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#### CONCEPT OF MARRIAGE AND THE TREND IN INDIA

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#### *Introduction :*

The concept of marriage is very old and is in existence from the time of the human civilization. It is based on the customs and practices prevailing in the region of the world and the religion practised by the people of the region. It differs from region to region and religion to religion. While it is considered as sacrament in some religion, it is considered as a contract for procreation of children in some, while in some other religion it is considered as a bond of staying together for life, but the institution of marriage has been in existence from times immemorial. However, the law relating to marriage was not codified and depended mostly on the customs and practices prevalent in the place.

Bigamy and polygamy was permissible in some places. It was, however, a taboo for ladies. Young widows were not considered for remarriages. Divorce was permitted on serious grounds in some countries while it was decided by the village heads in some other parts, while yet in some other places it was decided by the elders of the family.

All these were done to the detriment of the weak and helpless parties. As such, laws were enacted based on the customs and practices in almost all the countries to give a status to the institution of marriage and regulate to avoid the unnecessary sufferings of the helpless spouses and to protect their interests.

Modern trend in some of the western countries is disturbing and has its influence on other parts of the world also. Some countries have given recognition to gay marriages and live in partners. Marriage between persons of same sex is also recognized jeopardizing the social set up of the society. This has also found its footing in India, which is basically a country of trust and belief in the customs and spirituality. A few gay marriages have come to light but of no significance. Marriages have taken place among the persons of the same Gothras, which was viewed seriously by the village panchayaths, resulting in killing for honour and inviting the criticism of one and all.

**Marriage** is a social union or legal contract between individuals that creates family. It is

an institution for creating and progress of the family and is acknowledged in a variety of ways, depending on the culture of the society in which it is found.

Practices of marriages are diverse across cultures, and are often formalized by a wedding. The marriage usually creates legal obligations between the individuals involved. All the cultures recognize marriage as an institution and adultery as a violation of marriage. Marriage changes the personal and social status of the individuals who enter into it as it is recognized by the State and the society.

Marriage is a very important social institution, all over the civilized world. Marriage gives rise to status *i.e.*, wife and husband as the parties to marriage and confers a status of legitimacy on the children born out of the marriage.

It would be worth mentioning the definition of marriage given by great *Philosopher Confucius*, according to whom

*“Marriage is the union of two different surnames, in friendship and in love, in order to continue the posterity of the former sages, and to furnish those who shall preside at the sacrifices to heaven and earth, at those in the ancestral temple, and at those at the altars to the spirits of the land and grain.”*

In India people especially the young generation started aping the western culture. The influence of the brought up and the atmosphere in the education centers are also responsible as much as the electronic media. Because of it more such marriages, without looking into the compatibility, are taking place, resulting in large number of divorce. The age old customs and practices are given a go-by. The traditional concept of the marriage exists but is on the decline. This is probably an important reason for the caste panchayaths to take a rigid stand. In many cases the diktats or the orders of the Khap Panchayaths

are against the couples who belong to different castes especially from the lower caste. As per the practice in some places marriage of couples of the same village is also prohibited leave alone the intra-gothra marriage. Yet, the couples are punished or killed. This is an alarming situation and requires protection for the innocent lives who fall for each other and decides to marry. This inhuman treatment of the young people or killing for the sake of preserving the honour of the community is highly deplorable and needs to be condemned. At the same time the age old tradition, practices and the customs need to be respected because basically ours is country where spirituality and faith is the foundation and the base, on the edifice of which the religion itself is existing and the society is surviving.

Therefore, the need of the hour is brining out a legislation whereby, right to live of such couples can be protected and their lives can be saved. While doing so the universal practice and customs of the society regarding the intra-gothra or sa-gothra marriages must also be considered seriously. The action of the Government is largely dependent on various factors and obviously on the vote bank as well. Many politicians, including some from the ruling party, have indirectly supported the Khap Panchayaths, but refrained from coming out openly. Some politicians of Haryana have openly supported the diktats of the panchayaths. As mentioned in the news a former police chief of Haryana, himself a self-styled caste leader, went on record threatening the critics of Khap<sup>1</sup>.

