



The Anuloma & Pratiloma marriage: A Socio-Legal Study

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Abstract:

The Hindu castes and sub-castes are strictly endogamous. In traditional Indian society, the members of each caste and sub-caste were to marry within their own endogamous group. Inter-caste marriage i.e., the union of a man and a woman belonging to two different castes was inconceivable till recent times. However, marriages between individuals of different castes have probably occurred in India throughout history. This type of marriage existed in ancient India in the form of 'Anuloma' and 'Pratiloma'.

The marriages between men of higher Varna or caste and women of lower Varna or caste are called Anuloma. Such marriages while not common were sanctioned. The society allowed Anuloma (hypergamous) marriages under certain social circumstances. Marriage between male of lower Varna or caste and a female of higher Varna or caste is called Pratiloma marriage. The Pratiloma marriage was strongly condemned and discouraged by all the earlier Hindu law givers. Regarding the rules of endogamy, marked changes have taken place. The rates of inter-caste marriages are increasing day by day. Due to various factors such as secularisation, urbanization, industrialization, and education etc. people are changing their attitude towards inter-caste marriage and they are becoming tolerant of inter-caste marriage. A number of Acts have been passed to facilitate inter-caste marriage.

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I. Introduction:

Anuloma and **pratiloma** marriage, as a rule of marriage is an inseparable part of the hindu caste system. The rule of anuloma and pratiloma marriages has greater significance for the caste structure of Hindu society than for the marriage pattern of the Hindus.

Anuloma Marriage in Hinduism refers to the **hypergamy** form of marriage. During the Vedic Age inter-class marriages used to take place in the form of Anuloma marriage. Anuloma marriage is a social practice according to which a boy from upper varna / caste / class can marry a girl from lower Varna / caste / class. Anuloma marriage was recommended by the ancient Hindu law writers for the first three varnas or classes of the then society namely, the Brahmins; the Kshatriyas; and the Vaishyas. According to the Dharmashastrakararas, a girl should marry in her own varna, failing which she may marry one in any of the higher Varna. In the Rig Vedic period, the priests who performed Yajnas [sacrifices] arranged by the kings, married Kshatriya girls offered to them as 'dakshina' or fees for their services. Anuloma marriage was normally associated with Hindu polygamy. The association of Anuloma marriage with polygamy led to the ugly practice of dowry. Some young men in India used to marry several girls in order to amass huge sum of money through dowry. The urgency to find out a bridegroom of equal strata or even higher strata also contributed to the practice of child marriages. Educated Indians are critical of the institution of hypergamy, and especially, of the large dowries associated with it. There is enough evidence in ancient Indian literature to show that hypergamy was an accepted form of marriage. The Brahmins were allowed to marry women of all other lower Varnas including Sudras. In the Mahabharata, we come across several instances of inter-caste marriages of this type. For example, Santanu married Ganga and later Satyabati, both were from outside his own caste. In 160 B.C., Agnimitra, a Brahmin king, married a Kshatriya princess Malavika. Hypergamy means 'marrying up' and hence is practised in a. Society arranged hierarchically. It has been accepted as the social ideal of Brahminic culture. With the growth of

the endogamous character of caste and prestige determined by social hierarchy, hypergamy has become a more widely pattern of marriage. "It is known to exist, as says Kapadia, among Brahmin castes such as Kulin, Audich, Khedival and Anavils, and among non-Brahmin groups such as Marathas, Rajputs, Leva-Patidars of Gujarat and Nambudri Brahmins of Malabar.

Pratiloma refers to the **Hypogamy** form of Marriage. Pratiloma is a type of marital practice in which a man of lower class / caste / varna marries a girl of higher class / caste / varna. Such cases of Shudra-Aryan connections are also recorded in the Vedic texts. Some Dharmashastrakaras had even permitted the practice of 'pratiloma' while many condemned it. By the time of Dharmashastras, greater disapproval was shown towards this practice. Even here, the marriage of Brahmin / Kshatriya / Vaishya girl with Shudra boy was more despised with, than the marriage of a Brahmin girl with a Kshatriya / Vaishya boy.

In 1949, the Hindu Marriages Validity Act was passed which declares, no marriage between' Hindus shall be deemed to be invalid or ever to have been invalid by reason only of the fact that parties thereto belonged to different religions, castes, sub-castes or sects. The Special Marriages Act, 1954 has enabled marriages between caste and religions. The inter-caste marriages have been legalised by Hindu Marriage Act, 1955. Although there is no general approval of inter-caste marriages and these marriages have not become common in Hindu society, the number of inter-caste marriages is increasing. A significant change in this regard appears to be a general weakening of the barriers existing between the sub-castes of a caste.

Of the two types of marital practices, 'anuloma' and 'pratiloma', anuloma marriage was considered preferable to pratiloma marriage. Pratiloma marriage was very much discouraged and even condemned. Marriage of a girl of higher caste with a boy of lower caste faced more resistance in the society. Shastrakara Manu was of the opinion that the progeny of the most hated pratiloma would become 'chandalas' or 'untouchables.' In the Chandukya Upanishad and also in the 'Buddhist Jatakas' we find vast references to Chandalas. In fact, the origin of the practice of untouchability is to be seen in the practice of pratiloma marriage.

