

Marriage – The Social Institution: Evolution from Sacrament to Taming Women’s Freedom in the Indian Subcontinent

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Abstract - Marriage in the Indian subcontinent has historically been celebrated as a sacred sacrament and simultaneously deployed as a mechanism of social control. While early Vedic traditions emphasized marriage as a *samskāra*—a religious duty necessary for maintaining lineage and cosmic order—later texts and practices transformed it into a patriarchal institution that curtailed women’s autonomy. In the beginning, the essence behind marriage had been freedom of choice by the women and its sacred sanctity remained intact until the practice of freedom of choice had been mandatory by the woman concerned. Later on, the freedom of choice had been truncated and imposition of choice became the essence and the very same reason with other factors became the root cause of the fallen of this institution. The arrival of Islam reframed marriage as a civil contract (*nikāh*), theoretically granting women certain rights, but medieval society, both Hindu and Muslim, entrenched patriarchal controls over women’s sexuality and mobility. Colonial codification reinforced rather than dismantled patriarchal traditions, while reformers sought to reconfigure marriage as a site of gender justice. Post-independence legislation introduced divorce, secular alternatives, and legal reforms, yet social practices such as dowry, marital rape exemption, and honor killings reveal the persistence of patriarchal control. This paper traces the historical trajectory of marriage from sacrament to contract and critically examines how it has functioned to tame women’s freedom in the Indian subcontinent.

Keywords - *Marriage, Sacrament, Patriarchy, Women’s Freedom, Indian Subcontinent, Hindu Law, Islamic Law, Colonial Codification, Gender Justice*

1. Introduction

Marriage has been one of the most enduring institutions of human society, structuring kinship, inheritance, sexuality, and gender roles. In the Indian subcontinent, its role has been particularly significant, functioning not only as a private bond between two individuals but as a religious sacrament, social contract, and political instrument. The institution of marriage has historically carried dual meanings: on the one hand, it was idealized as sacred and indispensable for maintaining dharma and social order; on the other, it became a mechanism to regulate women’s bodies, choices, and autonomy.

The evolution of marriage in South Asia reflects larger transformations in law, religion, economy, and gender relations. In the Vedic age, it was constructed as a sacramental

rite binding husband and wife in a spiritual partnership. The Dharmashastra tradition, however, imposed indissolubility and female subordination. The advent of Islam introduced the concept of marriage as a civil contract (*nikāh*), but patriarchal practices such as *purdah* and polygamy circumscribed its egalitarian potential. In the medieval period, Brahmanical Hinduism and Islamic law both reinforced marriage as a means to regulate caste, sexuality, and community honor.

Colonial codification further cemented patriarchal traditions under the guise of preserving “religious law,” while reform movements attempted to intervene against practices such as *sati*, child marriage, and the prohibition of widow remarriage. Post-independence reforms through the Hindu Marriage Act (1955), the Special Marriage Act (1954), and later rulings such as the abolition of instant triple *talaq* sought to modernize marriage, yet patriarchal norms persisted within law and custom alike.

This paper argues that marriage in the Indian subcontinent has evolved from a sacrament to a social contract, but in both forms it has primarily functioned as a tool to tame women’s freedom. By tracing its historical evolution—ancient, medieval, colonial, and contemporary—this paper situates marriage within the broader structures of patriarchy, caste, and religion.

2. Literature Review

The study of marriage as a social institution in the Indian subcontinent has attracted scholars across disciplines—history, sociology, law, anthropology, and gender studies. A review of this scholarship highlights both the continuities and contestations around marriage as a site of sacrality and patriarchy.

Classical Indological Scholarship. Early writings, such as A.S. Altekar’s *The Position of Women in Hindu Civilization* (1938), explored the sacramental character of Hindu marriage and its centrality in sustaining lineage and dharma. These works emphasized scriptural authority, particularly the Dharmashastras and Manusmṛiti, to show how indissolubility and chastity became defining features of Hindu marriage. While useful in cataloging textual norms, such scholarship often presented women’s subordination as a cultural inevitability rather than a product of historical processes.

