
INDIAN MARRIAGES NO MORE SACRAMENTAL: CRITICAL ANALYSIS ON WIFE SWAPPING

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ABSTRACT

The Institution of marriage, like other social phenomena, has been undergoing significant changes. Monogamy has been widely practised by people from all walks of life. Taking the children's consent for their marriage, the marriage's diminishing stability, and the bridegroom's family's increased greed are some of the visible changes in the institution of marriage. Economic development, technological advancements, greater materialism in society, and legislative attempts are only a few of the significant causes that have led to changes in the institution of marriage. New social trends have happened in marriage life which include gay/lesbian relationships, live-in relationships, and wife swapping. Recently in Kottayam, Kerala Police uncovered a spouse swapping ring and arrested six men suspected of being involved in internet sex rings with over 1,000 members. Swapping is a concept in which the married couples exchange spouse for the expressed purpose of sexual intercourse. Cheating has been given a new level of acceptance if it is done with permission. The country has been taken over by the culture of exchanging spouses for fun, despite the country's view that marriage is sacrament and married couples should only share that sexual intimacy. Now wife swapping has long been practised in India, and, too many people's surprise, it is even becoming more common. Wife swapping is not only a game for the wealthy and powerful; it's a game played by people from all walks of life between known spouses and unknown willing strangers. Swinging is a dirty little secret that's making its way out of the closet in India, with couples looking for new ways to spice up their sex lives. This paper examines why Indian marriages has lost the definition of sacrament of marriage or holy matrimony.

Keywords: Sacrament, Swinging, Connivance, Wife Swapping

INTRODUCTION

Marriage is a sacred bond between two people. It can also be a source of enormous strength, hope, and encouragement in someone's life. A grace-filled marriage, on the other hand, necessitates patience, sacrifice, flexibility, and a lifetime of open communication. What was formerly discussed in hushed tones now finds its way through expressive letters, photographs, and everything is easily accessible because of Internet and smartphones. Wife swapping was like a covert underground fad a few decades ago. Not any longer. Swinging is a cheating trend that is done with permission. This idea of guilt-free sexual exploits is gaining traction among Indian couples. Wife swapping is a regular practise in India, however it is kept quiet. In addition, if you think swinging culture is only for high-end metro cities, you are mistaken. Wife swapping has its origins in tiny villages, as well as among low socioeconomic groups. The new matrimonial bliss formula these days is to build open relationships, allowing complete freedom and transparency. Wife swapping earlier meant inviting 'raised eyebrow' but now it's a considered to be a sign of a modern mind-set.

WIFE SWAPPING

¹Temporary exchange of wives between married couples for sexual relation. Wife swapping, often known as swinging, is the voluntary exchange of spouses between two couples for the purpose of sexual enjoyment. Some people like to swing with known couples, while others prefer to swing with total strangers. Swinging, as it is widely known, appeals to couples who want to break away from the monotony of married life and seek fulfilment of their sexual cravings and fantasies outside of the marriage without feeling guilty.

HOW SWINGING WORKS

- Gatherings open to a selected few couples.
- Membership fee to join a group or club.
- Before giving approval, a background check is performed.
- Husbands are invited to special meals where the rules of the games are laid out.
- Wives have their own meeting where they are introduced to the game.
- The location of the party is revealed two days before the event.

¹<https://www.collinsdictionary.com/dictionary/english/wife-swapping>

WIFE SWAPPING IN INDIA

Some men have the hazardous misconception that marriage gives them unlimited control over their spouses. Wife swapping is not considered as criminal offence in India even our laws do not consider it illegal because it is carried out with the consent of all people concerned. Both criminals and their accomplices must face the same penalties under the law. In limiting the class of criminals to men, the nonsensical classification between man and woman breaches Articles 14, 15 and 21 of the constitution. Married males and their accomplices shall face the same punishment. Because wife swapping is growing more common, both the government and the courts must define "permission of the husband" more clearly. If the legislation be changed to punish both husbands and wives for adultery, the term "consent or connivance" must be removed. Recently Kerala Police discovered a spouse-swapping racket. After a young housewife filed a complaint against her husband for allegedly forcing her to have group sex and making money in exchange for it for the past three and a half years, police cracked down on the groups. Other members of the sex ring are being sought. The cyber cell is following social media platforms promoting the "sex trade" across the state. Volenti non-fit injuria is a tort defence in which a person who has committed a wrong is exempted from accountability because the victim of the wrong gives his permission to the commission of the wrong, and such assent must be free for this defence to be successful in a case. In wife swapping case the defence taken is consent by the husband.

WHY WOMEN GIVE CONSENT?

Economic reliance has been identified as the primary cause. Women who lack the financial means to support themselves are obliged to stay in violent situations and are unable to be free of abuse. Women do not like the option of separation or divorce due to deeply ingrained values and culture. They are also afraid of the repercussions of reporting abuse and express a desire to avoid the stigma of being labelled as battered women. Women are also forced to suffer silently within the four walls of their homes due to a lack of information about alternatives. Other women keep quiet about the abuse because they are afraid of retaliation from their partners if they divulge family secrets, or they are ashamed of their situation. The practise of wife-swapping has some parallels with human trafficking. Many men's views continue to make their wives' life unpleasant, according to women's rights groups, and married women should be granted support to help them become economically independent. Many husbands take

advantage of their wives' low socioeconomic status. These guys treat their women as if they were slaves or commodities, and they treat them as such.