Historical Perspective:

The origination of caste system seems to be in the intermarriages of four Varnas. There were in all eight combinations: two basic and six derived. All writers of Dharmashastra state that there were four Varnas arranged in a descending scale of social status and that marriage between a male of higher Varna with a female of lower Varna was permissible. The union between a male of lower Varna with a female of higher Varna was reprehensible and not permitted. Though latter marriages were not permitted, they did take place even during the rule of Dharmashastras and Dharmasutras.

It means, in the beginning, among Varnas two basic combinations were prevalent: Anuloma and Pratiloma.

(1) Anuloma unions - When male of a higher Varna married a female of lower Varna, the offspring was known as belonging to Anuloma union bearing status different from the parents. The offspring of a union between Brahmin and Kshatriya female was known as Murdhavasikta. Anbashtha was the name of the p offspring of Brahmin and Vaishya female. The offspring of a union between Brahmin and Shudra female was known as Nishada Q or Parasava, Mahishya was the offspring of a union between Kshatriya male and Vaishya female. The offspring of a union between a Kshatriya and a Shudra female was known as Ugra. Karana was the last Anuloma offspring of a union between Vaish' male and Shudra female.

(2) Pratiloma unions - This is the second type of basic marriage combination where a male from the lower Varna married a female of higher Varna, There were in all six castes arisin< out of Pratiloma combinations. The offspring of a union between Shudra and Vaishya female was known as Ayogava, Kshawas a name ascribed to an offspring of a union between Shudra and a Kshatriya female. When Shudra married a Brahmin female their offspring was known as Chandala, The offspring of a union between Vaishya and a Kshatriya female was known as Magadha, Vaideha was the offspring of a union between Vaish' and a Brahmin female. The offspring of a union between Kshatriya and a Brahmin female was known as Suta.

Anuloma and Pratiloma marriages resulted in twelve basic castes. Here trend of varied unionship did not cease; but it continued with multifarious unions. These various unions may be called as derived combinations or unions from the two basic ones: Anuloma and Pratiloma. We may enumerate them as follows:

(3) Marriage between an offspring of a Anuloma union and an individual belonging to any one of the four basic Varnas:

For example, Abhira is the name attributed to the child of the union of a Brahmin with an Ambashtha girl. Pukkasa was the offspring of a Nishada with a Shudra girl, Avrut is the offspring of a union between Brahmin with Ugra female. Kukkutaka was the offspring of Shudra with Nishada girl. Here Ambashtha, Nishada and Ugra are Anuloma offsprings.

(4) Marriage between an offspring of a Pratiloma union and an individual belonging to any one of the four principal Varnas:

For example, the offspring of a union between Brahmin and Ayogava female is called Dhigvana. The offspring of Pulkasa with Brahmin female is called Rajaka. The offspring of a Suta with a Brahmin female is known as

Venuka. The offspring between Vaideha and Shudra female was called Aghasika. Ayogava, Pulkasa, Suta and Vaideha all are the offsprings of Pratiloma union.

(5) Marriages amongst Anulomas:

The Offspring of a union between Mahishya and a Karan female was called Rathakara,

(6) Marriages amongst Pratilomas:

The offspring of a Chandala with a Vaideha female was called Pandusopaka, Likewise the offspring of a Vaideha with Ayogava female was known as Maitreya.

(7) Marriages among males born of Anuloma union and female born of Pratiloma union: The offspring called Margava is from the union between Nishada and Ayogava female.

The offspring between Nishad and Vaideha female was called Ahindaka.

(8) Marriages among males born of a Pratiloma union and females born of Anuloma union:

The union between Kshatr and Ugra female gave birth to an offspring called Shwapaka. Vena was the offspring of union between Vaideha and Arabashtha female. The offspring of a Vaideha with a Nishada female was called Meda; and the offspring of a Chandala with a Nishada female was called Antyavasayina, In this combination Kshatr, Vaideha and Chandala are the male offsprings of Pratiloma union.

Thus various doubly, sometimes even triply, mixed marriages took place; and in each case, it resulted in separate caste having specified status. Today we see that, because of such marriages, each of the principal Varnas had been gradually divided into various castes and sub-castes. Difference of country, occupation, sect, and such other factors helped these multiple divisions. Now man is known, like other things, by his caste because caste is determined by birth.

There are certain salient features of the present Indian caste system. Without going into details, mention may be made only of those concerning the marriage. Like Varna system, the present caste system has still maintained the social hierarchy, the Brahmins being at the top of the social ladder. Rules of endogamy and exogamy are very important. Endogamous castes are those where marriages are to be contracted within the caste members. So far as marriage is concerned each subcaste may be regarded as a unit because even today, excepting Brahmins, subcastes of the other major castes do not contract marriages among each other. Exogamous castes are those where the marriage is to be contracted with the individual not belonging to one's own caste. Besides this there is Sagotra and Sapinda exogamy. Sapinda relationship, in fact, dictates the prohibited degrees of relationship, Sagotra exogamy means two individuals of the same Gotra, though they belong to the same caste, cannot contract the marriage with each other.