Colonial and Postcolonial Histories. Scholars like Lata Mani, in her seminal work on *sati*, and Geraldine Forbes in *Women in*

Modern India (1996), demonstrated how colonial codification of “personal laws” reified patriarchal interpretations of marriage while simultaneously creating a field for reformist debates. Tanika Sarkar’s studies on women, nationalism, and law further revealed how women’s bodies and marriages became symbolic battlegrounds in colonial modernity.

Feminist and Sociological Critiques. Feminist scholars have highlighted the ways marriage functions as a mechanism of patriarchy. Uma Chakravarti’s **Gendering Caste through a Feminist Lens (2003)** showed how caste endogamy and control of women’s sexuality are central to maintaining social hierarchies. Flavia Agnes, in **Law and Gender Inequality (1999)**, critically examined personal laws in post-independence India, exposing the contradictions between constitutional guarantees of equality and patriarchal family law systems. These works argue that marriage remains one of the most resilient sites of gender inequality in South Asia.

Islamic Law and Women’s Rights. Scholarship on Muslim marriage in India, such as works by Asghar Ali Engineer and more recent studies on Muslim women’s movements, emphasizes the contractual nature of nikāh and the rights it theoretically provides women—such as dower (mehr), divorce (talaq and khula), and remarriage. Yet, as scholars note, patriarchal social practices often eroded these rights, particularly through seclusion, polygamy, and restrictive community norms.

Contemporary Perspectives. Recent research has examined how globalization, urbanization, and feminist activism are reshaping the meaning of marriage. Scholars like Patricia Uberoi and Amrita Nandy analyze emerging trends such as inter-caste and interfaith marriages, live-in relationships, and debates over same-sex unions. These studies reveal both the persistence of marriage as a patriarchal structure and its contestation as young people, particularly women, assert greater autonomy in matters of intimacy and kinship.

Taken together, the literature demonstrates a consistent theme: while the forms and meanings of marriage have shifted over time—from sacrament to contract, from colonial codification to postcolonial reform—the institution has remained deeply entangled with patriarchy, serving as a critical means of regulating women’s freedom in the Indian subcontinent.

3. Historical Evolution of Marriage in the Indian Subcontinent

The institution of marriage in the Indian subcontinent has undergone significant transformations over millennia, shaped by religious doctrine, social hierarchies, and political interventions. Its evolution can be understood across four broad historical phases: ancient, medieval, colonial, and postcolonial/contemporary.

3.1. Marriage as Sacrament in Vedic and Dharmashastra Traditions: In early Vedic society, marriage was conceived not merely as a social necessity but as a sacrament

(samskāra)—one of the essential rites of passage (samskāras) through which an individual fulfilled religious obligations. The Rigveda and later Vedic texts depict marriage as a partnership in which the wife participated in rituals alongside the husband, symbolizing spiritual complementarity rather than subordination. Widow remarriage was permitted, and instances of levirate (marriage to the deceased husband’s brother) suggest that women’s remarriage was not taboo in this early phase. Moreover, the essence of marriage was backed by freedom of choice of partner by women generally. Instances are there in the period of Ramayana – around 12241 BCE; as well as in the period of Mahabharata- 5561 BCE, , according to Nilesh Nilkanth Oak where marriages were predominantly decided by choices of women concerned-proposal of Princess Rukmani to Krishna for marriage against the will of her family; proposal of Subhadra to Arjuna for marriage against the will of Balrama.

The Dharmashastra tradition, particularly the Manusmriti (c. 200 BCE–200 CE), codified a far stricter understanding of marriage. Marriage was declared indissoluble, and the wife’s chastity became the bedrock of family honor. Eight forms of marriage were listed—ranging from the highly valued Brahma marriage, in which a daughter was gifted to a man of learning, to less sanctioned forms such as Asura (marriage through purchase) or Rakshasa (by capture). Among these, the sacramental model emphasized virginity, chastity, and female obedience. Divorce was absent, widow remarriage discouraged, and celibate widowhood idealized.

