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Changing Marriage Pattern in India

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The pattern of marriage is undergoing some discernible changes throughout the world. It has played a major role in determining the growth rate of population through its linkage to marital fertility. Historically changes in the nuptiality pattern have played very significant roles with respect to demographic transitions in many of the European (Van de Walle, 1972). The experience of several less developed countries where population growth rate has recently slowed down also well demonstrates this aspect (Das et al., 1998). In societies where reproduction is primarily confined within marriage, the Changes in respect of marriage age and the resultant reduction in proportion of women remaining in married state are directly linked to fertility and thus determine the future trend of demographic transition.

Description of Marriage Patterns in India

The study of marriage timing in India offers at once a phenomenon that is extremely simple and universal in some dimensions and dazzling in its complexity in others. Virtually all Indian men and women get married, and while child marriages have been declining, mean age at marriage for women is still below 20. Census data from 2001 show that less than 2% of men and 1% of women remain unmarried. Moreover, 95% of women are married by age 25, whereas the same percentage of men were married by age 32. Even in comparison with other developing countries, India has one of the lowest ages at marriage. With a decline in child marriage, age at marriage is likely to have become more compressed. Indeed, most women marry between the ages of 14 and 25, with a particularly tight clustering between ages 17 and 19, showing far less dispersion than observed in other

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societies.

At the same time, the phenomenon of marriage timing offers an interesting peek into the functioning of a society buffeted by forces of both economic and cultural change. Although it is widely accepted in the literature that arranged marriages are widespread, this article is the first to provide empirical documentation of its pervasiveness. Marriage decisions remain within the purview of the family, and less than 5% of the IHDS respondents had a primary role in choosing their husbands. However, nearly 62% of the respondents felt that they were consulted in this decision. It is interesting to relate this to the length of the acquaintance between the spouses; about 66% of the women met their husbands on or around the day of the wedding, and 78% knew their husbands for one month or less when they got married. Even among women who felt that they had a choice in partner selection, about 55% met their husbands on or around the day of the wedding (Banerji, Martin, and Desai 2008). We present these figures to suggest the complexity of the arranged marriage system in India. While marriage remains one of the most important decisions faced by the extended family, brides and grooms are frequently consulted in some way, although they rarely have an opportunity to become familiar with their potential partners through a longer acquaintance.

In addition, there is substantial diversity in age at marriage across different regions of India. Indicates mean age at marriage in our sample of ever-married women aged 25–49 across different Indian states. These differences are not always commensurate with the economic status of these states, nor do they neatly fit into the north-south divide observed for other demographic phenomena in India. The northern state of Punjab has higher age at marriage than the southern state of Andhra Pradesh; and one communist state (Kerala) has a mean age at marriage of 21 while the other communist state (West Bengal) has a mean age of 18. This variation in age at marriage provides us with an opportunity to theorize about factors that lead to early marriage in some parts of India compared with other parts¹.

¹ Desai Sonalde Gender Scripts and Age at Marriage in India retrieved on 16 December 2013

Causes of Changing Pattern of Marriage

Empowerment of women:

The economic arguments discussed in the previous section rely explicitly or implicitly on economic models of the household and assume an internally consistent and unified decision-making structure within the household, with little attention to the household as a site for construction of gender inequalities. In contrast, feminist scholarship on empowerment pays close attention to intrahousehold inequalities.

Whatever the imperatives driving the household as a whole, entry into a married state is viewed by most brides—particularly very young brides—with considerable trepidation. More than 90% of the new couples in India begin their married life living with the groom's parents. An incoming daughter-in-law is expected to conform to the lifestyle of a new family. Consequently, although most girls expect to get married at an appropriate time, few girls are eager to be teenage brides. In India, marriage decisions remain within the purview of the family. However, this should not be taken to mean that women have no say in a decision that intimately affects their lives. Mothers and older sisters-in-law are often asked to ascertain the wishes of the young women. While this is far from having full-fledged agency, we expect that in areas where women have a greater role in making decisions about different aspects of their lives, women's input into their own marriages may be more welcomed than in areas where women's autonomy is more limited. Since few girls choose to marry at a very young age, it seems reasonable to expect that women's empowerment is negatively associated with age at marriage. Age at marriage may also be related to women's autonomy through another channel: because younger brides are more likely to be docile, in areas where parents-in-law seek to limit women's power in the household, they may have a preference for younger brides. Women's autonomy can be measured in a variety of ways but women's access to and control over resources is a fundamental aspect of autonomy. For instance, a woman's autonomy may be manifest through her control of major resources, such as having her name on a housing title or rental agreement, as well as through control of minor resources, such as having cash on hand for household expenditures. A number of studies have also suggested that the ability to make decisions regarding a variety of household

choices is an important part of women's empowerment. This includes such decisions as purchasing expensive goods, children's healthcare, and marriage decisions.¹

