FROM SACRED UNION TO LEGAL INSTITUTION: THE ROLE OF STATE AND SOCIETY IN RESOLVING HINDU MARRIAGE CRISIS

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ABSTRACT

Hindu marriage is aimed at family construction, and it was the base for the harmonious relation between family, society & state. However Hindu society which was breeding the issues of Dowry & Domestic violence etc. In such context, state enters to protect the individual freedom. Hence marriage is not only related with the society but also directly related with state. When marriage gets into crises, it is the state which comes to the protect the rights of the individual and as the mediator, it tries to reconcile with both the parties of conflict with an intention to making the marriage survive. Along with it, the state makes laws to solve the conflict in marriage related issues. This paper tries to qualitatively analyse the dynamics of marriage and

constitution relationship in the context of Hindu marriage crises and to identify the role of state in resolving the marriage crises in Hindu society using secondary data sources.

INTRODUCTION:

The historical significance of marriage in Hindu society stretches back to the Vedic period, where it was considered not only a union of two individuals but also an essential rite of passage for adhering to societal norms and religious obligations. The Vedic scriptures articulate marriage as a sacramental union, with the Grihasutra and Dharmasutra outlining its role in securing dharma and progeny. Hindu marriage was a sacrament. But in the present day modern society, it has turned into a contract and has resulted in the emergence of marriage related crises especially in Hindu society. There has been an increase in marital breakdowns, attributable to a complex interplay of factors involving both spouses. Contemporary observations suggest a growing trend of marital instability. The decreasing marriage success rates and the increasing acceptance of alternative living arrangements, such as cohabitation, challenge the very fabric of traditional Hindu social structures, potentially leading to a paradigm shift. Chatterjee (2021) discusses how the rise in nuclear families impacts the intergenerational transmission of values and reduces the influence of the extended family in everyday life, leading to changes in social support systems and community life. If we closely see the court judgements, data, news and research papers we can see the crisis to be multifaceted in nature. The effects of the crisis might result into Divorce, Suicide, Depression/ Anxiety disorders.

Table 1: State-wise Number of Suicides Due to Marriage Related Issues in India (2022)

States/UTs	Male	Female	Total
Andaman & Nicobar Islands	1	0	1
Andhra Pradesh	128	91	219
Arunachal Pradesh	3	2	5
Assam	187	170	357
Bihar	42	52	94
Chandigarh	0	3	3
Chhattisgarh	129	147	276

Dadra and Nagar Haveli and Daman and Diu	12	8	20
Delhi	110	144	254
Goa	3	4	7
Gujarat	225	142	367
Haryana	50	31	81
Himachal Pradesh	33	16	49
Jammu & Kashmir	8	12	20
Jharkhand	214	142	356
Karnataka	284	147	431
Kerala	64	52	116
Ladakh	0	0	0
Lakshadweep	0	0	0
Madhya Pradesh	358	755	1113
Maharashtra	697	354	1051
Manipur	0	0	0
Meghalaya	4	4	8
Mizoram	2	0	2
Nagaland	3	1	4
Odisha	0	37	37
Puducherry	0	1	1
Punjab	80	85	165
Rajasthan	245	167	412
Sikkim	5	6	11
Tamil Nadu	356	124	480

Telangana	89	64	153
Tripura	28	21	49
Uttar Pradesh	529	696	1225
Uttarakhand	53	60	113
West Bengal	295	388	683
India	4237	3926	8164

Source: Ministry of Home Affairs, Govt. of India. (ON3408)

From the above table, it is evident that states like Madhya Pradesh, Maharashtra and Uttar Pradesh have more suicides due to marriage related issues in India. Further it can be seen that 52% male and 48% female committed suicide due to marriage related issues in India.

The Hindu Marriage Act, 1955, does not explicitly mention suicide as a consequence for non-divorce. However, the act does define cruelty as "any wilful conduct of a spouse which is such as to cause reasonable apprehension in the mind of the other spouse that it will be harmful or injurious to live with the other spouse." This definition has been interpreted by courts to include mental and emotional abuse, which can lead to suicide.

In the case of Narendra v. K. Meena (2016), the Supreme Court of India held that a single act of suicide can be sufficient to establish cruelty. In this case, the husband had locked himself in the bathroom and poured kerosene on himself in an attempt to commit suicide. The court held that this act was sufficient to cause reasonable apprehension in the wife's mind that it would be harmful or injurious to live with the husband.

In the case of Pankaj Mahajan v. Dimple Kajal (2011), the Supreme Court of India held that threats of suicide can also be considered cruelty. In this case, the wife had repeatedly threatened to commit suicide if the husband did not leave her. The court held that these threats were sufficient to cause reasonable apprehension in the husband's mind that it would be harmful or injurious to live with the wife.