Thus, by the classical period, marriage had evolved from a ritual partnership into a patriarchal sacrament, where women’s autonomy was subordinated to family, caste, and religious duty.

3.2. Medieval Transformations: Islamic Law and Brahmanical Conservatism:

The advent of Islam in South Asia from the 8th century onward introduced new legal and cultural frameworks. Islamic jurisprudence defined marriage (nikāh) as a civil contract rather than a sacrament. Women were granted the right to mehr (dower), divorce under certain conditions (khula and talaq), and remarriage after widowhood or divorce. In theory, these provisions gave women greater agency compared to Hindu law. Yet, in practice, patriarchal interpretations prevailed. The rise of purdah (female seclusion), polygamy among elites, and the embedding of women’s honor within family and community structures limited the egalitarian potential of Islamic marriage.

Simultaneously, Brahmanical Hindu society responded with increasing conservatism. Child marriage became widespread,

partly to safeguard caste purity and female chastity. Widow remarriage was prohibited, and the practice of sati—though never universal—gained symbolic importance as an ultimate expression of wifely devotion. Thus, both Hindu and Muslim societies converged in using marriage as a mechanism of sexual regulation and patriarchal control, though through different theological and legal frameworks. In short, With the spread of Islam in the subcontinent, marriage as a contract (nikāh) coexisted with Hindu sacramental models. In theory, nikāh provided women with rights over dowry (mehr), inheritance, and divorce. However, patriarchal interpretations and practices such as polygamy and purdah constrained women's agency. In Hindu society, child marriage and the prohibition of widow remarriage further deepened women's dependency on marriage, while caste endogamy became more rigid.

3.3. Colonial Codification and Reform: British colonial rule marked a turning point by codifying personal laws. In an attempt to govern through “religious communities,” the colonial state froze patriarchal practices into law: Hindu personal law emphasized indissolubility and caste endogamy, while Anglo-Mohammedan law selectively interpreted Islamic jurisprudence. Instead of liberating women, codification often reinforced conservative readings of tradition.

At the same time, colonial modernity created space for reformist interventions. Social reformers such as Raja Rammohan Roy campaigned against sati, leading to its abolition in 1829. Ishwar Chandra Vidyasagar's efforts resulted in the Hindu Widow Remarriage Act of 1856. The Age of Consent Act (1891) and the Child Marriage Restraint Act (1929) sought to mitigate oppressive practices, though often with limited enforcement.

However, as Lata Mani and Tanika Sarkar have shown, debates over such reforms often centered not on women's rights but on the preservation of tradition versus colonial intervention. Women's bodies and marriages became symbolic battlegrounds for both colonial rulers and indigenous elites. In effect, colonialism codified patriarchy even as it created the language of reform.

3.4. Post-Independence Developments:

With independence in 1947, the Indian state undertook significant legal reforms. The Hindu Marriage Act (1955) prohibited polygamy, legalized divorce, and raised the minimum age of marriage, transforming Hindu marriage from an indissoluble sacrament into a legally dissoluble contract. The Special Marriage Act (1954) provided a secular framework for inter-caste and inter-religious unions.

Muslim marriage remained governed by the Shariat Application Act (1937), though later reforms such as the abolition of instant triple talaq (2019) sought to address gender inequalities. Despite these legal changes, patriarchal practices persisted: dowry demands continued, marital rape remained legally unrecognized, and honor killings targeted inter-caste and interfaith marriages.

Thus, while post-independence law marked a shift toward contractual understandings of marriage, social practices continued to reinforce marriage as a patriarchal institution regulating women's freedom.

4. Analysis: From Sacrament to Contract – Marriage as a Mechanism of Patriarchy

The evolution of marriage in the Indian subcontinent demonstrates not a linear progression from sacrality to modernity, but rather a complex negotiation between religious ideals, colonial codification, and postcolonial legal reforms. At each stage, marriage has remained deeply implicated in the patriarchal control of women's bodies, sexuality, and autonomy.