Shifting ideas of love, intimacy and marital practices

In this theme we are interested in contemporary marital practices and the types of marriage/relationships/alliances (from self-chosen marriages to gay relationships) younger generations of Asians are entering into and how marriage and love are being defined or viewed. Is marriage today a social necessity or are new modes of flexibility emerging in relation to marital choice? Is the conventional system of arranged marriages being subjected to modifications? What role are education, media exposure, employment and urbanization playing in shaping young people notions about marriage, romance, and love? Are younger generations eschewing parental match-making criteria for marriages based on romantic love (or taking the initiative to arrange their own marriages)? Which sections of younger people (class, caste, occupation, location, and region) are doing so? Where and how do meeting, matching and courtship take place? How are they negotiating their marital preferences within the wider framework of the family, community and caste nexus? Equally, are parents ready to relieve themselves of the duty of marrying their progeny? How are modern arrangements being combined with traditional rituals, observances and prestations? While self-choice and individual fulfilment may be the desired hallmarks of the modern marriage, we need to interrogate the agency of the marrying couple and track whether any real shifts from earlier patterns of significant parental role are occurring - for instance the phenomenon of arranged love marriage, that conforms to caste, religion, class and status requirements. We welcome papers that investigate new marriage patterns and their interrelationships with the changing economy and society.

Socio-legal reforms, feminist interventions and their impact on marriage/domestic life-

Furthermore, in South Asia a range of women organisations, feminist NGOs, women-based community organizations (*nari adalats*, *mahila panchayats*) and caste associations play an

¹ Desai Sonalde, Gender Scripts and Age at Marriage in India retrieved on 16 December 2013

important role in the domain of marriage. In relation to arbitrating marital disputes and break-down, these organizations offer women/couples services of informal dispute settlement, conflict resolution and marriage counselling. We are keen to understand how these informal/community arbitration forms that fall outside the legal domain regulate marriage and domestic life and reported incidents of marital conflict. By studying feminist arbitration procedures and counselling services we can gain a better comprehension of the nature of marital discord that gets reported, and how various non-legal pluralisms are functioning side by side.

Types of Changing Pattern of Marriage

Delay marriage and never marriage

Marriages get delayed if proper matches are not available. However, it is very difficult to identify the factors that lead to delayed marriages. From the mid-1980s, it has become increasingly evident that throughout several East and Southeast Asian countries the age at marriage has increased almost up to 25 years for women at their first marriage (Leete 1994). It is also believed that if current Western European figures of proportions single were corrected to exclude proportions cohabiting, then several Asian populations would exceed European in proportions 'effectively single' (Jones 2004). Moreover, Japan, South Korea, Taiwan, Hong

Kong, and Singapore all have very low period TFRs at present ranging from 1.0 for Hong Kong, 1.1 for Taiwan to 1.15-1.25 for Korea and Japan. The influence of changing social norms, new patterns of lifestyle, economic constraints and differing perceptions of personal freedom with regard to the choice of partners are some of the factors responsible for these changes. Changes are more discernible among men and women with more schooling, employment outside agriculture and other domestic industries, less employment security (Lesthaeghe 2010).

Although till date marriage is universal in the Indian context, there are certain shifts observed in the age at marriage, i.e., a consistent increasing trend in respect of mean and median age at marriage over cohorts born since 1916 for males and since 1921 for females (Goyal, 1988). However, the aggregate figures relating to mean and median age at marriage show only minor changes in the age at marriage. Moreover, an analysis of 2001 census data clearly shows that for those who have been married for the last nine years preceding the census (i.e. married during

1992-2001), marriages remain mainly confined to higher ages as compared to those married for twenty years or more preceding the census. Hence, it is important to look into the pattern of delayed marriages in India. Even though it is almost impossible to come up with a general conclusion regarding the changes in respect of any of the marriage related parameters particularly in the context of a heterogeneous country like India, an attempt has been made in this paper to analyze the patterns of delayed marriages in India across different sections of the female population.