Based on these judgments, suicide or threats of suicide can be considered cruelty under the Hindu Marriage Act. This means that a spouse who commits suicide or threatens to commit suicide may be granted a divorce on the ground of cruelty.

The indicative list of crises in Hindu Marriage are:

Politico Social and Legal Crisis

- Dowry

- Extra Marital Affairs/ Infidelity/ adultery

- Polygamy

- Child marriage

- Inter caste marriage

- Inter religious marriage

- Abandonment / Desertion

- Cruelty/ Domestic Violence

- Cancellation and non-settlement of marriage

Behavioural / Preferences

- Homosexual marriage

- Health/ Infertility/ Barrenness / Disease

- Unsoundness of Mind

- Habitual drunkenness/ drug addiction

- Financial issues

- Behavioural issues (Trust/ Anger/ Lying/ Workaholism/ Miscommunication)

The Hindu Marriage institution faces significant politico-social and legal crises that impact its foundational structure, distinguishing them from individual behavioral issues addressable through personal choice. These systemic challenges stem from evolving societal norms, political influences, and outdated legal provisions, necessitating broader reforms.

OBJECTIVES:

    a) To understand the dynamics of marriage and constitution relationship in the context of Hindu marriage crises

    b) To identify the role of state in the marriage related crises in Hindu society

RESEARCH METHODOLOGY:

This research is mostly qualitative in nature and based on Historical-Comparative Research method. The secondary data collected for this research from Journals, Periodicals, Books, Articles, Magazines, Published Reports, Newspapers & internet etc. is synthesized, analyzed and interrelated on the basic premise of Indian constitution, gender and marriage within Hindu Society.

HOW STATE HAS NURTURED HINDU MARRAIGE

State has moved away from seeing Hindu marriage as just a religious ritual. Instead, the State now acts as a protector of the marriage to help solve social and legal crises.

The state has nurtured Hindu marriage by legal recognition. The Hindu Marriage Act, 1955, codified and standardized Hindu marriage laws across India. This provided legal validity and protection for Hindu marriages, ensuring the rights and obligations of spouses. The Act established monogamy as the sole legal form of marriage for Hindus, promoting stability and equality within marriages.

The Act outlawed polyandry, child marriage, and bigamy, addressing harmful practices that historically impacted Hindu marriage customs. The legal framework established by the state allows individuals to seek legal remedies in cases of marital disputes, such as domestic violence, abandonment, and divorce. Government schemes and programs like financial incentives for inter-caste marriages can be seen as attempts to promote inclusivity and acceptance within Hindu marriages. Some of the important court judgements are listed below.

Divorce and Maintenance:

Ruchira v. Sanjeev Kumar (2011): This case redefined cruelty under the Hindu Marriage Act, extending it beyond physical abuse to include mental and emotional abuse, thereby widening grounds for seeking divorce.

Gender Equality and Rights:

Lata Singh v. State of Uttar Pradesh (2006): This judgment struck down the custom of Devadasi, where girls were dedicated to temples and forced into prostitution, upholding the fundamental right to equality and dignity.

Shamina Sharma v. State of Rajasthan (2018): This case ruled that marriage between an adult Sikh woman and a Hindu man could not be deemed null and void due to non-conversion, protecting interfaith marriages.

Jose Kokko v. State of Kerala (2020): This judgment allowed single unmarried women to adopt, recognizing their parental rights and challenging traditional notions of family structure.

Inheritance and Property Rights:

HIndu Succession (Amendment) Act, 2005: This act granted daughters equal inheritance rights as sons in ancestral property, promoting gender equality within families.

Githa Hariharan v. Reserve Bank of India (2023): This judgment declared discrimination against Sikkimese women married to non-Sikkimese men in inheritance tax provisions as unconstitutional.

Suman Devi v. Ram Niwas (2023): This recent judgment clarified that children born out of void or voidable marriages under the Hindu Marriage Act have inheritance rights from their parents, ensuring their protection and security.

At the same time the state's intervention in personal matters like marriage infringes on religious and cultural autonomy, particularly when considering the diverse traditions and interpretations of Hindu marriage across different regions and communities. Which is a part of fundamental rights. Concerns exist about the Act's underlying patriarchal assumptions, such as the minimum age of marriage being higher for women than men, potentially perpetuating gender inequalities. Despite legal protections, social stigma and discrimination against inter-caste marriage, and divorce within certain communities remain obstacles to nurturing a truly inclusive and equitable landscape for Hindu marriages. The effectiveness of state efforts in addressing issues like domestic violence and child marriage depends on efficient enforcement and awareness campaigns across diverse social contexts.