4.1. Sacrament versus Contract: The distinction between Hindu and Islamic understandings of marriage—sacrament (saṃskāra) versus contract (nikāh)—illustrates two divergent frameworks that nevertheless converged in practice. In Hindu law, indissolubility bound women to a lifelong role as dutiful wives, with widowhood framed as a permanent state of chastity. In Islamic law, the contractual model granted women theoretical rights of divorce, dower, and remarriage, but patriarchal customs often eroded these entitlements. Thus, whether sacramental or contractual, both systems subordinated women's autonomy to male authority and community honor.

4.2. Marriage and Caste Control: Uma Chakravarti has argued that caste is fundamentally gendered, maintained through the control of women's sexuality and marriage choices. By enforcing caste endogamy, marriage became the mechanism through which caste hierarchies reproduced themselves across generations. Families sought to restrict women's freedom of choice in marriage precisely because it threatened caste purity. Practices such as child marriage, prohibition of widow remarriage, and violent resistance to inter-caste unions reflect this intersection of patriarchy and caste discipline.

4.3. Colonial Codification of Patriarchy: Colonial codification hardened patriarchal traditions by freezing “custom” into “law.” The colonial state's approach to Hindu and Muslim personal laws privileged male authority in interpreting tradition, thereby legally institutionalizing patriarchal readings of marriage. At the same time, reformist debates—on sati,

widow remarriage, or child marriage—often positioned women as symbols of cultural identity rather than autonomous agents. As Tanika Sarkar observes, women’s marriage roles became “the terrain on which colonialism and nationalism battled,” rather than spaces for women’s liberation.

4.4. Postcolonial Continuities: Despite post-independence reforms such as the Hindu Marriage Act and the Special Marriage Act, patriarchal structures remained embedded within law and custom. The legal system did not abolish dowry, failed to criminalize marital rape, and left “honor crimes” under-policed. Even where secular frameworks like the Special Marriage Act exist, social stigma and family coercion often prevent women from exercising marital choice. In Muslim law, while the Supreme Court’s abolition of instant triple talaq in 2019 was hailed as progressive, Muslim women continue to face discrimination within the framework of personal law. Thus, the postcolonial state oscillates between modernizing impulses and concessions to patriarchal religious authority.

4.5. Marriage as Site of Resistance: Contemporary transformations highlight that marriage is not only a site of control but also of contestation and resistance. Inter-caste and interfaith marriages, despite provoking violence, represent assertions of individual choice against patriarchal and communal authority. Feminist movements and legal campaigns for recognition of same-sex marriage illustrate growing demands to redefine marriage as a partnership of equals rather than a tool of patriarchal control. Yet, as Amrita Nandy argues, the persistence of social stigma around singlehood and non-marital relationships indicates how deeply entrenched the marriage imperative remains.

5. Conclusion: Marriage as Continuity and Contestation

The trajectory of marriage in the Indian subcontinent underscores a paradox. On the one hand, it is one of the oldest and most resilient institutions, celebrated as a sacrament in Hindu tradition and recognized as a contract in Islamic jurisprudence. On the other, its endurance is closely tied to its role in regulating women’s autonomy, sexuality, and mobility. Far from being a purely private or spiritual bond, marriage has been deeply implicated in maintaining caste hierarchies, religious identities, and patriarchal control.

5.1. Marriage as Sacrament: The Vedic and Dharmashastra traditions framed marriage as a *saṃskāra*, indissoluble and binding. While early Vedic texts allowed women some ritual participation and space for remarriage, classical Hindu law increasingly emphasized chastity, obedience, and subordination. By making marriage a religious duty rather

than a contract, Hindu law deprived women of the possibility of divorce or independent choice. This sacramental character ensured that women’s lives were defined almost entirely through marriage, widowhood, or celibacy.