While this being so some organizations, particularly the organizations with left lineage like All India Democratic Women's Association, the Democratic Youth Federation of India and the Students Federation of India have condemned the honour killing and have issued a joint statement against the cry of potential threat to the culture of Haryana in

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1. The Hindu dt. 8.5.2010.

the wake of the verdict of the Court in the case of *Manoj-Babli*.

A brief description of the concept of marriage in various religions and parts of the world the important law relating to it is discussed hereunder.

### ***Concept of Marriage in Various Religions and Countries (In Brief).***

#### ***European marriages***

For most of European history, marriage was more or less a business agreement between two families who arranged the marriages of their children. Romantic love, and even simple affection, was not considered essential. Historically, the perceived necessity of marriage has been stressed.

In ancient Chinese society, people of the same surname were not supposed to marry and doing so was seen as a crime of sexual relationship between people prohibited because of closeness. However, since marriage to one's maternal relatives was not considered as prohibited relationship, families sometimes intermarried from one generation to another.

The concept of marriage among the Christians in India is same as under the English Law. Under the Christian Marriage Act, 1872, a marriage may be performed before a Marriage Registrar or it may be solemnized by a minister of religion licensed under the Act. If a Christian male or female, wants to marry a known Christian then the marriage has to be performed only under the Christian Marriage Act, otherwise such a marriage will be void. A marriage between a Roman Catholic woman and a Jew under the Act is void as the Personal Law of the Roman Catholics forbids such marriage. Marriage is considered as a gift from God by Christians. They variously regard it as sacrament, a contract, a sacred institution, or a covenant. Christians often marry for

religious reasons ranging from following the biblical injunction for a "man to leave his father and mother and cleave to his wife, and the two shall become one," to obeying Canon Law stating marriage between baptized persons is a sacrament. Divorce is not encouraged. Most Protestant Churches allow people to marry again after a divorce. In the Roman Catholic Church, marriage can only be ended by an annulment where the Church regards it as never having taken place.

#### ***Baha'i***

**In the Baha'i Faith** the marriage is encouraged and it is viewed as mutually strengthening bond, at the same time it (marriage) is not obligatory. The couple has to choose each other in the Baha'i marriage, and then the consent of all living parents are also required to be obtained.

**In Judaism**, marriage is viewed as a contractual bond commanded by God in which a man and a woman come together to create a relationship in which God is directly involved. It is expected to fulfil the commandment to have children in the Jewish marriage, though procreation is not the only purpose of the marriage. Another important aspect of the Jews marriage is the vows followed by reading of seven blessings for the newly married bride and the groom.

**In Islam** marriage men are allowed polygamy. Men can have upto four wives at any one time. The condition is that the man should look after his four wives satisfactorily and should be prepared to share his wealth equally.

For a Muslim wedding to take place, the bride and her guardian must both agree on the marriage. If the girl or the guardian does not agree for the marriage, it may not take place or may not be legal. The guardian or the father of the girl has no right to force her to marry.

In Shia Islam, the requirement for marriage is the consent of both the spouses and of the parents or guardian of the bride. It should be performed before two reliable witnesses. Muslim priest administer relevant words from holy Quran in front of others to create a religious contract between them. However, the bride and the groom should express their intentions and give consent for the marriage.

In Sunni Islam, marriage must take place in the presence of witnesses, with the consent of the bride and the consent of both spouses. Following the marriage they may consummate their marriage.

