

ISSN 0976 - 8165



THE CRITERION

AN INTERNATIONAL JOURNAL IN ENGLISH

11th Year of Open Access

**Bi-Monthly Refereed and Peer-Reviewed
Open Access e-Journal**

Vol. XI, Issue -4 (August 2020)

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ISSN 2278-9529
Galaxy: International Multidisciplinary Research Journal
www.galaxyimrj.com

The Sanctity of Marriage and Adultery: A Context of Dalit Text

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Article History: Submitted-25/06/2020, Revised-15/08/2020, Accepted-16/08/2020, Published-31/08/2020.

Abstract:

The very idea of marriage in Indian context is not just the union of two individuals, instead the mutual tie up of two families. Compared to the west, institution of marriage is rather more sensitive in Indian context. Over centuries, preference on endogamy over exogamy has tremendously contributed in perpetuating the caste system that led oppression towards the most vulnerable section of the society in which women are doubly or triply oppressed. Besides the oppression upon women it has also controlled sexuality of women at a larger extent due to the restricted choices availed to them. According to United Nations Office on Drugs and Crime (UNODC)ⁱ report, a home itself is the most precarious place for women. Despite the enactment of many laws against domestic violence, marital rapes, and dowry system, cases of murders of female spouses by their husbands and relatives are rampant. In September 2018, the Supreme Court, a five Judges constitution Bench, led by Chief Justice of India, Dipak Misra has struck down 158 years old section 497 of the Indian Penal Code, stating it as archaicⁱⁱ and decriminalizes adultery. Here, my argument is that, with the scrapping of this law, sanctimonious place of marriage would be demolished or merely exist as a legal contract leaving the idea of an eternal bond. Further, I have analyzed different facets and consequences of the scrapping of 497 in the light of institution of marriage and adultery in general and its impact upon Dalit women's life in particular, with special reference to a Dalit Marathi autobiography *The Outcaste Akkarmashi* (2003) by Sharankumar Limbale.

Keywords: Marriage, adultery, section 497 of IPC, caste, identity and Dalit women.

Conventionally marriage is considered a sacred ritual which goes beyond spouses' lives having *saat pheras* and promises. Contrarily, marriage institution has always been a strongest tool for male dominant society to have sole right or control over women's sexuality in the guise of

ethics, morality and idealism. Women's body and their virginity have also been regarded as property for their husbands. Moreover, endogamy has twofold functions –firstly, it restricts women's sexuality by marriages within their castes providing them fewer choices. Secondly, marriages within the castes also perpetuate caste system.ⁱⁱⁱ According to Allen Dorf and Thorndon, “marital caste endogamy supports the caste system, which is a defining institution of south India. It is caste endogamy that ensures the reproduction of separate, rather than melded, caste groups.”^{iv}

According to section 497 of IPC, adultery has been defined as “whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case wife shall not be punishable as an abettor.”^v Around 158 years ago when this law was enacted, women's social and economic condition was very weak and were uneducated. In the patriarchal structure of the society, where women are considered as immature and incapable of taking any decision particularly about their sexual behavior and have always been accepted as property and commodity of their husbands. This was the rationale behind women's exemption from the sentence while both the parties are equally responsible. Therefore, husband of a woman could only file a case under section 198, Code of Criminal Procedure. It is because the act of adultery violates the rights of a husband over his wife. According to Hindu Minority and Guardianship Act (1956), husband of a woman is considered her natural custodian. Justice D. Y. Chandrachud termed this law as a “codified rule of patriarchy. Man is not owner of wife's sexuality.”^{vi} Moreover, CJI, Dipak Misra argued that “Husband is not the master of his wife.”^{vii} Since, this law made a husband the ‘licensor’ of his wife's sexual choices.

The law of adultery was struck down by Supreme Court in September, 2018. Decriminalization of adultery created some positive and negative impacts in Indian society. It provides the sexual liberty to women by taking away the sexual sovereignty of husband on his wife; whereas the marital norm of sacred relationship between wife and husband is violated. Contrarily, a marriage does not mean forceful union of two individual or to grant one's autonomy to other. Authority and ability to make sexual choices is essential to human beings. While, in a

patriarchal social structure women are considered mere an object, as Claude Levi-Strauss argues that “women functions as ‘gift’ from father to husband and seal the bond between men; the passage of the bride from father to the husband seals the alliance between their families and maintains the status quo. The personal desires of bride and groom are redundant to the logic of such alliances.”^{viii}