The percentage of never married females has remained almost stable (table 2) at around 9-10 percent for urban areas and 3-4 percent for rural areas under 25-29 age group. Major incremental changes have been observed between NFHS 1 and NFHS 2 especially for the rural areas among women belonging to 20-24 and 25-29 age groups. However for the later half (between NFHS 2 and NFHS 3), the growth rate has slowed down while in the rural areas, females coming under 25-29 age group are found to have experienced a negative growth rate (-2.5).¹

However, the incremental changes are more visible among Sikh women and women belonging to other religions, especially for those coming under 25-29 age group. The percentage shares of never married female population in different states across three selected age groups. It is very interesting to see that the percentage shares of never married female population have increased over time across all the age groups in Jammu and Kashmir, Himachal Pradesh, Delhi, Rajasthan, Uttar Pradesh (including Uttaranchal for 2005-06), Maharashtra and Tamil Nadu. For states like Punjab, Haryana, Bihar (including Jharkhand for 2005-06), Orissa, Madhya Pradesh (including Chhattisgarh for 2005-06), Gujarat and Karnataka incremental increases for the first half are more evident, whereas for the second half, in respect of certain age groups, negative growth rates have been observed. Surprisingly, in a state like Kerala, the percentage shares of never married females across all the age groups have exhibit almost no change or negative increments. Again a state like Andhra Pradesh, which has experienced very nominal changes for the first half, reveals a sign of improvement for the second half, especially for those coming under 20-24 age

¹ *Goswami Baishali*, An Investigation into the Pattern of Delayed Marriage in India retrieved on 16 December 2013.

group. It has to be kept in mind that once the proportion of never married females reaches a certain level, chances of further increments become rare, given the cultural landscape of India. Hence with regard to states like Kerala, where the proportion of never married females were 43 percent and 12 percent for 20-24 and 25-29 age groups respectively (which are relatively higher as compared to a majority of the Indian States) as early as in 1992-93, chances for further increments are few. What is interesting to note here is the decline observed in the proportion of never married females across 20-24 and 25-29 age groups in Kerala over time.

Divorce and re-marriage

We are keen to explore the relative stability of conjugal relations, in order to foreground the incidence of divorce, separation, and abandonment or its emergence/non-emergence across Asia. While Indian data indicates no increase in divorce, changes in the stability of unions can direct us to changing marital expectations, ideals and lived experiences. We will benefit from papers that have documented inter-generational change, having looked into those societies and classes where divorce was previously uncommon and whereby a shift is evident in the younger generation's experience. In South Asia, often the dominant perception is that the arranged marriage system manifests stable, life-long and harmonious marriages. Accordingly, a common stereotype in marriage discourses is that love marriages do not last. Papers that compare divorce and separation rates in both arranged and love marriages and factors contributing towards marital break-down can lend a nuanced perspective to rectifying these stereotypes. In addition, papers should elaborate on the gender dimension of divorce, i.e. whether women or men are initiating divorce, post-divorce natal kin support, economic fall-back position and custody of children. Alongside divorce, studying the dynamics of re-marriage will provide fruitful comparison. The gender differential in remarriage is one continuing issue. What of the differential implications of divorce and widow(er) hood for remarriage? Are individuals rejecting re-marriage and opting for other relationships? Which individuals? What about the emotional quality and longevity of

new marriages/ relationships preceding divorce?¹

Women in live-in relationships are not recognized by their husband's surname, for any legal or financial matters including opening a bank account, submission of income tax return, applying for loans, etc. They retain their identity as an individual and are not recognized as a “wife” or a “domestic partner”. Consequently live-in couples can separate informally without any formal divorce or the intervention of a court. In case of live-in relationship, it is not possible to have a formal divorce in law among partners. The careful scrutiny of the existing matrimonial laws indicates that unless this kind of relationship is not recognized in law the partners cannot be allowed to separate formally. It looks like it is easy to get into live-in relationship whether “by choice” or “by circumstance” but difficult to get out of this relationship formally. Whereas the consequences of this relationship are left unanswered in law, for example, there is no law in place which deals with the division and protection of their separate or joint property on separation.²

Live in Relationship

A living arrangement in which an unmarried couple lives together under the same roof in a long term relationship that resembles a marriage is known as a live- in-relationship. Thus, it is the type of arrangement in which a man and woman live together without getting married. This form of relationship has become an alternate to marriage in metropolitan cities in which individual freedom is the top priority amongst the youth and nobody wants to get entangled into the typical responsibilities of a married life.