Muslim marriages in India have always been considered as a contract. Marriage (Nikha) has been defined as a “civil contract which has for its object the procreation and legalizing of children”. Shia Muslims recognize two types of marriages *viz.*, permanent and temporary or Muta marriage for a specified period of one week, one year or number of days, weeks or years. A Shia male can contract any valid Muta marriage with a female who is Muslim, Christian, and Jew. But Shia female can’t enter into a valid Muta marriage with a non-Muslim. The important feature of the Muta marriage is it stands dissolved automatically, *ipso facto* on the expiry of the term, no divorce is recognized. The children of Muta marriage are legitimate, and they have the right to inherit the property of both the parents. However, the wife can neither claim maintenance from her husband, nor can she inherit his property. A Shia Muslim can’t contract a valid permanent marriage with a non-Muslim. Sunnis do not recognize Muta marriage. A Sunni male has capacity to marry a female of any section of Muslims as well as Christian or Jews, but not with a fire worshiper or idol worshiper. A Sunni female can’t contract a valid marriage with non-Muslims, but marriage with Ketabi, *i.e.*, Christians or Jew is not valid but is irregular.

**Parsis** are the people professing Zoroastrian Religion. They also consider their marriage as a contract. Their marriage is a monogamous union. A Parsi, by changing his domicile or religion, can’t contract another marriage under the Parsi Law or under any of her law in the lifetime of his/her, wife or husband, whether a Parsi or not. If such marriage is performed it will be void. Under the Parsi Marriage and Divorce Act of 1936, as amended in 1988, a marriage can only be performed between two Parsis and every such marriage, the religious ceremony “Ashirvad” is necessary. They also recognize divorce.

Adultery is considered in many jurisdictions to be a crime and grounds for divorce. On the other hand, marriage is not a prerequisite for having children. In the United States, the National Center for Health Statistics reported that in 1992, 30.1 per cent of births were to unmarried women. In 2006, that number had risen to 38.5 per cent. Children born outside of marriage were known as illegitimate and suffered legal disadvantages and social stigma. In recent years the legal relevance of illegitimacy has declined and social acceptance has increased, especially in western countries. In the case of *Griswold v. Connecticut*, the highest judicial body of the United States ruled that procreation within marriage could be abridged by artificial insemination.

Marriage is considered a sacred duty in Hinduism and entails both religious and social obligations. Reference has been made in the Hindu Mythology of different types of marriages and their categorization like “Gandharva Vivaha” and “Rakshasa Vivaha” *etc.* Marriage of the persons of same sex and with same GOTHRA or marriages among Coparcenaries is strictly forbidden in Hinduism. In modern times widow’s marriage has come to be accepted by the society where as widows were not permitted to remarry in the olden times.

Marriage in Hindu Law has been given high respect and honour and is treated as “Sacrament” and is not a contract. Saptapadi, Panigrahan, Mangalasutra dharana and Kanyadana are the important rituals of Hindu marriages, where the ceremony itself is considered as highly sacred. The bride and the bridegroom take oaths before the Agni, a symbol of Fire God to stay together for lifelong and share the good and bad of the life and also to support each other in times of distress.

Section 7 of the Hindu Marriage Act, 1955 adopts the ceremonies and Sastras which are in vogue as per respective customs and practices of Hindu Sect.

Section 8 of the Hindu Marriage Act, 1955 provides that the registration of Hindu Marriage is optional and every State in India is at liberty to make the rules for enacting the registration of a Hindu marriage compulsory. The ceremonies are so attractive and pious that many foreigners have come to India and got their marriage performed in the customary rites and ceremonies of Hindu marriage. It is considered sacred, because the marriage is performed by the Mantras and Vedic rituals as per the age old customs that have been prevailing since Manu’s time. Hinduism is so flexible that if the parties do not want to follow the ceremonies of a Hindu marriage; they can get their marriage performed under the **Special Marriage Act, 1954 and yet remain Hindu.**

After the independence, the Government of India brought several changes in the Hindu Law, and codified four important Hindu Laws. Among them Hindu Marriage Act, 1955 is very important one. The Hindu Marriage Act, 1955 provides some mandatory guidelines for the performance of a marriage.

