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Exploring the Desirability of Self-Respect Marriages in India: A Reflection on The Judgment in Ilavarsan v. The Superintendent of Police

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ABSTRACT

Marriage is a profound institution in human society. It owes its essentiality to a number of natural reasons such as procreation, love, affection and companionship along with legal implications of legalized cohabitation, legitimacy of children and mutual inheritance. Despite being a deeply entrenched institution in society, it has its own set of foundational wrongs such as the commodification of women, usage of marriage as a means to satiate proprietary greed, solidification of gender roles, condonation of sexual and reproductive violence and the list is a continuous one, leading to decisional conflicts of opting out of it. However, due to reasons such as education, growth in technology, financial independence of women and instrumental role of the Indian legal system, there has been a discernible shift towards approach to marriages in the society. These changes include greater autonomy in choosing life partners, breaking gender stereotypes, overcoming caste and religion-based taboos, conjugal relations before marriage, sologamy, heterosexual relationships, desire-based approach to procreation rather than pressure-based and decreasing reluctance to divorce in unhappy marriages. One of the prominent concepts that has gained popularity in recent times and is being talked about is that of self-respect marriages, especially due to the recent Supreme Court judgment in the case of Ilavarsan v. The Superintendent of Police. This research paper seeks to shed light on the concept by explaining self-respect marriages, tracing its development in India and attempting to analyze the said judgment. It further seeks to explore the desirability of self-respect marriages in the Indian context, highlighting their societal implications, individual empowerment, and potential challenges. It is an attempt to analyse whether the paradigm shift from traditional norms that these marriages purport to be are any yielding answers to the questions of personal choice, consent, compatibility, individual autonomy, freedom and whether they are reflective of the evolving congenial societal values.

Keywords: *Desirability, Self-Respect, Marriages, India.*

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I. INTRODUCTION

At the first instance, the term 'self-respect marriages' connotes marriages involving the sense of self-respect of each party for themselves, enough to defy socio-cultural pressures and respect for their personal choices so as not to succumb to these superficial pressures while making a personal choice as significant as marriage. They are premised on ideas of self-respect, mutuality, and equality.² However, there is a deeper story behind the term. It derives its nomenclature from a unique and progressive social movement in India, primarily associated with the southern state of Tamil Nadu known as the self-respect movement which has been discussed later in the research paper. These marriages derive their legal validity from Section 7-A of the Hindu Marriage Act, 1955.³ Self-respect marriages are simple marriages with a secular outlook performed with simplicity and without any elaborate religious ceremonies, by mere declarations of undertaking each other as equal life partners. These marriages are grounded in the principles of social justice, gender equality, and the promotion of individual self-respect.

II. HISTORICAL BACKDROP IN INDIA: SELF-RESPECT MARRIAGES AS A RESPONSE TO CASTEISM AND PATRIARCHY

India has a long history of a rigid caste system, which divided society into hierarchical groups with Brahmins (priests and scholars) at the top and Dalits (formerly referred to as "Untouchables") at the bottom. This system led to discrimination, social inequality, and the denial of basic human rights to lower-caste individuals. The late 19th and early 20th centuries saw the emergence of several social reform movements in India that aimed to challenge caste-based discrimination and promote social justice. The Self-Respect Movement was one such movement, and it was particularly active in the Tamil Nadu region. E.V. Ramasamy, or Periyar, was a prominent leader of the Self-Respect Movement. He advocated for the rights and dignity of lower-caste individuals and sought to eradicate social and religious practices that perpetuated discrimination.⁴ His movement emphasized self-respect, rationalism, and social equality.⁵

Within the Self-Respect Movement, the concept of "self-respect marriages" emerged as a symbol of defiance against the prevailing caste-based marriage system. Periyar believed that the traditional form of marriage depicted the Brahmins as supreme and the Sudhras as

² V. Geetha, *Periyar, Women and an Ethic of Citizenship*, 33 *JSTOR* WS9-WS15 (1998).

³ The Hindu Marriage Act, 1955 (Act 25 of 1955), s. 7A- Special provision regarding Suyammariyathai and Seerthiruththa marriages, added by Tamil Nadu Act 21 of 1967, sec. 2 (w.e.f. 20-1-1968).

⁴ MICHAEL BURGUNDER, *PERIYAR: A POLITICAL BIOGRAPHY OF EV RAMASWAMY* 56 (Oxford University Press) (2014).

⁵ NICHOLAR B. DERKS, *CASTE AND FAMILY: THE POLITICS OF 'JATI' IN CONTEMPORARY INDIA* 45 (University of California Press) (2001).

subordinates, unnecessarily placing the former on a high pedestal which led to the need for reform in the marriage system and hence, the concept of self-respect marriages. These marriages were based on the notion that the members of the socially backward classes needed to respect themselves and conduct their marriages without regard to caste or religious restrictions. In a self-respect marriage, the couple typically rejected traditional Hindu rituals and ceremonies, which often reinforced caste divisions. Self-respect marriages challenged the established social order and caste-based norms. They were seen as a way for individuals from lower castes to assert their dignity and equality.