Now the question arises, whether section 497 is against the norm of equality under constitution? Home Ministry claimed in an affidavit in the Court for the restoration of this law which functions as a safety guard for the sanctimonious institution of marriage. Further, Ministry claimed that the scrapping of section 497 of IPC and section 198 (2) of CRPC, would be destructive for cultural norms and values of Indian society. Whereas, the petition filed against this law shows the gender biasness against men and also violates the constitutional rights under article 14, 15, and 21. John Stuart Mill had also argued that, “the legal subordination of one sex to another – is wrong in itself, and now one of the chief hindrances to human improvements, and that it ought to be replaced by a system of perfect equality, admitting no power and privilege on the one side, disability on the other.”^{ix} Also, the Constitutional Bench has argued that “Criminal law does not discriminate on the basis of gender. This section is an exception and this needs reconsideration.”^x Furthermore, in 2006, National Commission for Women itself had made recommendation to make adultery as a Non-criminal offence.

Now, I would investigate the scrapping of this law locating Dalit women’s question. As every literary work of significance is a serious account of the society within which it emerges. These texts don’t just bring change in the established literary idioms, but also into the thought processes and the social ethics of the readers’ community. *Akkarmashi* is an autobiography by a Maharashtrian writer Sharankumar Limbale from the Mahar community, published in 1984 in Marathi and translated into English by Santosh Bhoomkar in 2003 with the title ‘The Outcaste *Akkarmashi*’. Limbale is well known for his critical book *Towards an Aesthetics of Dalit Literature* (2004) as well as for his autobiography *Akkarmashi* which has been translated into many languages. *Akkarmashi* means a child born of illegitimate relationship called “akkarmashi” in Marathi or ‘impure of blood’ or ‘half caste’. The author was the illegitimate son of an upper caste Patil and a Dalit mother. This narrative relates the story of an untouchable woman, Masamai

and her husband Ithal Kambale. Due to the bleak poverty, hunger and starvation, Masamai was forced to have adulterous relationship with upper caste men (Patils). Hanmanta Limbale was one of the Patlis. Sharankumar Limbale is an illegitimate son of Hanmanta and Masamai.

Though, women's situation has relatively been changed yet a very few women included in decision making bodies in patriarchal society where high positions held by men. Undeniably, we have been woman President, Prime Minister, Lok Sabha Speaker, Union Minister, Chief Ministers, Governors and political leaders. On the contrary, they are victims of day to day sexual assault, domestic violence and gender inequality. Justice Chandrachud reprimands that, "society imposes impossible virtues on a woman. Raises her to a pedestal. Confines her to spaces. Objectified her and says she should be pure. But society has no qualms to commit rape, honor killing, sex determination and infanticide."^{xi} Dalit women's situation is getting worse each passing day; they are facing different levels of oppression in comparison of their counterpart in upper caste. In Indian society the intense nature of oppression and exploitation of Dalit women who are at the receiving end of animosity from three structures, such as caste, class and patriarchy. It becomes more ruthless and complex when all three combine.

Violence is an essentially visible phenomenon in the caste-based society; pathetically, dominant ideologies of castes and sexuality always go hand in hand. Sexual violence is continuously enacted upon the bodies of Dalit women within and outside Dalit community. Violence against women for the sexual transgressions is an ever-increasing criminal act. Adultery in *Akkarmashi* is increasingly a form of caste war between Dalit and privileged class. As Limbale says, "my mother is an untouchable, while my father is a high caste from one of the privileged classes of India. Mother lives in a hut, father in a mansion. Father is a landlord; mother, landless. I am an *akkarmashi* (half-caste). I am condemned, branded illegitimate. I regard the immorality of my father and mother as a metaphor for rape. My father had privileges by virtues of his birth granted to him by the caste system. His relationship with my mother was respected by society, whereas my mother is untouchable and poor. Had she been born into the high caste or were she rich, would she have submitted to his appropriation of her? It is through Dalit movement and Dalit literature that I understand that my mother was not an adulterous but the victim of a social system."^{xii} Ania Looma has also argued, "sexual and gender relations remained a volatile arena for

both challenging and enforcing caste hierarchies; equally, one could argue that caste is a crucible in which gender and sexual norms are flouted and maintained.”^{xiii}