By incorporating Section 5, and by imposing certain conditions, the Act of 1955 curtails Sastric Law of Marriage, and started the beginning of a secular law of marriage.

Hindu Marriage Act, 1955 imposes certain conditions for a Hindu Marriage, whereby the system of marriage is regulated and legality is given.

A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely :

- (i) Neither party has a spouse living at the time of marriage
- (ii) At the time of the marriage, neither party—
  - (a) is incapable of giving a valid consent to it in consequence of unsoundness of mind, or
  - (b) though capable giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children, or
  - (c) has been subject to recurrent attacks of insanity or epilepsy;
- (iii) The bridegroom has completed the age of twenty one years and the bride the age of eighteen years at the time of the marriage;
- (iv) The parties are not within the degrees of prohibited relationship, unless the custom or usage governing each of them permits of a marriage between the two;
- (v) The parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two.

Two outstanding features of Special Marriage Act of 1954 are

- (i) Any marriage, which is monogamous in fact, whether performed in India or abroad, whether performed as civil



marriage or a religious marriage and irrespective of the fact as to which religion or community parties belong, can be registered under the Act.

- (ii) Marriage can be dissolved by the mutual concern of the parties. It avoids the conflicts of inter communal and inter religious laws which is bound to arise when parties to marriage belong to different communities and religion.

Foreign Marriages Act 1969, provides facility for an Indian National to marry abroad with another Indian national or a national of another country or with a person domiciled in another country. Marriage under this Act is monogamous union and can be performed only as a civil marriage. Any marriage performed abroad may also be registered under this Act, provided one of the parties to the marriage is Indian national and the marriage is valid under the Lex Loci Celebrationis.

**Indian Law :** Each religion or quasi-religious community has its own personal law. In personal matters or matters pertaining to family, India has no National or regional law. Hindus and Muslims have their own family law and also Christians, Parsis and Jews too have their own separate personal laws. (Hindus Dayabhaga and the Mitakshara; Muslims-Sunnis-Hanafi, Shias – Ithna Ashaari system – others no separate schools). Under Indian Law in personal matters, apart from law, custom has always played an important role. Custom override sacred law. In India there is no one concept of marriage. Since, different types of marriage prevail, and personal law is not determined by his domicile or his Nationality but by his membership of community to which he belongs. Muslims, if they took more than 4 wives the subsequent marriages were not void but merely irregular. Law of no other community recognizes polygamy. After 18th May 1955 (H.M. Act), bigamy is not allowed to Hindus and it has been made a penal offence.

Under Hindu Marriage Act 1955, any two Hindus whether domiciled in India or not, whether Indian Nationals or foreigners can perform their marriage. Hindus can also perform their marriage in their customary modes and still it is considered as a valid marriage. Muslim marriages in India have always been considered as a contract. Marriage (Nikah) has been defined as a “civil contract which has for its object the procreation and legalizing of children.”

**English Law :** Under English Law (domestic) marriage is defined as a voluntary union for life between one man and one woman to the exclusion of all others. In *Harvey v. Farnie*, the Court of Appeal took the extreme position that polygamous marriages could not be recognized for any purpose. Nature and incidents of marriage are determined by the Lex Loci Celebrationis and the Lex Fori determines characterization of marriage as to whether it is monogamous or polygamous. Where personal law permits only monogamy, though allowed concubines, the English Court characterized such marriage as a polygamous union. A marriage celebrated in polygamous form in England between an English woman and a Mohammedan domiciled in India is not binding on the former. A person, whose personal law permits polygamy, cannot validly take a second wife if he changes his domicile to England. (*Ali v. Ali*, 1966 WLR 620)

After 1972, a polygamous marriage entered into outside England and Wales between parties either of which is domiciled in England will be void and it is immaterial that the marriage is only potentially polygamous. A marriage need not be permanent marriage, but at the time when it is entered into it must be indefinite in duration;

The most vexed questions that frequently arise in private international law are under which law should marriage be characterized as monogamous or polygamous? Should it be the personal law of either party or pre-

marriage domicile ? Or should it be by the law of matrimonial home or should it be the Lex Loci Celebrationis ? In *Lee v. Lau* (1964 (2) All LRP 248), the Court said that it is for the latter to determine the nature and incidents of the union, and then it is for the Lex Fori, to decide whether the marriage is polygamous or monogamous.