RESPONSE OF THE STATE TO THE CRISIS

To deal with the crises, the state facilitates accessible divorce procedures through family courts and legal aid initiatives. But, the concerns remain about ensuring fair and swift dispute resolution and providing adequate support for children and divorced individuals during the process.

Modern society presents challenges to certain traditional customs within Hindu marriages, such as arranged marriages, caste disparities, and gender inequalities. The state promotes inclusivity and equality through laws like the Prohibition of Child Marriage Act (2006) and schemes like financial incentives for inter-caste marriages. However, addressing entrenched social norms and prejudices requires long-term efforts through education, awareness campaigns, and community engagement. Modern society sees increasing diversity in family structures, including cohabiting partners. The state's role in ensuring legal and social inclusivity for diverse family structures remains an evolving conversation.

The state's response to various "crises" in Hindu marriage involves legislative measures, social policies, and ongoing legal and social debates. It's crucial to acknowledge the diversity of experiences within Hindu communities and continuously evaluate the effectiveness of state interventions while promoting individual rights, gender equality, and respect for evolving family structures.

Modern Institutions

Even modern institutions, such as legally codified marriage laws, are critiqued through the post-modernist lens for their role in perpetuating traditional hierarchies. While legal reforms like the Hindu Marriage Act of 1955 introduced provisions for divorce, inter-caste marriage, and women's rights, they often fail to address the deeper cultural norms that resist change. Feminist post-modernists argue that laws addressing gender equality in marriage, such as protections against domestic violence, are limited in their impact without broader societal transformation (John, 1996).

Globalization and the rise of individualism have created new challenges. While they have introduced liberal values emphasizing autonomy and choice, these shifts have also commodified marriage, reducing it to a consumerist and performative act. Post-modernist theorists critique this commercialization, arguing that it undermines marriage's deeper social and emotional significance.

Post-modernist theory challenges the privileging of marriage over other forms of relationships, arguing for the recognition of alternative partnerships and singlehood as equally valid and fulfilling choices.

Key provisions of the Hindu Marriage Act

The Hindu Marriage Act (HMA) enactment was deeply rooted in the post-independence project of nation-building and social reform. India's newly formed government sought to codify and modernize Hindu personal law, which had traditionally been diverse and often discriminatory, particularly towards women. The HMA aimed to bring about uniformity in the laws relating to marriage among Hindus, a significant step towards legal reform. This codification was driven by several political motivations:

Social Reform: The HMA was intended to address social evils such as child marriage and polygamy, aligning legal frameworks with principles of social justice and equality. The state sought to project itself as a progressive force, capable of reforming traditional practices.

National Integration: By standardizing Hindu marriage laws, the HMA aimed to foster a sense of national unity and a more coherent legal system. It was a move to consolidate diverse regional customs under a single, central law.

Secularism and Religious Freedom: The Act reflects the delicate balance between secularism and the recognition of religious freedom. While the state sought to reform Hindu personal law, it also acknowledged the importance of respecting religious practices and traditions.

Gender Equality: A key objective was to improve the status of women within marriage. Provisions related to divorce and maintenance, for instance, sought to provide women with greater legal recourse and protection.

The HMA has had a significant impact on political discourse and legal evolution in India. It has been a focal point for debates on issues such as:

The Uniform Civil Code (UCC): The HMA, while progressive, only applied to Hindus. This has fuelled ongoing debates about the need for a Uniform Civil Code that would apply to all citizens, regardless of religion. The HMA serves as both a precedent and a counterpoint in these discussions.

Judicial Interpretation and Activism: The HMA has been subject to numerous judicial interpretations, reflecting evolving social norms and values. The courts have played a crucial role in expanding the scope of the Act, particularly in areas such as divorce and women's rights.

Intersectionality and Identity Politics: The HMA's application has been analysed through the lens of intersectionality, recognizing that its impact varies depending on factors such as caste, class, and region. It has also been a subject of identity politics, with different groups holding varying views on the extent of state intervention in personal law.

Law Commission Reports: The HMA has been reviewed and analysed in various Law Commission reports, which have suggested amendments and reforms to address contemporary challenges and ensure greater justice and equality. These reports highlight the ongoing political and legal debates surrounding the Act. For instance, the 71st report of the Law Commission of India (1978) provides detailed analysis and recommendations.

Gender Dynamics and Social Change: The HMA has played a complex role in shaping gender dynamics and social change in India.

Empowerment of Women: By providing legal grounds for divorce and maintenance, the HMA has empowered some women to exit abusive or untenable marriages. It has also contributed to a gradual shift in societal attitudes towards women's rights within the family.