Periyar emphasized that the Brahmanical society was responsible for the oppression of women and their condition in society. He believed that marriage was an institution designed by the Brahmanical superiors in order to cage women and reinstate ownership over them, that marriage was just a way to subjugate a woman as a man's property, to satiate sexual desire and have progeny. Thus, he spoke against the usage of women's bodies and expressed how love should be the only basis of marriage. Periyar and his followers believed that these marriages symbolized a break from oppressive traditions and a step toward a more egalitarian society. Over time, the efforts of social reform movements, including the Self-Respect Movement, contributed to significant legal reforms aimed at abolishing untouchability, caste-based discrimination, and promoting social equality.⁶

III. CASE ANALYSIS- IRAVAN V. SUPERINTENDENT OF POLICE⁷

Facts of the Case- The case arose out of a habeas corpus petition filed by the petitioner to direct the respondents to produce his wife, a marriage to whom was solemnized by him in the form of self-respect marriage in the presence of advocates and other social workers under Section 7-A of the Hindu Marriage Act, 1955. The petition alleged that the alleged wife had been forcibly taken away from him and had been forced to marry her maternal uncle. Hence, the petition was preferred in the Madras High Court from where it was dismissed⁸ and hence, the petitioner filed an appeal concerning the same in the Hon'ble Supreme Court.

Decision of the Madras High Court- The court dismissed the petition filed before it by following the judgment in the case of *S. Balakrishnan Pandiyan v Inspector of Police*⁹ where, in a similar habeas corpus petition filed by a man, it was held that the intent behind self-respect marriages was never to solemnise them in secrecy. The court had further held in the

⁶ RAVINDER KAUR, MARRIAGE, MIGRATION AND GENDER 96 (Sage Publications India Pvt Ltd) (2005).

⁷ *Supra* note 2.

⁸ Following the judgment in "S. Balakrishnan Pandiyan v Inspector of Police 2014 (7) Mad LJ 651."

⁹ Para 41(A) of the judgment.

Balakrishnan judgment that public declaration of these marriages was necessary in order for them to be legal. So, in the present case, since the marriage was solemnised in front of advocates only and there was no public declaration about the same, the marriage was held not valid.

Decision of the Supreme Court- Aggrieved by the decision of the High Court, the petitioner preferred an appeal before the Supreme Court. The Supreme Court held the decision to be erroneous and explained that-

1. Public declaration of self-respect marriages was not necessary as many couples are suppressed under parental pressure and public declaration may harm their safety. Also, it is against Article 21 of the constitution as it violates the right to choose life partners.
2. The advocates cannot solemnise these marriages in their professional capacities but can be witnesses to such marriages in their personal capacities.
3. The registration of these marriages is mandatory.

IV. DESIRABILITY OF SELF-RESPECT MARRIAGES: CALL FOR AUGMENTATION IN CONVENTIONAL MARRIAGE SYSTEM

The traditional Indian marriage system is a complex and culturally rich institution that has been practiced for centuries and continues to be a significant part of Indian society. It varies across different regions, religions, and communities in India, but there are some common elements and characteristics often associated with traditional Indian marriages. The diverse marriage systems in India are usually sacramental in nature, owing to people's deep faith in religious values and their implications. Although the traditional marriage system can be appreciated for the rich values they embody and the culture they maintain, it is becoming increasingly clear that they have their own set of drawbacks in the name of 'values' that are hardly sustainable in the modern world, where autonomy and personal integrity should carry more weight than parental and societal expectations.

Arranged marriages are a prevalent feature of traditional Indian matrimony, where families assume a central role in selecting suitable partners for their children. Family members, especially parents, not only wield a significant influence in the selection of the bride and groom but often have the final say.¹⁰ The criteria for such unions typically include financial standing, physical appearances, caste, religion, social status, and horoscopes. Compatibility in terms of love and personal interests is seldom considered. However, with urbanization, education,

¹⁰ C. THANGAMATHU, SELF RESPECT MOVEMENT IN SOUTH INDIA: PROBLEMS AND PROSPECT 123 (South Asia Publishers) (2003).

exposure to Western culture, and economic independence, there has been a shift in the social landscape of India. Individuals increasingly value their individuality¹¹ and the freedom to make life choices, including selecting their own life partners¹². They seek companionship, emotional compatibility, and shared values in their relationships.¹³ While it is desirable to have the autonomy to choose a life partner, this remains an elusive dream for many in the less progressive sections of society, often under the guise of 'family honor.' Regrettably, we are well aware that honour killings still occur in many regions of the country.¹⁴ In a nation where young sons and daughters are sometimes killed for wanting to marry the person of their choice, self-respect marriages conducted in secrecy become highly desirable.