Cheshire suggested that the character of marriage, whether polygamous or monogamous, should be determined before law of the matrimonial domicile.

**Criticism** – An English girl – marrying Muslim in *Harvey v. Fernie*, (1880 6 P.D. P.35), it was held that if any one of the two wives of a Muslim came to England and took another husband, then she could not be prosecuted for bigamy. In the case of *Sofia v. Shiva Prasad*, (1946 Cal. P.486), an Indian domiciled Hindu already having a Hindu wife, married a Jewish in Paris. The parties came to India. After sometime the wife approached an Indian Court for a decree of nullity on the ground that at the time of her marriage the respondent already had a wife living. The Calcutta Court held that since the first marriage of the respondent being a polygamous marriage would not be recognized under the French Law-the Lex Loci Celebrationis, his second marriage with petitioner was valid.

**Legitimacy** :—In the case of *Hashmi v. Hashmi*, (1971 3 WLRP 918), the Court held that though, the second marriage is void, but if the same were recognized as valid by the husband's law of domicile, the English Court would recognize that the children of such a marriage as legitimate.

### **Indian Law :**

Each religion or quasi-religious community has its own personal law. The differences and variations in Hindu Law are mainly between the two schools viz., Dayabhaga in Bengal, Assam, Tripura and Manipur and the

Mitakhara in rest of India, Benaras, Bombay, the Mithila and South India. The modern Hindu Law is in two parts, codified and uncodified. The differences and variations exist only in the uncodified law. The codified Hindu Law applies to all Hindus, uniformly. Differences also exist among the different sections of Muslims i.e., Sunni's and Shia's – Hanafi and Ashari.

**Hindu's always consider marriage as sacrament, which has the implication that it is permanent, in-dissoluble and eternal.**

This has been one of the most fundamental beliefs which are responsible for long lasting and permanent marriage in India. Some of the foreigners also were astonished by the absolutely zero divorce rates on grounds of marriage have come to India and got married in the Indian customs and traditions. Indeed, they were fascinated by the piety and the sanctity of the marriage ceremony of the Hindu Religion. Even now many foreigners visit India only to get married in the customary Hindu tradition of marriage. It is a pride for the Hindu Religion.

In India, inter caste, inter communal and inter religious marriages can be performed only under this Act i.e., Hindu Marriage Act, 1955. When one of the spouses of a marriage, converts to another religion, then the problem of conflict of inter-communal laws arises. Whether it is the law as applicable at the time of marriage, which governs the law or the law applicable after conversion ? In such cases the question is whether it would be the law of the spouse, who has converted or the law of non-converted spouse, which should apply. In majority of these cases, the non-Muslim spouses have converted to Islam. A few decisions of landmark cases of the Courts are mentioned herein below.

In *Khambatta v. Khambatta*, 1935 Bom. P.5 as Indian domiciled Muslim male married a Scot domicile woman in 1905, before a Marriage Registrar. Subsequently, parties came

to India and the wife embraced Islam. In 1922, the husband pronounced divorce on his wife. The wife also obtained a declaration from the civil Court that the marriage stood dissolved. Then she underwent a ceremony of civil marriage with one Khambatta under the Special Marriage Act 1972. After 10 years of marriage, the wife petitioned for a declaration of nullity of her marriage with Khambatta on the ground that her Scottish marriage has not been dissolved by any Court of law, whereby her 2nd marriage being bigamous was void. The Court was called upon to decide whether the marriage was governed by the law applicable at the time of marriage or was governed by the law applicable after conversion. The Court held that it would be the law after conversion that would govern the marriage. Therefore, the Court came to the conclusion that the 1st marriage was validly dissolved. *Blackwell, J.*, observed that if the change of domicile can effect a change in status then there is no reason why the change of religion should not do the same thing.