Nation-Building and Legal Centralization: The HMA was instrumental in consolidating the authority of the newly formed Indian state. By codifying and standardizing Hindu marriage law, the state sought to establish a more coherent and centralized legal system. This was perceived as essential for fostering national unity and integration. The creation of a unified legal framework, however, involved navigating and often overriding diverse local customs and traditions, leading to complex negotiations between the state and various social groups.

Social Reform and Modernization: The HMA was also driven by a modernist agenda to reform and modernize Hindu society. Legislators aimed to address social issues such as child marriage, polygamy, and gender inequality, which were seen as impediments to social progress. The Act reflects the state's role as a catalyst for social change, using law as an instrument to promote certain social values and norms. This interventionist approach, however, often faced resistance from those who viewed it as an infringement on their cultural and religious practices.

Women's Rights Movements and Legal Reform: The HMA, particularly its provisions related to divorce and maintenance, has played a crucial role in advancing women's rights in India. Women's organizations and activists have used the Act as a legal tool to challenge patriarchal norms within marriage and family, and to seek redress for injustice. The Act has thus become a battleground for feminist mobilization and legal reform advocacy, with women's groups pushing for amendments and more effective implementation of its provisions.

Political Parties and Electoral Politics: Issues related to the HMA and personal law reform have frequently been invoked in electoral politics. Political parties often take stances on these issues to appeal to specific constituencies, particularly women or religious minorities. This has made

the HMA a contentious issue in Indian political discourse, with parties using it to mobilize voters and shape public opinion.

Divorce and the Dissolution of Marriage: The HMA introduced the concept of divorce into Hindu law, a significant departure from the traditional view of marriage as an indissoluble union. The Act specifies various grounds on which either party can seek divorce, including adultery, cruelty, desertion, conversion, and insanity. It also provides for divorce by mutual consent, recognizing the importance of individual autonomy and the changing nature of marital relationships. The introduction of divorce has had profound social and legal consequences, providing individuals with a legal avenue to exit from untenable marriages and seek a new life.

The HMA continues to be a subject of intense debate and scrutiny in contemporary India. Several factors contribute to its ongoing relevance and the need for further analysis and reform.

MARRIAGE CRISIS: AGENCIES VS. VICTIM

The crisis within Hindu marriage, particularly in cases involving conflicts between agencies and victims, sheds light on the complexities of societal power structures, legal systems, and individual rights. Agencies like legal, cultural, and institutional interact with and impact the experiences of individuals, often women, who are caught in the challenging dynamics of marital relationships. These interactions highlight the tension between societal norms, institutional power, and the lived realities of victims.

Legal agencies, while designed to address such conflicts, often fail to provide adequate support to victims of marital abuse. For instance, laws such as the Protection of Women from Domestic Violence Act of 2005 aim to offer relief to victims, but their implementation is frequently hindered by systemic issues, including slow judicial processes and inadequate enforcement mechanisms. Scholars argue that these agencies often prioritize the reconciliation of marital disputes over addressing the root causes of conflict, further perpetuating the victim's vulnerability. This approach reflects the state's struggle to balance its role as a protector of individual rights with its commitment to preserving traditional values associated with marriage.

Institutional agencies, such as mediation centres and social service organizations, also play a significant role in resolving marital disputes. While these agencies are meant to provide support to victims, their operations are often influenced by societal norms that favour the preservation of marriage. Victims may encounter bias and coercion in these settings, where the emphasis on reconciliation can overshadow the need for justice and accountability (Deshpande, 2010).

The interplay between agencies and victims in the context of Hindu marriage reflects broader questions about power and agency within society. Post-modernist perspectives, which critique the rigidity of traditional systems, advocate for a reimagining of marriage as an institution that prioritizes individual autonomy and equality over societal conformity. Scholars argue that addressing the marriage crisis requires a shift in focus from preserving cultural norms to protecting the rights and dignity of victims, ensuring that legal and institutional agencies serve as allies rather than obstacles in their pursuit of justice.

TRANSFORMATION IN THE MEANING OF MARRIAGE

In modern India, marriage is undergoing a transformation from a collective social institution to a more individualized relationship. Urbanization and modernization have weakened traditional kinship control over marriage decisions. Young individuals increasingly emphasize emotional compatibility, personal autonomy, and individual aspirations over traditional expectations.

This shift reflects broader global trends toward what scholars describe as the "individualization of marriage," where relationships are evaluated primarily in terms of personal fulfillment rather than social obligation (Beck & Beck-Gernsheim, 2002). Within this context, marriage is gradually being redefined as a voluntary partnership rather than a compulsory life stage.