It will not be impertinent if we refer to caste systems as existed in other countries in ancient times. Actually these foreign caste systems were analogous to our Varna system as the number of divisions of society did not exceed four or five.

In ancient Egypt the society was divided into three classes, viz., first, the priests; second, the warriors; and third, the agriculturists, the merchants and mariners. The Of. Lowest caste was that of shepherd According to Taylor, the Egyptians might have derived their system of civilization from the Hindus and there are doubtless many striking analogies between the institutions of both nations. Initially, as during the Varna system in India, there were no restrictions on marriages among these castes. But by the time of Ptolemies these castes adopted the hereditary characteristics, i.e., a son of a priest could become only a priest, of a warrior only a warrior; and resultantly, there were restrictions on marriages.

Like Varna system, the earlier Iranian civilization, i.e., before 700 B.C., was divided into priests, warriors, husbandmen and artisans. By Sassanian period, these classes had adopted hereditary characteristics; and, there were no bars for the marriages between individuals belonging to different castes. In the later period restrictions were imposed on intermarriages.

Legal sanctions to intercaste marriages through ages:

Since the period of Aryan invasion in India through the era of Dharmashastras and Dharmasutras to the present age, the concept of marriage, as related to Varna and caste, changed from time to time. We can conveniently divide the ages into two: first, the period when marriage was not related to Varna and caste. This may be called as caste-free age. Secondly, since the time of Dharmashastras and Dharmasutras, when the marriage was strictly related to Varna and caste; and this period may be called as caste-bound age. The rules regarding marriage during British India were almost the same as they prevailed during the period of Dharmashastras and Dharmasutras. During the post-independent era some legal sanctions were introduced to weaken the bonds between caste and marriage. Discussion of the legal aspects of the intercaste-marriages as they were in practice from age to age is highly essential in order to understand fully the present status of such marriages.

Pre-Vedic period

We do not find specific customs followed in the Aryan marriages in its earliest form. Before the composition of Vedas marriage institution as such had not taken its roots. Regarding this age there are clear statements in the Mahabharata which read that women could establish sex relations with anyone they liked and wished. One passage from the Mahabharata is of importance in this context. King Pandu was prohibited by a curse to consort with his wives. When he desired for sons, he requested Kunti, his wife, to have sex relations with another man. He elucidated the ancient matrimonial customs of the Aryans and lectured his wife as follows:

"I shall now tell thee the practice of old, indicated by illustrious sages fully acquainted with every rule of morality. Women, in the olden days, were not immured within their homes, nor were they dependent on their husbands and male relatives. They went about freely enjoying themselves. They did not then confine themselves to their husbands, and yet they were not considered sinful; for that was the sanctioned custom of the age. "

This ancient usage was altered by two sages named Swetketu and Dirghataraas. By Swetketu's time marriage and family institutions were well established. Once Swetketu found his mother being led to bed chamber by a guest, he immediately protested against this old practice. In spite of the sermon given by the father that the practice was lawful for his clan, Swetketu objected to it strongly and legislated thus:

"One man can make to one woman only if a woman is unfaithful to her husband, from today onwards, it will be a sin, equivalent to the killing of a foetus, bringing unhappiness to her."

The Mahabharata refers to an age in which inter-racial marriages were common. Astika, the sage, who is highly recognized and worshipped amongst Aryans, was the son of Jaratkam from Naga princess, sister of renowned Vasuki Savitri, who is an exemplar of pativratyam among Aryans, belonged to Daitya Shibi dynasty. Her husband, Satyavana, who belonged to Shalva dynasty, was Danava. Thus it was inter-racial marriage. The marriage of Yayati and Devayani is an instance of pratiloma marriage. Yayati's first wife was Sharmishtha. It was only an inter-racial union because no regular marriage as such was performed. Mahabharata points out the hesitation of Yayati, while accepting Devayani as his wife, as he thought that contracting pratiloma marriage amounted to sinful act. But Shukracharya, the father of Devayani, intervened and told that he would free him from that sin. Inter-racial marriages were practised in order to propagate the Aryan culture, Aryans, wherever it was possible, established blood contacts and tried to bring Anaryas under the fold of Aryan culture.

Vedic and post-Vedic period

At the time of Rig-Veda four Varnas were recognized but rules regarding intermarriage were not so well established. In the Rig-Veda itself we get the reference of the Brahmin sage Svavasva who married the Kshatriya daughter of Rathaviti Darbhya. Another reference is from Satapatha Brahmana which tells that the sage named Syavana, descendent of Bhrgu, married a daughter of king Saryata. In the same Brahman we find a king who was allowed to marry Vaishya woman with the condition that the son born of the union would not be entitled to the Vedic coronation ceremony. The renowned Avikshita Marutta described in Aitareya Brahman was Ayogava, a pratiloma off7 -spring.