A high-caste Hanmanta’s lust for Masamai, an untouchable beautiful woman was responsible for the tragic end of her marriage and family and the caste council forced Masamai to divorce her husband Ithal Kambale, though Masamai never wants to get divorced. Her husband Ithal remarries with another woman. After Masamai’s divorce, Hanmanta gratifies his lust and deserted her. Masamai’s tragedy is the tragedy of Dalit women in general. Author says, “the Patils in every village have made whore of the wives of Dalit farm laboureres. A poor Dalit girl on attaining puberty has invariably been a victim of their lust. There is whole breed born to adulterous Patils. There are Dalit families survive by pleasing the Patils sexually...Besides the survival on the charity of a Patil what else can such a household expect?”^{xiv} Along with the stigma of caste and untouchability, narrator’s agony was compounded in his case by the abject poverty and hunger which compelled to his entire family to spend a lifetime thinking of nothing beyond the ways of managing food. He relates these issues with social relationship and ethics. Even Dalit men became thieves and women became prostitutes or adulteresses in order to appease their hunger.

Most crucially, Dalit women’s question has never been taken seriously for social transformation and they remained Dalits among Dalits. Author argues about Dalit women, that “to be born beautiful among Dalits is a curse.”^{xv} Limbale’s Grandmother Santamai and mother Masamai both were violated by high-caste Patils of village. Though, it is true that high-caste born people provided Dalits food, in return they oppressed and exploited Dalit women. As author stated, “I cannot think of Masamai and caught between bread and lust...what sort of life had she been living, mortgaging herself to one owner to another and being used as a commodity. Her life has been nothing but the tyranny of sex.”^{xvi} Hence, through Masamai it shows the defenselessness and vulnerability of Dalit women. According to Anisa G. Mujawar, Masamai’s defenselessness is portrayed two ways- her “defenselessness for survival” and her “defenselessness against sexual exploitation.”^{xvii}

Further, being an illegitimate child, Limbale is subjected to numerous humiliations within and outside of his own community. He says, “whenever I look at my mother I grow wild with

anger. Why did she commit adultery at all? But whenever I look at my mother and Santamai my throat constrict. Masamai and Santamai are not the only examples...They hadn't sold their bodies just to appease their lust. Do we exist just for the sake of that hunger? Beyond hunger lies a vast life. There is life beyond bread. And yet I had no experience of life beyond this ghetto?"^{xviii} As Masamai never gets respectful social recognition with high-caste Patils, and meted out contemptuous maltreatment within and outside Dalit community. This relationship fractured her marriage and family; her illegitimate children had no identity, caste or religion as they were fatherless. No one wanted to get married with these children as they were all bastard and aliens in their eyes because they had only human body and nothing else, such as caste, class and religion.

The caste has always been distinctive attribute for status quo in Indian social structure. One's caste continues to stick to one's identity throughout the life. It is because, "every time the dominant classes attacks and exploits the weak, they violate their women. The sexual exploits of the men among the wicked exploiters draw legitimacy from their authority, wealth, society, culture and religion. But what of the exploited woman?"^{xix} This autobiography has the intensity to raise the ultimate question of social ethics, and norms, namely, 'what at all is morality?'

Thus, the scrapping of section 497 can be seen in terms of progress of gender equality and sexual liberty for women. Sexual choice of women is being recognized as core to human rights. Hence, women's consent regarding sex is related to human right and dignity. But it will bring catastrophic effect for Dalit women. Since their economic condition is still very tragic. This drags them towards filthy occupation like forced prostitution or adultery that is a sort of rape. Doesn't the decriminalization of adultery increase the sexual exploitation of Dalit women by the upper caste men through forced adultery? Doesn't the forced consent of Masamai for adulterous relationship with Patils responsible for the destruction of her marriage and family? What about the identity of her illegitimate children? Didn't Masamai accept adulterous relationship with Patils to save her children from starvation? Wasn't the caste factor responsible for Dalit women's sexual exploitation?

Endnotes:

ⁱ “Home, the Most Dangerous Place for Women, with Majority of Female Homicide Victims Worldwide Killed by Partners and Family, UNODC study says,” Press Release, www.unodc.org/unodc/en/press/releases/2018/November/home--the-most-dangerous-place-for-women--with-majority-of-female-homicide-victims-worldwide-killed-by-partners-or-family--unodc-study-says.html

ⁱⁱ Rajagopal, Krishnadas. “Adultery No Longer Criminal Offence as SC Scraps Section 497 of IPC” *The Hindu*. 27 September 2018, www.thehindu.com/news/national/adultery-not-a-criminal-offence-as-sc-strikes-down-section-497-of-ipc/article25055245.ece

ⁱⁱⁱ Endogamy means to get married within one’s own community, caste, or clan. This is practiced to maintain the caste system and idea of purity and impurity alive, while the concept of exogamy is contrary to it.