Another prominent feature in Indian families is the phenomenon of 'big fat Indian weddings,' characterized by extravagant displays of wealth, excessive spending, and grandiose celebrations. These opulent weddings have faced criticism for their food and resource wastage, the heavy debts incurred in the name of celebration, and the pursuit of social status. Youngsters have come to realize that the resources squandered on lavish feasts, entertaining unwanted guests, and ostentation should instead be invested in securing a brighter future for the couple. While one section of society embraces this perspective, others continue to drain their finances, even when it exceeds their budgets.

Dowry, the practice of bestowing gifts, cash, and assets upon the groom's family by the bride's family, has been a contentious issue in India for a long time. It transforms marriage into a commercial transaction involving both the bride and the groom. Self-respect marriages, in a way, could contribute to the reduction of the dowry system and associated dowry-related deaths.

The concept of 'kanyadaan,' which signifies the giving away of the daughter by the father of the bride to the groom, has always been a subject of debate among feminist groups. It is argued that this tradition equates a woman to 'movable property,' transitioning from the custody of the father to that of the husband. The implication of transferring custody of a woman is inherently controversial. Women are self-sufficient individuals and do not require protection from their fathers or husbands. Self-respect marriages operate on the principle that men and women are equals, and marriage is a bond based on love and companionship, rather than one of protection and the transfer of female custody.

¹¹ ANDRE BETEILLE, *CASTE, CLASS AND GENDER: CHANGING IMBALANCES IN SOUTH INDIA* (Oxford University Press) (2012)

¹² RAVINDER KAUR, *MARRIAGE, MIGRATION AND GENDER* 96 (Sage Publications India Pvt Ltd) (2005).

¹³ A. B. Shah, *Self-Respect Movement in Tamil Nadu: Ideology and Impact*, 34 *Sociol. Bull.* (1985).

¹⁴ M. P. Sivagnanam, 16 *Periyar's Self-Respect Movement: A Historical Perspective*, *Soc. Sci.*, Volume: 16, (1988).

Self-respect marriages have had a significant impact on challenging traditional caste-based norms and practices in Indian society. They emphasize the rejection of caste and religious barriers in marriage. Couples who opt for self-respect marriages are encouraged to disregard their caste identities and religious affiliations. This practice challenges the deeply ingrained caste hierarchies in India.¹⁵ They are known for their simplicity. They often involve minimalistic ceremonies, focusing on the union of two individuals rather than elaborate rituals. This simplicity is seen as a rejection of ostentatious and expensive weddings, which can perpetuate social inequalities. These marriages emphasize gender equality and women's rights. Women are encouraged to assert their autonomy and are treated as equal partners in the marriage. This stands in contrast to many traditional Indian marriages where women often face discrimination and unequal treatment. Self-respect marriages are secular in nature, reflecting the ideals of a secular society where religion is a personal choice, not a determinant of one's life choices. Beyond just being a form of marriage, self-respect marriages are a symbol of broader social reform efforts. They challenge oppressive practices and encourage individuals to think critically about the prevailing norms in society.¹⁶

V. CONCLUSION

Marriage should be based on solely love rather than fragile social expectations. The desirability of self-respect marriages in India is a reflection of changing societal norms and evolving attitudes towards personal autonomy, individual happiness, emotional fulfilment and most importantly, gender and social equality. These marriages provide individuals with the freedom to based their marriages on love, compatibility, and shared values, rather than solely adhering to traditional norms which in some way or the other represent patriarchy and the stark caste sytem in India. While self-respect marriages have their own set of challenges, including societal and familial opposition and even isolation in some cases, they represent an important step towards growth and improvement in much rooted social evils in thew society. The desirability of self-respect marriages is not only about personal happiness but also about promoting principles of equality, freedom, and personal agency in the context of a diverse and dynamic society like India. As the country continues to evolve culturally and socially, self-respect marriages play a significant role in shaping the future of Indian marriages and relationships. However, at present the legal recognition of these marriages is only valid in Tamil Nadu. In the

¹⁵ T. THIRUMAVALAN, SELF-RESPECT MARRIAGE: FROM TRADITIONAL TO COMPANIONSHIP 89 (Navayana Publishing), (2018).

¹⁶ HIMANI SHARMA, THE POLITICS OF MARRIAGE IN CONTEMPORARY INDIA 67 (Oxford University Press), (2019).

light of the discussed aspects we can aspire that they may have a wider scope territorially. However, it needs to be noted that couples outside the state who cannot legally resort to self-respect marriages, owing to the territorial limitation, always have the option of solemnising marriages under Special Marriage Act, which is an equally impressive institution. Ultimately, the desirability of self-respect marriages in India reflects the broader trend towards greater individual empowerment and self-determination in matters of the heart and personal life.