Education and economic independence, particularly among women, have further reshaped marital expectations. Women are less willing to accept unequal power relations or tolerate abusive marriages. Legal provisions such as divorce rights, maintenance laws, and domestic violence protections have reinforced this shift toward individual rights within marriage.

MECHANISMS TO PROTECT HINDU SOCIETY

A close look on Hindu marriage in the pre modern times reveals that marriage was a means of securing wellbeing of individuals, formation of family, constitution of society and ultimately contribution to the state. Through marriage, individual, society and state were well connected in the pre modern times. Individuals had their responsibilities towards Marriage and simultaneously towards the family. Hindu marriage was all about collective dependence on one another in which sexual relations were made for family obligations and legal protection of children. The Hindu marriage was producing moral values and legal obligations towards the creation & sustenance of family. Both husband and wife were respecting and had duties and responsibilities towards each other and hence towards family. In the present times as the Hindu

society is fast changing and the state should be dynamic to adopt to these changes in revisiting the laws related to Hindu Marriage.

Strengthening Family Values

Regardless of the form marriage takes in the future, strengthening core family values remains essential for maintaining social stability. Mutual respect, responsibility toward elders, and commitment to children are foundational elements of Hindu social ethics.

Educational institutions and community organizations can play an important role in promoting these values among younger generations.

Reforming Marriage Institutions

Rather than abandoning marriage, reforms may help make the institution more compatible with contemporary aspirations. These reforms may include promoting gender equality, encouraging shared domestic responsibilities, and reducing social pressures related to dowry and extravagant weddings. By addressing these concerns, marriage can become more appealing to younger generations.

Legal and Policy Frameworks

The state also plays a crucial role in protecting individuals within family relationships. Legal frameworks should continue to safeguard rights related to divorce, domestic violence, and child welfare while promoting reconciliation and mediation where appropriate. Policies that support families such as childcare support, parental leave, and housing assistance may also encourage stable family formation.

Community and Cultural Institutions

Religious and cultural institutions can contribute by emphasizing the ethical and spiritual dimensions of family life rather than rigid social expectations. By presenting marriage as a partnership based on mutual respect and shared values, these institutions can help bridge the gap between tradition and modernity.

Adaptation and Cultural Continuity

Societies survive through adaptation. Hindu society has historically demonstrated remarkable resilience by integrating new social realities while preserving cultural continuity. Whether through traditional marriage or evolving relational forms, the fundamental goal remains the same: maintaining social harmony, nurturing families, and ensuring intergenerational continuity. The institution of Hindu marriage stands at a critical juncture in the contemporary era. Rapid socio-economic transformations, expanding individual freedoms, and changing gender dynamics have significantly reshaped attitudes toward marriage among younger generations.

Gen-Z's declining interest in marriage reflects broader structural changes rather than a simple rejection of tradition. Concerns about divorce, economic uncertainty, gender equality, and personal autonomy all contribute to shifting perceptions. While alternative relationship models are emerging, they currently lack the institutional depth required to fully replace marriage in sustaining Hindu social organization. Marriage continues to play an important role in structuring kinship networks, ensuring child welfare, and maintaining cultural continuity.

The future of Hindu marriage therefore lies not in its disappearance but in its transformation. By adapting to modern values of equality, consent, and personal choice, marriage can remain relevant for future generations. Protecting Hindu society ultimately requires a balanced approach one that respects individual freedoms while preserving the social institutions that sustain collective life. Through thoughtful reforms, supportive policies, and cultural dialogue, Hindu marriage can evolve into a modern institution that harmonizes tradition with contemporary aspirations.

Legal scaffolds, from the Hindu Marriage Act's (1955) dissolubility clauses to Domestic Violence Act protections, empower exit strategies but inadvertently commodify unions as contracts. Reforms via Uniform Civil Code deliberations offer pathways to equity, yet risk diluting sacramental essence [Law Commission, 2023]. Balancing individual safeguards with institutional resilience demands nuanced policy: subsidized family housing, mandatory premarital counseling, and tax incentives for stable unions could bridge tradition-modernity chasms without coercion.

Ultimately, Hindu marriage endures not as relic but renewable covenant, harmonizing samskara sanctity with sameness in equity. Absent adaptation, societal cohesion frays; embraced proactively, it fortifies lineage continuity amid instability. Policymakers, families, and youth share custodianship: crafting a matrimonial ethos where choice amplifies, rather than

erodes, civilizational vitality [Menski, 2019]. The crossroads calls for reinvention, ensuring Hindu dharma thrives in plural futures.

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