^{iv} Allendorf, Keera and Arnold Thorndon. “Caste and Choice: the Influence of Developmental Idealism on Marriage Behavior.” *American Journal of Sociology*, vol. 121, no. 1, July 2015, pp. 243-287. The University of Chicago Press.

^v Reportable: In the Supreme Court of India Criminal Original Jurisdiction. New Delhi, September 27, 2018, p. 11.

^{vi} Rajagopal, Krishnadas. “Adultery No Longer Criminal Offence as SC Scraps Section 497 of IPC” *The Hindu*. 27 September 2018, www.thehindu.com/news/national/adultery-not-a-criminal-offence-as-sc-strikes-down-section-497-of-ipc/article25055245.ece

^{vii} Ibid.

^{viii} Strauss, Claude Levi. “The Family” in H L Shapiro (ed.) *Man, Culture and Society*. Oxford University press, 1956

^{ix} Mill, John Stuart. *The Subjection of Women*. Longmans, Green, Reader and Dyer, 1869.

^x *The Big Picture: Vyabhichar aur Vivaah*. Drishti IAS, www.drishtiiias.com/hindi/printpdf/adultery-and-marriage

^{xi} Rajagopal, Krishnadas. “Adultery No Longer Criminal Offence as SC Scraps Section 497 of IPC” *The Hindu*. 27 September 2018, www.thehindu.com/news/national/adultery-not-a-criminal-offence-as-sc-strikes-down-section-497-of-ipc/article25055245.ece

^{xii} Limbale, Sharankumar. *The Outcaste Akkarmashi*. Translated by Santosh Bhoomkar. Oxford University Press, 2003.

^{xiii} Looma, Ania. “Inter-Caste Marriage and the Liberal Imagination: Vijay Tendulkar’s ‘Kanyadaan.’” *Economic and Political Weekly*, vol. 48, no. 43, October 26, 2013, pp. 101-111.

^{xiv} 2003, p. 38.

^{xv} 2003, p. 37.

^{xvi} 2003, pp. 59-64.

^{xvii} Mujawar, Anisa G. “Demoralized Mother in the Outcaste.” *IOSR Journal of Humanities and Social Sciences*, vol. 20, issue 2, ver. 1, February 2015, pp. 05-10.

^{xviii} 2003, p. 64.

^{xix} 2003, p. xxiv.

Works Cited:

Allendorf, Keera and Arnold Thorndon. “Caste and Choice: the Influence of Developmental Idealism on Marriage Behavior.” *American Journal of Sociology*, vol. 121, no. 1, July 2015, pp. 243-287. The University of Chicago Press.

“Home, the Most Dangerous Place for Women, with Majority of Female Homicide Victims Worldwide Killed by Partners and Family, UNODC study says,” Press Release. www.unodc.org/unodc/en/press/releases/2018/November/home--the-most-dangerous-place-for-women--with-majority-of-female-homicide-victims-worldwide-killed-by-partners-or-family--unodc-study-says.html

Limbale, Sharankumar. *The Outcaste Akkarmashi*. Translated by Santosh Bhoomkar. Oxford University Press, 2003.

Looma, Ania. "Inter-Caste Marriage and the Liberal Imagination: Vijay Tendulkar's 'Kanyadaan'." *Economic and Political Weekly*, vol. 48, no. 43, October 26, 2013, pp. 101-111.

Mill, John Stuart. *The Subjection of Women*. Longmans, Green, Reader and Dyer, 1869.

Mujawar, Anisa G. "Demoralized Mother in the Outcaste." *IOSR Journal of Humanities and Social Sciences*, vol. 20, issue 2, ver. 1 February 2015, pp. 05-10.

Rajagopal, Krishnadas. "Adultery No Longer Criminal Offence as SC Scraps Section 497 of IPC" *The Hindu*. 27 September 2018, www.thehindu.com/news/national/adultery-not-a-criminal-offence-as-sc-strikes-down-section-497-of-ipc/article25055245.ece

Reportable, 10 April 2019: In the Supreme Court of India Criminal Original Jurisdiction.

Strauss, Claude Levi. "The Family" in H L Shapiro (ed.) *Man, Culture and Society*. Oxford University press, 1956.

The Big Picture: Vyabhichar aur Vivaah. Drishti IAS,
www.drishtias.com/hindi/printpdf/adultery-and-marriage