- **PHYSICAL ABUSE:** The most apparent type of violence against women is physical assault. Physical abuse includes assault, unlawful force, and criminal intimidation.
- **VERBAL AND EMOTIONAL ABUSE:** Violence against women can encompass both verbal and emotional abuse. Verbal abuse comprises comments or threats made by domestic relatives during domestic violence against women. From a human rights standpoint, verbal abuse leads to emotional abuse, which is an extremely widespread type of domestic violence. Psychological abuse results from a woman's sense of self-worth being eroded by a mixture of verbal and emotional assault.
- **ECONOMIC ABUSE:** The government took a bold step by include economic abuse among the types of abuse covered under the Domestic Violence Act. Economic abuse is defined as denying or threatening to deny the victim and her children access to financial resources or assets.
- Effect on physical health, mental health and well-being.
- Victims may find it difficult to give evidence or report the abuser.

BARRIERS FOR VICTIMS TO ACCESS HELP

- When violence happens in the context of an ongoing and personal relationship, the victim may be hesitant to seek aid from the police or other authorities owing to shame or stigma or fear of retaliation.
- Have strong convictions about maintaining their relationship or family.
- Fear of retaliation from the abuser against her or her loved ones.
- Fear of being judged by others.
- Rely on the abusive relationship for financial support.
- You live in a remote location.
- Isolate yourself from others socially.

- Deal with communication, linguistic, and cultural difficulties.
- Do not want the abuser to be evicted from the house, incarcerated, or have a criminal record.
- Do not expect that reporting the abuse to the police or entering the criminal justice system would stop it.
- Have lost faith in the police and the criminal justice system to assist or protect them.
- When victims seek aid from the police or municipal authorities, their accusations are frequently dismissed. In such circumstances, the police or local authorities are likely to represent traditional norms, and they may be hesitant to interfere.

CASE LAWS:

SEEMA ARORA AND OTHERS VS RAJIV ARORA 2008

The petitioner, in this case, pleaded that she has been forced to leave the matrimonial home due to the mental and physical cruelty caused by the respondent and his family members due to the dowry brought by her at the time of marriage and decline of offer given by the brother of the respondent for wife swapping.

SUJATHA RAVI KIRAN VS STATE OF KERALA AND ORS ON 12 MAY 2016

A year after wedding the petitioner on April 4, 2013 filed a complaint against her husband and in laws for the physical and mental cruelty, she also accused five naval officer and the wife of one of them for sexually abusing her. In this complainant the petitioner also made made the allegation of wife swapping. Based on her complaint, a case was registered in FIR No.260 of 2013 for the offences.

SUGGESTION

Wife swapping is a violation of human rights. Core basic rights recognised by international law, including as the right to life and physical integrity, as well as the freedom from torture and other cruel, inhumane, or humiliating treatment, are all breached by wife swapping. Human rights are claims that every person has on the society in which they live, and they are independent of gender, race, class, or social standing. Simply by virtue of being human, a woman has the same right to live a life free of harm as a man.

- The Indian criminal law should include a provision for punishment for wife swapping.
- States will have to take number of steps to enhance their laws and criminal justice systems in order to combat these kinds of offence against women.
- The society is now adopting the Western civilization, proper legislative measures should be established.
- It should be declared a grounds for divorce if it's without consent.
- States have a duty to condemn violence against women, and they should not use any custom, tradition, or religious reason to excuse themselves from fulfilling that commitment.
- States must take all reasonable steps to prevent, investigate, and punish acts of wife swapping in line with national law.
- States are required to create preventative policies that promote the protection of women against all forms of violence and guarantee that women are not re-victimized as a result of legislation, enforcement procedures, and other initiatives that are insensitive to gender considerations. States must seek to guarantee that women who have been victims of these kind of offences, as well as their children, receive specialised help, such as rehabilitation, child care and maintenance aid, therapy, counselling, and health and social services, facilities, and programmes.

CONCLUSION

Although there is no quick fix for reducing this kind of offences, the consistency of our findings across locations implies that, properly tested and developed, a preventative strategy might be useful in a variety of circumstances. Initiatives to prevent these kind of wife swapping concept should involve the international community's, local governments', and civil society's dedication and vision. Now it is the moment to take action and preventive measures are urgently needed, as underlined in the current UN Campaign against violence against women, Women Should Not Wait. Identifying and responding appropriately to these kind of cases requires that the special dynamics of the violence and the special vulnerabilities of the victim should be understood and taken into account. Where the victim does seek assistance, there must be an effective and efficient legal response that places primacy on protection of the victim and ensures that victims are dealt with in a sensitive manner. If the accused is not held accountable for his actions, his sense of dominance and power are reinforced, and the victim is at risk of increased violence in the future.