Inter-racial and inter-caste marriages, polyandry and polygamy all had sanction of the Mahabharata, Here we find number of incidences of intercaste marriages. Shantanu, the progenitor of Kuru-Pandava, married Matsya Gandhi or Satyavati, a fisher-woman, and the lunar line descended through her son Vichitravirya, Yuyutsu, an anuloma offspring called Karana, was born of a union between Dhritarashtra and Vaishya female. When Pandavas were wandering in the forest Rakshasa lady Hidimba met Bhim; and taken by his size and looks she begged him to marry her. He married and stayed with her till the son named Ghatotkacha was born. Arjuna had a similar adventure with a Naga lady Ulupi by name, and lived in her home for some time. Lord Krishna himself had married Jambuvati who was non- -aryan. Besides this, His marriage with women freed from Banasura's prison is well known, Further, Lord Krishna's grandson Aniruddha married the daughter of the Asura king Bana, To realize this marriage war took place as Asuras did not approve of this inter-racial union. And above all, Lomharshana, composer of Mahabharata was Suta, pratiloma offspring boom of a union between Kshatriya male and Brahmin female.

Puranic Period

Puranas were written in between 300 to 800 A.D.; and even during this period calculable intercaste marriages took place. That was the period when Gupta dynasty was flourishing. During the regime of Chandragupta Maurya, first, Kautilya ordained that a girl, who remained unmarried for three years after her first menses, could marry a man even outside her caste at her own choice as her father had failed in his duty p towards her. Shri Kane has enumerated number of such marriages in his work entitled "History of Dharmashastra Vol.II, Chapt.IX. Most of the quoted intercaste marriages belong to Puranic period. Samudragupta, Napoleon of India, was born of intercaste union. Varna of the Gupta dynasty was Vaishya. The daughter of Chandragupta, second, was the queen of King Rudrasena, who was Brahmin. Kadamba King

Kakutsa Varma arranged marriages of his daughters with Gupta (Vaishya) and Kshatriya princes. One of the ministers of Vakataka King, Rudrasena, was Hastibhoj by name (Brahmin) whose one of the forefathers had contracted marriages with Kshatriya women. Avanti Sundari, wife of an eminent Sanskrit poet named Rajshekhar (Brahmin) was Kshatriya. The King of Vijaya nagar, Bukka first, had given his daughter named Virupadevi to Vodeya Brahmin, Harish Chandra, the founder of Pratihara dynasty and who was Brahmin, had a Kshatriya wife. One of the progenies of Guhadatta, the founder of Guhil dynasty, named Bhartupatta had married a Kshatriya girl belonging to Rashtrakuta dynasty. Agnimitra, son of Senapati Pushyamitra Shunga, married Malvika who was Kshatriya, Step mother of Bana, writer of 'Kadambari', was Shudra. King Harshavardhana, who was Vaishya, had given his daughter to Valabhi King named Dhruvabhata who was Kshatriya, Harshavar-dhana's sister, Rajyashri, was the queen of king Grihavarma of Kanoja who was Kshatriya, The famous Yashakarna of Kalchuri dynasty was born of a union between Karnadev (Aryan) and Huna princess.

Dharmashastra and thenceforth period

Intercaste marriages had legal sanctions upto 9th or 10th century, A.D. The legal privileges enjoyed by such progeny were largely curtailed during this period. With the dawn of Dharmashastras and Dharmasutras, authorization to such marriages had undergone various changes. Most of the law-givers had sanctioned anuloma marriages and reprehended pratiloma ones. They prescribed that a person should by preference marry a girl of his own Varna; but also allowed the marriage of a person with a girl of another Varna lower than his own. Though anuloma marriages were sanctioned legally, we do not find the unanimity among the law-givers regarding the status of the progeny of such unions. Three different views were prevalent. The first view, advanced by Baudhayana, was that the progeny belonged to the Varna of the father provided the latter had married a female of the Varna immediately after his. Thus the son of a Brahmin from a wife of the Kshatriya Varna was considered as Brahmin. Narada and Kautilya were of the same opinion. Gautam differs slightly and states that the offspring of a Brahmin from a Kshatriya wife only be called as Savarna, but not the offspring of Kshatriya male from a Vaishya wife or of a Vaishya male from Shudra wife. The second view was that the progeny of an anuloma unions was in status lower than the father, but higher than the mother. The third view was that the status of the progeny of anuloma unions, regarding its privileges and obligations, should be considered the same as that of the mother's.

Permissibility of Samskaras:

So far the samskaras of mixed progeny were concerned, law-givers had stated their views in clear terms, Manu states that the six anuloma castes are entitled to the rites like Upanayana, which is meant for Dvijas; but pratiloma castes, being like Shudras, could not have Upanayana and such other rites performed for regenerates. Kautilya had also stated that all pratiloma offsprings except Chandalas were like Shudras. Kulluka, commentator on Manu expressly stated that no marriage was legally possible between a woman of a higher Varna and a male of a lower Varna; and hence, all pratilomas should be considered as born outside lawful wedlock, Gautam referred pratilomas as Dharmahina. Mitakshara, conunentpty on Yajnavalkya, interpreted it that they could not have Upanayana and similar samskaras of twice-borns performed for them. Vasishtha and Baudhayana are silent on this point.