This form of living together is not recognized by Hindu

¹ Marriage in Globalizing Contexts Exploring Change and Continuity in South Asia retrieved on 16 December 2013

² Agarwal Anjali , Live In Relationships and its Impact on the Institution of Marriage in India retrieved on 16 December 2013

Marriage Act, 1955 or any other statutory law. While the institution of marriage promotes adjustment; the foundation of live-in relationships is individual freedom. Though the common man is still hesitant in accepting this kind of relationship, the Protection of Women from Domestic Violence Act 2005 provides for the protection and maintenance thereby granting the right of alimony to an aggrieved live-in partner.

The Live-In Relationship in India

Live-in relationships in India are often seen as a taboo and a sin. However, it is not very uncommon to find unmarried people in big metropolitan areas staying together as husband and wife. None of the statutes dealing with succession or marriage such as the Hindu Marriage Act 1955, the Special Marriage Act 1954 or the Indian Succession Act 1925 and so on recognize live-in relationships specifically. However, under the Hindu Marriage Act, children born out of such relationships are considered to be legitimate and have been granted the right to succession. With no clear and specific legal sanction, there has been a huge societal change in the attitude towards live-in relationships together with multinational companies providing health insurance benefits to domestic partners of the employees. The Protection of Women from Domestic Violence Act 2005 recognizes the right to protection of a person in a “relationship in the nature of marriage” from domestic violence with access to monetary¹⁷ and other reliefs under the Act. The law does have a concept called “presumption of marriage” which could be used to recognize such relationships. A presumption is available if a man and woman are living under the same roof and cohabit for a number of years. Continuous and prolonged cohabitation raises a presumption in favour of marriage.¹

The definition of live-in relationships is not clear and so is the status of the couples in a live-in relationship. There is no specific law on the subject of live-in relationships in India. There is no legislation to define the rights and obligations of the parties to a live-in relationship, the status of children born to such couples. In the absence of any law to define the status of live-in

¹ ¹ Agarwal Anjali, Live In Relationships and its Impact on the Institution of Marriage in India retrieved on 16 December 2013

relationships, the Courts have come forward to give clarity to the concept of live in relationships. The Courts have taken the view that where a man and a woman live together as husband and wife for a long term, the law will presume that they were legally married unless proved contrary.

The first case in which the Supreme Court of India first recognized the live in relationship as a valid marriage was that of *Badri Prasad vs. Dy. Director of Consolidation*, in which the Court gave legal validity to the a 50 year live in relationship of a couple. The Allahabad High Court again recognized the concept of live in relationship in the case of *Payal Katara vs. Superintendent, Nari Niketan and others*, wherein it held that live in relationship is not illegal. The Court said that a man and a woman can live together as per their wish even without getting married. It further said that it may be immoral for the society but is not illegal.

Again in the case of *Patel and Others*. The Supreme Court has held that live in relationship between two adults without marriage cannot be construed as an offence. It further held that there is no law which postulates that live in relationships are illegal. The concept of live in relationship was again recognized in the case of *Tulsa v. Durghatiya*.

However in one of its judgment *Alok Kumar vs. State*, the Delhi High Court has held that live in relation is walk in and walk out relationship and no strings are attached to it. This kind of relationship does not create any legal bond between the partners. It further held that in case of live in relationships, the partners cannot complain of infidelity or immorality.

Again giving recognition to live in relationships, the Supreme Court in the case of *D. Velusamy v. D. Patchaiammal* has held that, a relationship in the nature of marriage under the 2005 Act must also fulfill some basic criteria. Merely spending weekends together or a one night stand would not make it a domestic relationship. It also held that if a man has a keep whom he maintains financially and uses mainly for sexual purpose and/or as a servant it would not, in our opinion, be a relationship in the nature of marriage.

The court made it clear that if the man has a live-in arrangement with a woman only for sexual reasons, neither

partner can claim benefits of a legal marriage. In order to be eligible for palimony, a relationship must comply with certain conditions, the apex court said. The following conditions were laid down by the apex Court:

- The couple must hold themselves out to society as being akin to spouses;
- They must be of legal age to marry; they must be otherwise qualified to enter into a legal marriage, including being unmarried;
- They must have voluntarily cohabited for a significant period of time.