5.2. Marriage as Contract: Islamic law introduced the notion of marriage as a civil contract, theoretically granting women rights over property, divorce, and remarriage. Yet, in practice, patriarchal interpretations and cultural practices such as *purdah* limited the scope of these rights. The contractual framework did not eliminate patriarchy but rearticulated it, ensuring male guardianship remained central.

5.3. Colonial Codification: British colonial rule further entrenched patriarchy by freezing fluid customs into rigid “personal laws.” In the process, women’s agency was further subordinated to male interpreters of religious authority. Simultaneously, reform movements against sati, child marriage, and the prohibition of widow remarriage reflected both the possibilities and limits of colonial modernity. Women’s roles in marriage became symbolic terrain over which debates on modernity, tradition, and nationalism were fought.

5.4. Postcolonial Reforms: After independence, the Indian state sought to balance constitutional ideals of equality with community-specific personal laws. The Hindu Marriage Act (1955) introduced divorce, while the Special Marriage Act (1954) offered a secular alternative. Yet, the persistence of dowry, honor killings, and the marital rape exemption reveals the incomplete nature of reform. The abolition of instant triple talaq in 2019 illustrates the state’s continuing role in reshaping marriage, but unevenly and often selectively.

5.5. Contemporary Contestations: Today, marriage is both challenged and reaffirmed. Urbanization, women’s education, and feminist activism have created spaces for inter-caste, interfaith, and same-sex unions, along with alternative forms of intimacy such as live-in relationships and chosen singlehood. At the same time, family honor, caste discipline, and patriarchal morality continue to render marriage the primary marker of female respectability. The struggles of women and marginalized groups to redefine or reject marriage demonstrate its contested character in the twenty-first century.

5.6. A Dual Legacy: Thus, marriage in the Indian subcontinent embodies a dual legacy. As a sacrament, it sanctified women’s subordination in the name of religious duty. As a contract, it offered limited avenues of autonomy but remained embedded in patriarchal practice. Across centuries, marriage has been less a union of equals and more a mechanism of disciplining women’s freedom. Yet, it has also

become a site of resistance, where challenges to caste, community, and patriarchy are staged through acts of choice and defiance.

The future of marriage in South Asia rests on whether it can transform into a truly egalitarian institution. For this to happen, legal reforms must be accompanied by shifts in social attitudes that dismantle caste endogamy, gender hierarchy, and the marriage imperative itself. Unless redefined on the basis of equality and autonomy, marriage will continue to function not as a liberating partnership but as a structure that tames women's freedom under the guise of tradition.

Bibliography

Agnes, Flavia. *Law and Gender Inequality: The Politics of Women's Rights in India*. Delhi: Oxford University Press, 1999.

Altekar, A.S. *The Position of Women in Hindu Civilization: From Prehistoric Times to the Present Day*. Delhi: Motilal Banarsidass, 1938.

Bhan, Gautam, and Arvind Narrain, eds. *Because I Have a Voice: Queer Politics in India*. New Delhi: Yoda Press, 2005.

Chakravarti, Uma. *Gendering Caste through a Feminist Lens*. Calcutta: Stree, 2003.

Engineer, Asghar Ali. *The Rights of Women in Islam*. New Delhi: Sterling, 1992.

Forbes, Geraldine. *Women in Modern India*. Cambridge: Cambridge University Press, 1996.

Jodhka, Surinder S., and Aseem Prakash. *Inter-Caste Marriages: Social and Legal Dimensions*. New Delhi: Sage, 2016.

Mani, Lata. *Contentious Traditions: The Debate on Sati in Colonial India*. Berkeley: University of California Press, 1998.

Nandy, Amrita. "Single by Choice? Lives and Narratives of Women without Marriage." *Indian Journal of Gender Studies* 21, no. 1 (2014): 47–77.

Sarkar, Tanika. *Hindu Wife, Hindu Nation: Community, Religion, and Cultural Nationalism*. New Delhi: Permanent Black, 2001.