Sanction even to anuloma marriages involved prohibition to certain matrimonial samskaras. Vishnu legislated that the ceremony of Panigrahana was to be performed only with the wife of his own caste. Panigrahana symbolizes the solemn contract by which the wife becomes the Dharmapatni or equal partner of the husband. So it seems quite clear that though intercaste marriages were allowed they were surely not approved of and the wives of lower castes did not hold the same dignified position as the wives of the same caste. Vishnu had stated that religious merit could not be produced with the union of a twiceborn with a Shudra wife because such marriages took place only out of lust. He further added that those who married women of lower caste degraded their families and progeny to the status of Shudras. He had also ordained that the Gods, manes and guests should not eat the offering from the hands of such a wife and proclaimed that her husband would not go to heaven, Vasishtha allowed the Brahmin to marry even a Shudra wife with a condition that recitation of sacred texts should not be there. He prohibited recitation because, according to him, it leads to the degradation of his family, and after death, the loss of heaven.

Standings of wives of different Varnas:

Law-givers had given in detail the standings of various wives, if a man married more than one woman. Vishnu had ruled that if all the wives were of the same caste, then, the wife whose marriage took place first was to be associated with the husband in all religious acts. If a man had wives of different Varnas, the wife of the same Varna had precedence, though her marriage ought have been later in date. If the person had no wife of the same Varna as himself, he was allowed to associate with himself in religious rites even a wife of the Varna

immediately next to his own; but in no case he was permitted to associate with Shudra wife in religious ceremonies. A woman belonging to the dark Varna (i.e. Shudra) was meant only for pleasure and not for performance of religious rites. Vishvarupa commenting on Yajnavalkya remarked that though the eldest wife alone was entitled to take part in religious rites, all wives, except Shudra wife, may be cremated with Shrauta fire. According to Trikanamandana there were three views prevalent when a person had several wives. First view was that all should be associated with him in religious rites; the second was that only the eldest wife of the same Varna should be associated; and the third was that husband should never associate with himself a wife whom he married for pleasure after he kindled the sacred fires. Though Yajnavalkya had sanctioned the marriage between Brahmin and Shudra woman, he discouraged and disapproved the same because he maintained that man was born himself in his son. Manu laid down that the wife of the same caste with the husband should always have precedence not only in the obligatory religious rites, but also in ministering the physical comfort of the husband. He further added that if a Brahmin husband had these things from a wife of another caste when the wife of the same caste was near, he reduced his status to a Chandala.'

Avocations of Intercaste progeny:

Law-givers had directed specific avocations to be followed by anuloma and pratiloma offsprings. Murdhavasikta had to subsist by studying medicine or the science of ghosts or astronomy, astrology and mathematics. For Ambashtha, Manu prescribed the profession of medicine, while Ushana stated that he would subsist by agriculture. According to Narada Nishada could subsist by fishing. Parashava could earn his livelihood by worshipping the goddess Bhadrakali or by playing on musical instruments. According to Manu, Ugra had to subsist by catching and killing animals that hide in holes; while Ushanas directed him to become a staff-bearer of the king and would carry out the punishments inflicted on offenders. The avocation for Rathakar was to learn the art of taming horses, of making chariots and building houses. According to Manu the avocation of Sutas was driving a chariot, i.e., breaking and yoking horses. Vaikhanas stated that Suta made his livelihood by reminding the king of his duties and by cooking food for him, Vaidehaka, according to Ushanas, had to tend goats, cows and buffaloes and to sell milk, curd, butter-milk and ghee. Manu assigned Vaidehaka a work of protecting harem. For Magadha, Manu prescribed trade by land routes. The avocation of Ayogava was to pare wood, while Ushanas stated that he would subsist by making vessels of bronze or by cultivating paddy or by dealing in cloth. The calling of Karana was to sing the praises of kings and Brahmanas and study the science of erotics. The avocation of Kshatr was the same as mentioned above for Ugra. Dhigvana had to subsist by working on hide. Chandalas were not to enter towns and villages at night; they had to carry the corpses of persons who had no relatives; they were to be hanged when the king so ordered. They could take the clothes, ornaments and beds of persons that were to be hanged,

Inheritance of mixed progeny:

Manu ruled that if a person had wives of different castes, then, the son of the wife of his own caste was the eldest (though born later) and the son of a wife of a lower caste though born first would be postponed. The position of the eldest son was a privileged one. He could take the entire paternal estate provided the other sons should depend for their maintenance on the eldest son as on the father. Manu further remarked that the eldest by the mere fact of his birth enables the father to free himself from the debt to the ancestors; and that, therefore, he 37 deserves to get from the father the entire estate. Regarding the succession of the property left by the father, Manu was specific and ruled that - If a Brahmin had sons from wives of the four Varnas, the division of the property should be as follows: First, whole property should be divided into ten parts, then, four parts for the son of the wife of the Brahmin caste, three for the son of the Kshatriya caste wife, two for the son of the Vaishya caste wife and one for the son of the Shudra caste wife, Manu further stated that whether Brahmin left sons or no sons born of wives of the three twice-born Varnas, the heir shall give, according to the law, to the son of a Shudra wife no more than a tenth part of his estate, Mitakshara commenting on Yajnavalkya stated that the son of a Brahmin from a wife other than his own caste was not entitled to share in land obtained by the Brahmin by way of gift, though he could share land acquired by purchase or the like. The Parashava, an anuloma offspring, could inherit one-third of his father's estate and the nearest sapinda the remaining two-thirds. The sons of pratiloma unions were considered like the sons of a Brahmin from a Shudra woman, i.e., they were entitled to maintenance from their father, though pratiloma unions were condemned. The son of a woman united with a man in the reverse order of castes was forbidden to inherit ancestral estate; the approved view was that he should be given food and raiment till his death by kinsmen.

Son born to a woman of a lower Varna than husband's and married in a wrong order was a loctser in inheritance. Such a son was designated as "Akramodhasutah". For example, if a Brahmin married a girl of the Kshatriya caste first and then a Brahmin girl, in such a case both girls would become Akramodha (married in the wrong order). The sons born to these women were known as Akramodhasutas. So far the inheritance was

concerned, the son of the Kshatriya girl from the Brahmin would not be entitled to a share of his father's estate; but the son of the Brahmin wives would precede and take the wealth.

The position of inter-caste marriages in British India

The position of intercaste marriages in British India was the same as it was during the period of Dharmashastras and Dharmasutras. Before the establishment of the British Courts of Law, caste panchayats settled the matters relating to caste offences in accordance to the principles laid down in Dharmashastras. Even the courts of law had recognized the sovereignty of caste panchayats and generally did not interfere in its jurisdiction. In *Ratansey Virji vs. Meghji Hirji* and others it was held that the caste as a whole undoubtedly had an inherent jurisdiction to inquire into caste offences; but if the inquiry was not done with the rules of natural justice, aggrieved party might approach the court of law.

The views of the law-givers like Manu, Yajnavalkya and others were upheld and thought to be the guiding lines while settling-the cases in a court of law. For all practical purposes, the commentary known as *Mitakshara*, written on the code of Yajnavalkya by a South Indian Brahmin named *Vijnaneshvara* who lived in the twelfth century, was since then, the basis of Hindu law practically in the whole of India except Bengal, where *Daya Bhaga* of *Jimuta Vahana*, another commentary was followed. Besides these two, another commentary known as *Vyavahar Mayukha*, the paramount authority in Guzerat, written by *Nilakantha*, was also consulted wherever it was necessary,

In *Natha Vs. Chotalal* it was held that the son of a Brahmin from a Shudra wife was entitled to inherit 1/10th share in the estate of his father as well as of his uncle and that he could not get more than 1/10th as Manu expressly laid down so. Some controversy arose regarding this decision as the case was from Guzerath where *Vyavahar Mayukha* was the authority, which was not consulted. *Vyavahar Mayukha* expressly stated that in the Kali-age all secondary sons except *Dattaka* were prohibited to inherit the property of the father. All the sons except the *Aurasa* were declared by Manu to be substitutes for the *Aurasa*, i.e., as secondary sons and *Mayukha* distinctly said that all secondary sons except *Dattaka* were forbidden in the present age. Hence the son of a Brahmin from a Shudra woman, it was argued, should not be recognized as a son, as *Mayukha* expressly said so; and could not inherit the property.

Panigrahana samskar, i.e., holding of the hand of the bride, had been recommended by Manu only for marriages contracted between the individuals of the same Varna. He further stated that if the wife was of the lower caste, instead of *Panigrahana* certain other things, depending on the caste, like dagger or sword should be used. So Manu was definite on this point and had not mentioned the use of *Katar*. In *Divan Ramsaran Singh vs. Thakur Mahabir Sevak Singh* the question arose as to whether *Katar* marriage was a valid one. *Katar* marriage was held to be invalid. To denote the inferiority of the caste, bride was marrying not to the man but with the sword or dagger sent by him. In *Maharaja of Kolhapur vs. Sundaram Ayyar* a reference was made of the practice followed by *Tanjore Rajas* who used to send the sword for marriage to denote the inferior caste of the bride. *Katar* marriage was not held valid because the custom was either of sword or dagger.