Conscious of the fact that the judgment would exclude many women in live-in relationships from the benefit of the Domestic Violence Act, 2005, the apex court said it is not for this court to legislate or amend the law. The parliament has used the expression relationship in the nature of marriage and not live-in relationship. The court cannot change the language of the statute.

CONCLUSION

From the above findings it can be safely asserted that even at the country level, marriages get delayed in respect of the upper section of the population in the context of education, the pattern of delayed marriages at the state level might have taken a different route altogether. It is very difficult to draw any definitive conclusions with respect to the states based on the present analysis, as the socio-economic environments differ substantially from one state to another. Some states are economically progressive, while some others have achieved remarkable improvements with regard to social indicators. In some states, the cultural environment is still very traditional, whereas, some have adapted to new lifestyles even while holding on to traditional values. Moreover, in some states, changes in socio-demographic indicators are very fast and drastic and some are moving steadily towards better positions. Each of the predictors may work differently in each state depending on the cultural set-up as well as the transitional process they are passing through. Given this scenario, it is almost impossible to come up with a general conclusion.

Live-in relationships in India have still not received the consent of the majority of people. They are still considered a taboo to the Indian society. The majority of the people consider it as an immoral and an improper relationship. At present there is no specific legislation that deals with concept of live in relationship and the rights of the parties and the children of the live in partners. It was a very unambiguous concept until the Supreme Court of India took the initiative and declared that live in relationship though considered immoral but it is not illegal.

Through its various decisions the judiciary has tried to accord legality to the concept and protect the rights of the parties and the children of live in couples. But at present there is a need to formulate a law that would clarify the concept. There should be clear provisions with regard to the time span required to give status to the relationship, registration and rights of parties and children born out of it. The utmost need of the hour is to secure the future of the children born to live in couples. The steps taken by the judiciary are indeed welcoming and pragmatic in approach. Though the live in relations provide the individuals individual freedom but due to the insecurity it carries it with, there needs to be a law to curtail its disadvantages.¹ The concept of live-in relationships have come out of the closet and even found partial recognition in law. Though the debate rages on in public forum with recommendations and opinions yet coming in from various authorities and Commissions to either amend the existing laws or desist from doing so, there have been no amendments to the existing personal law. It is thus, worthwhile to examine whether or not, live-in relationships can find their place in personal laws in the country. The harm caused to a “legally wedded wife” and her children, in a case where a man maintains live-in relationship with another woman without the knowledge of his legally wedded wife and the probability that such legalization will increase the practice of bigamy are the two main contentions of the critics of legalization of live-in relationships have aside from the done to death immorality. Any attempt to protect live-ins in personal laws must therefore tackle these two issues carefully.

¹ Status Of Live In Relationships In India retrieved on December 17, 2013

The courts have recognized persons in long-term live-in relationship to be as good as a married spouse. Such decisions, while being delivered were for upholding the rights of the “other” woman but these decisions contradict the law on bigamy. When bigamy is illegal (except for Muslims) it is unclear in what sense a live-in relationship can be equal to a marriage, if either the man or the woman is already married to a living spouse.⁹⁰ The ambiguity allows a man or woman to be in another relationship without being subjected to punishment for bigamy.⁹¹ Personal laws differ for various communities on different matters and to fit in live-ins into each of these aspects would be a difficult and complex exercise.

The Supreme Court in a number of cases has stated that where there is cohabitation for a “reasonable period of time”, the couple shall be presumed to be leading a married life and shall enjoy such rights. However, the Court has not defined how much time should be considered to confer the marital status on such relationships. It needs the immediate attention of the lawmakers to make it clear through suitable legislation otherwise different couples may be subjected to different yardsticks when they seek their rights. After all, live-in relationships are based on informal understandings.

An amendment to Section 125 of the Code of Criminal Procedure could be one such example that would bring a uniform law, which would outline the rights, duties and responsibilities of such couples. Such a law could define those couples that to whom it applied (in terms of length of cohabitation), recognize the two kinds of live-in relationships and provide remedies accordingly, in the same manner as the Protection of Women from Domestic Violence Act, 2005.⁹² It is necessary to understand society with its changing colours and provide laws which are practicable and enforceable to tackle these complex issues.