In *Nurjahan v. Tisanco*, 45 (CW 1047), two Russians solemnized their marriage in Berlin. Both the parties were Christians at that time. They lived together in several European countries till 1938 and then the wife came to India and the husband went to Scotland. In 1940, the wife converted to Islam and assumed the name of *Nurjahan* and thrice offered Islam to her husband. On the husband's refusal to accept it, the wife filed proceedings in an Indian Court for dissolution of marriage. The Court dismissed the petition on the short ground that since the parties were not domiciled in India, the Court has no jurisdiction. The Court observed that no spouse could, on converting to another religion, impose his new religion on other spouse.

In *Sayeed Khatun v. Ovedia*, 1945 4 (CWN 754), two Jews domiciled in India performed their marriage in India in 1943 by Jewish ceremony. In 1945, the wife embraced Islam

and offered it to her husband. On his refusal to accept it, she launched divorce proceedings. The Court while dismissing the application, observed that there was no law under which a marriage performed under one personal law could be dissolved under another personal law, just because one of the parties has converted to another religion.

From the 1690s until the Marriage Act of 1753 was passed as many as 300,000 clandestine marriages were performed at Fleet Prison alone. Therefore, in England and Wales, Lord Hadwicke's Marriage Act 1753 was passed making the marriage ceremony to be officiated by an Anglican priest in the Anglican Church with two witnesses a formal requirement for the marriage so as to curtail the fleet marriages, performed at the Fleet Prison and other places clandestinely.

In England and Wales, since 1837, civil marriages have been recognized as a legal alternative to Church marriages under the Marriage Act of 1836. In Germany, civil marriages were recognized in 1875. This law permitted a declaration of the marriage before an official clerk of the civil administration, when both spouses affirm their will to marry, to constitute a legally recognized valid and effective marriage, and allowed an optional private clerical marriage ceremony.

In the United States, such marriages are now highly stigmatized, and laws have been enacted in 30 States to ban most or all first-cousin marriage. In South Korea, historically it was illegal to marry someone with the same last name just as it is prohibited in India by customs to marry a person of the same Gothra.

Modernization has its influence on young Indians as well. It is also known as the influence of western culture popularly. While mostly marriages were arranged by the elders earlier, the present trend indicates that love marriage or marriages by the boy and girl without the consent of the parents is on the



high. Most disturbing fact of this modernization is the increase in the number of divorce in the recent years, especially, among the educated people. Where the boy and girl are employed, the chances of their interaction and developing intimacy at the work place also increases, which develops liking for each other leading to the wedding. It assumes seriousness when they are not from the same caste of religion or belongs to the same Gothra. Also, in such marriages the chances of successful married life are not very much, resulting in divorce. Where the girl is more qualified or earns more, then the chances of successful married life diminish further. This is evident from the fact that more number of divorces has taken place in the urban areas in the last decade especially last few years. This may also be due to the fact that many girls who are from village background and exposed to the urban atmosphere for the first time because of their employment easily fall prey to the charisma of the boys with urban background. In addition, because of the nature of the work and technological development and advent of information technology, young ones spend more time at their work place than at their home with the near and dear. This also leads to more proximity and exposure of girls to young males at the work place, as a consequence of which and the effect of their young age, inter caste and inter religious marriage are increasing, which is ultimately is the cause of more divorce as well.

Apart from this love marriages have resulted in inter caste and inter religion marriages and marriage between the persons of same Gothras, which is prohibited by the customs since, from time immemorial Sa-gothras are considered brothers and sisters. These are viewed seriously and against the customs by the village panchayaths and the caste panchayaths also known as Khap panchayaths. In a few States this was considered a humiliation to the society by the elders of the caste and as such decided to serious punishment like kill the persons or to

humiliate them publicly for resorting to such marriage so as to save the family prestige. This was also said to be to deter deviating from the age old customs by others. The incidence of honour killing is on the rise in our country and there is no denying the fact that the young people are living in fear.