The extent of validity of the *Sagotra* marriage was decided in *Sri Krishen and others Vs. Sham Sunder*. In this case their Lordships ruled that the *Gotras* of the Brahmins should be regarded as being the various branches descended from the different *Rishis*. So in this case *Gotras* establish blood relationship among the descendants of the particular *Gotra*, The *Gotra* of the *Kshatriyas* and *Vaishyas* was the *Gotra* of the family *Purohit*, and nothing more. So it does not establish the blood relationship among the descendants of *Kshatriya* and *Vaishya* *Gotras*. With this ruling the above case was decided. Their Lordships added that the custom of *Sagotra* marriage amongst the *Vaishya Aggarwals* was a well established and recognized custom and that although it might not be approved by certain section of the community, it carried with it no stigma or evil consequences. *Sub-Caste Marriages*; Even subcastes were regarded as endogamous units; and marriage between two sub-divisions of one primary caste was against the Hindu law. In *Melarasj Nudial vs. Thanooram Banum and Narain Dhara Vs. Rakhil Gain*, it was decided that marriages between two subcastes of the major caste were invalid. It was observed in these cases that to make such a marriage valid, the authority or sanction of a local custom was necessary. Later decisions, however, held that such intermarriages between sub-sects of Hindus were valid in Hindu Law. In the case of *Upama Kuchain vs. Bholaram Dhubi* in which the parties were *Dhobi* and *fisherman* by caste, the court held that there was nothing in Hindu Law prohibiting marriage between persons belonging to different sections or sub-divisions of the *Shudra* caste. In *ManicKam Vs, Poongavanammal* it was held that marriage between two sub-divisions of *Shudras* was valid unless there was a custom to the contrary; and therefore, the marriage between *Adi Dravid* woman and *Naidu* was held to be valid.

In some cases marriages even between two major castes were held as valid. In the districts of *Dacca* and *Tipperah* marriages between *Vaidya* and *Kayastha* take place and such intermarriages are recognized by local custom. In the case of *Ramlal Sookool vs. Akhoy Charan Witter*, the *Calcutta High Court* held that such marriages were in accordance with local custom and valid. The issue regarding the inter-marriages between members of different sects of *Lingayat* was decided in *Fakirgouda Vs. Gangi*. It was held that such marriages

were valid; and if allegation is made regarding its invalidity the onus lies on the person making such allegation- that such a marriage is prohibited by immemorial custom.

Anuloma and Pratiloma Marriages:

Numbers of cases were settled in British Courts of Law just after deciding whether the union was Anuloma or Pratiloma. By the time of British rule in India Varnas were well divided into castes and sub-castes; and in most of the cases learned judges had to decide, and which was difficult, the Varna in which the caste in question could be included. Thus, subject to certain reservations, we may state that in some form Varna system was followed in India till the first quarter of the present century. Pratiloma marriages were declared invalid while anuloma marriages were held, valid at least in Bombay and Madras. Pratiloma marriage was declared invalid by High Courts in India, as it was not sanctioned by law. In *Lakshmi Vs. Kaliarsing*, a marriage between a Brahmin girl and a Rajput, i.e., a Kshatriya male was held invalid. Similarly, in *Bai Kashi vs. Jamnadas* it was held that under Hindu law as recognized in the Bombay Presidency, a Brahmin woman could not contract a valid marriage with Shudra. The decision of the Allahabad High Court was very remarkable in that it did not distinguish between anuloma and pratiloma marriages; and held that marriage between persons not belonging to same caste was invalid unless sanctioned by custom. Both the Bombay and the Allahabad High Courts had declared invalid the marriage of a Brahmin woman with a Kshatriya or Shudra man. The marriage between a Shudra male and a Brahmin woman being void, the woman was not entitled even to the maintenance.

The anuloma marriages got better recognition. In *Bai Gulab vs. Jiwanlal, Shah, J.* discussed the original text from Manu, Yajnavalkya and Nilkantha and remarked that these authorities did not lay down any prohibition as distinguished from disapproval of anuloma marriages. In this case the anuloma marriage was held valid. The chief argument against the anuloma marriage was that such marriages had become obsolete. But, "it is important", the learned Judge remarked, "to remember at the outset that what is out of practice or obsolete is not necessarily prohibited". The High Court of Bombay had again 5Q re-affirmed its decisions in *Natha vs. Chhotalal*. In this case *Patkar and Shingne, JJ.* Held that the marriage of a Brahmin male with a Dharala (Shudra) female was an anuloma marriage and was not invalid under the Hindu Law and that a son born of such a marriage was legitimate.

Anuloma marriages were declared valid also by Madras High Court. In *Ratansi D. Morarji Vs, Administrator - General of Madras, Venkata Subborao, J.*, held that the marriage of a European woman, converted to Hinduism, with a Hindu of a high caste, a Bhatia who claimed to be Vaishya, was valid as it was anuloma marriage. In this case for the purpose of the marriage converted woman was supposed to be Shudra.

The Lahore High Court also upheld the same view. In the Punjab, generally, and in the Kangra and the adjoining districts specially, anuloma marriages between the different main castes were recognized as valid, both by custom and according to the personal law of the parties. Reference may be made to *Haria vs. Kanhaya* where the question was whether a marriage between a Vadhyar Rajput of the Kangra district and a Khatri woman was valid and legal and the offspring of such marriage legitimate. The case was decided in the affirmative. In *Ralla Ram vs. Asa Ram* a marriage between a Brahmin agriculturist and a Rajput woman was held to be valid according to custom. The marriage of Kshatriya male with a Vaishya woman in *Khairu vs. Fakirchand* was decided on the same lines.

