarital romances, I'll point out that these relationships are also judged and appraised by the family. While the family is glaringly absent from this area, it does have an impact on the relationship's dynamics. This leads me to my second point: the family provides the moral and operational basis for these partnerships. The pair tries to discipline each other in order for the family to accept the partner of their choice. The males, in particular, train their women to look and act in ways that are consistent with their family's ideals and lifestyles. Furthermore, these interactions adhere to the same power and control standards that govern family ties. Men, for example, keep a close eye on their girlfriend's whereabouts, often engaging directly in their social activities and expecting them to report back. As a result, the loving pair is imitating the power and control dynamics that parents often profess and execute over their children. Finally, the family appropriates these amorous experiences in order to self-fashion as contemporary. It promotes itself as non-authoritarian and non-confrontational, and rather than rejecting a union of choice, it employs tactics to ensure that their voices are heard and that the pre-marital relationship's future is decided fairly. Finally, it is very obvious that marriage remains crucial to the development of young people's self-identity. Despite the fact that the young middle class explores and experiences numerous types of romantic relationships, they continue to develop and present themselves in accordance with the norms and regulations of marital ability, reinforcing the centrality of marriage in their social and cultural worlds. The pre-marital stage of romance is unquestionably outside the family's direct control and resonates with an emotive longing for independence. "The vocabulary of romantic love and 'affective individuality,' on the other hand, rests on a

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[80] AIR 1975 SC 83;
[81] AIR 1978 SC 1557;
[82] (1988) 1 S.C.C. 530
[83] (2005) 3 S.C.C. 636
[84] (2008) 2 Supreme Court Cases 238;
[85] Dube 2012, 2009

[86] Bhandari 2018
[87] 2016

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conceptual framework that does not separate individuals from collectives or affect from material and self-interest," as few points out."[88] My research, as presented in this article, also reveals that the notion of family is central to the construction of marriage ability of the upwardly mobile middle-class youth as well as the legal position of such relationships in India. Whilst the individuals might experience pre-marital relationships as borne out of a "new" era of opportunities, the stability and framework upon which these relationships are actualized continue to be provided by the family and still the legal position is not much acceptable in Indian society being an epitome of joint family and rich in culture or traditions.

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