Hindu Marriage Act, 1955 does not specifically prohibit marriage within the same Gothras but mentions a few conditions for regulating the marriage and imposes certain conditions and bans marriages between certain lineages from the maternal and paternal sides. This is presently in vogue in many castes and regions of the country. Important condition related to this aspect is that :

The parties are not within the degrees of prohibited relationship, unless the custom or usage governing each of them permits of a marriage between the two;

The parties are not sapindas of each other, unless the custom or usage governing each of them, permits of a marriage between the two.

Sa-gothras fall under the provisions “unless the custom or usage governing each of them permits of marriage between the two.”

Although, the number of cases in which the Khap Panchayaths or the caste Councils, which are considered illegal by many, have defied the law and issued the diktat for punishment have increased, a section of the political parties are also supporting the view of the Khap Panchayaths because they too want to support the customs and at the same time help the society in preventing the brutal honour killing of the newly weds. This is predominantly seen in the State of Haryana. In the case of *Manoj* and *Babli* honour killing case, the Additional Sessions Court of Karnal has boldly awarded death sentence to the five accused. This had sent shock waves among the panchayat leaders of that area. A meeting of the Khap Panchayath leaders of neighbouring States of Uttar Pradesh,

Rajasthan and Haryana was held in Kurukshetra on 13th April in view of the Courts decision. In this meeting they decided to take up the issue of amending Hindu Marriage Act, 1955 so as to ban the marriages within the same Gothras. The Judiciary cannot play a crucial role and has lots of limitations.

Justice K.S. *Abluwalia* of Punjab and Haryana High Court, while simultaneously hearing the 10 cases pertaining to marriage between young couple, made a revealing observation. He observed “the High Court is flooded with petitions where Judges of this Court have to answer for the right of life and liberty to married couples. The State is a mute spectator. When shall the State awake from its slumber for how long can Court provide solace and balm by disposing of such cases<sup>2</sup> ?

The Union Law Minister has recently said that the Government may consider if a demand for such thing comes. In view of the increase in the number of honour killings, Shakti Vahini, an NGO has filed a petition in the Supreme Court. In response to it, the Supreme Court has issued notices on 21st

June, 2010, to the Centre and eight States of Haryana, Punjab, Uttar Pradesh, Bihar, Himachal Pradesh, Rajasthan, Jharkand and Madhya Pradesh for direction to explain the steps taken to prevent honour killing at National and respective State levels<sup>3</sup>.

In fact it would go a long way since, in the absence of law, the Judiciary has laid down guidelines to combat sexual harassment cases at work places which has resulted in almost stopping it at work places. Such an interference and guidelines from the Judiciary would certainly help in preventing the honour killing of the innocent lives that fall for each other without knowing the other background of each other. This would also help law enforcing bodies to their job successfully in preventing the loss of lives and protecting the Human Rights thereby, providing the young couple the right to live happily. While judicial interference would be helpful in preventing the Khap Panchayaths from taking law into their own hands, the customs and practices of the majority Hindus should also be considered without vitiating the strong sentiments and the culture of the society.

### DISQUALIFICATION FROM INHERITANCE – A CASE FOR MAKING ‘ABETMENT TO COMMIT SUICIDE’ A GROUND THEREOF

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Section 25 of the Hindu Succession Act 1956 in precise states that a person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder.

It is manifest from the above section that a person who commits murder or a person who abets the commission of murder are the two specific categories of persons who are excluded or debarred from inheriting the property of the person murdered or any other property in furtherance of succession. Why is a person guilty of murder or abetting

2. Smt. Jagmati Sangwan, The Hindu 8th May, 2010.

3. The Hindu, 22nd June, 2010