The Allahabad High Court, however, had taken a view contrary to that of the Bombay and the Madras High Courts. It declared both pratiloma as well as anuloma marriages as invalid in *Padam Kumari vs. Suraj Kumari*. Sir William Burkitt, J., in the course of his judgment observed:

"Whatever may have been the case in ancient times, as shown in old text books, I have no hesitation in saying that the present day marriage between a Brahmin and a Chhatti is not a lawful marriage in these provinces and the issue of such marriage is not legitimate,"

With all respect it may be remarked that the learned judge did not quote a single authority in support of his decision.

Various Enactments promoting Inter-caste Marriages:

When the case-law was in progress, various subtle rules in Hindu law preventing Sagotra, Sapinda and Pravara relationship marriages arose difficulties in recognizing such marriages as valid. Such marriages were considered to be invalid though they were contracted between the persons professing the same religion. To overcome these difficulties and legalize such marriages Special Marriage Act of 1872 was passed. So the individuals, coming within the prohibited degrees of relationship and if intended to contract a marriage, could make it lawful under the provisions of Special Marriage Act of 1872. This Act was modified, firstly, in 1873 and secondly in 1954. The changes suggested in the Act of 1954 were more secular in character because it recognized the marital relations even in between spouses professing different religions.

In the year 1946 the Hindu Marriage Disabilities Removal Act of No.28 was passed which legalized the Sagotra, Sapinda and sub-caste marriages. The result of this enactment was that individuals intending to

contract Sagotra, Sapinda or sub-caste marriages had not to legalize it under the provisions of Special Marriage Act. To propagate inter-caste marriages, Caste Tyranny Removal Act of 1933 of Baroda Government, and Arya Samaj Validity Act of 1938 and Hindu Marriage Validity Act No.21/1949 by Central Government proved to be useful to some extent.

Hindu Marriage Act of 1956 is revolutionary in character. It takes no cognizance of caste and sub-caste traditions regarding marriage. Main condition of a valid marriage, according to this Act, is that 'neither party has a spouse living at the time of marriage. Thus it has abolished the practice of polygamy and polyandry. Besides, it permits divorce, under certain specified conditions, which was unknown to Hindu Law.

After independence the Indian Government introduced various reforms in order to attain the ideal of casteless and classless society. At present Government aids financially marriages contracted between caste Hindus and Harijans. On 14th February, 1959, a petition was presented to the Secretary of the Loksabha signed by 3500 social workers demanding enforcement of exogamy through legal means.

II. Conclusion:

Marriage is a sacred institution especially in the context of Indian customs. Even today, when the world has become so advanced, there are people who strictly follow the rules of gotra exogamy and caste endogamy. Marriages in the Hindu society are caste driven and inter-caste marriages are still considered to be a sin and as such not approved by the society. Inter-caste marriages are considered shameful for the family as well as the society. It generally happens in rural areas because of the lack of education, information, and knowledge. It is considered that according to the caste name, reputation is affected by solemnizing inter-caste marriage. Marrying outside rigid caste boundaries that an individual is born into remains a taboo in India even today and it leads to social ostracism and even inter-family/community violence. It is still believed that inter caste marriages violate values – when two individuals go against the societal norm of the arranged marriage, defying their families. It has become a stereotype of inter-caste marriages across the nation. However, inter-faith marriages have always been practiced in India, and can be traced from the historical marriage of Jodha Bai and Akbar the Great. Inter-caste marriage is the biggest weapon to end the caste division in society. However the deeply entrenched caste norms do not make it easy for even educated and progressive thinking people to cross caste boundaries in matters like marriage. Today in the current scenario we find that the girl: boy ratio is diminishing every day despite all the measures taken by the government to combat this issue. The question today arises that when there will be no women or hardly any women to marry will the caste barriers remain? Won't people then marry women from other caste, what will happen to all the religious beliefs then, will the couples then commit a sin? The answers to all these questions are a big 'No'. Therefore, if in the given set of circumstances, it was not a sin then, it shall not be a sin now as well. Caste systems and racial discriminations act as a bane for progressive India. For years, the different societies of India, especially Hindu society has been divided on the basis of caste system and religion. The problem of caste system was so deep rooted that even today also India is struggling to come out of this social menace. History reveals that efforts have been made by various social reformers and individuals to make India free from the clutches of caste system, untouchability and race discrimination. It is the need of the hour to glorify, give media exposure and encourage such marriages in order to reduce the caste barrier prevalent in Indian society. It will take long time and holistic effort to make India free from the clutches of caste barrier in its marriage system. Castes are not natural. If individuals are given opportunity to associate with whomever they want to and there are no social sanctions against such intermingling, castes will cease to exist.

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