
LEGAL IMPLICATIONS OF SOLOGAMY IN INDIA

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ABSTRACT

The act of marrying oneself, also known as sologamy or autogamy, is becoming more and more popular worldwide, particularly among women. Although it makes the claim to be a form of marriage, this practice does not adhere to any of the fundamental traditions of Indian marriage. This paper employs the doctrinal method of research in an effort to inform the reader about sologamy in India, highlight the difficulties with the current legal framework, exemplify the legality of sologamy, and offer the reader with varied perspectives on this emerging form of marriage in our society.

Keywords: Sologamy, legality, Marriage, India

What is sologamy?

Sologamy, also known as autogamy, is the practice of marrying oneself, and those who engage in it contend that it results in a happier and more contented life since it frees them from relying on other people or things for their happiness. It does not have legal standing in India as of today.

A dental hygienist from the US named Linda Baker wed herself in 1993. In front of about 75 of her friends, the bride said "I do" to honor herself in sickness as well as in health until the day she dies. This is regarded as the earliest known instance of self-marriage or sologamy.

History of marriage and its implication on sologamy

Historically, the primary function of marriage has been to unite families for either political or economic purposes, or often for a combination of the two. Currently, most people understand that marriage is a link between two people that encompasses responsibilities and legality as well as commitment and difficulty, regardless of how a couple enters into the union. Even in the ancient periods, this was the sentiment followed by the people. That idea of marriage has not changed. A marriage depicts eternity because it has no beginning or finish.

Considering the ideas put forth previously, sologamy as an idea or potential form of marriage has no scope for a union of two individuals. The absence of a union of two persons also implies that there would be no presence of a political and economic union, therefore not serving an economic and political purpose. Marriage is a relationship with another that includes responsibilities and duties. Considering one does practice sologamy, the question of performing duties and responsibilities to another does not arise at all. One of the primary characteristics of marriage is the responsibilities performed by the parties that are lacking in a sologamic marriage.

Divorce is the legal termination of a marriage between two individuals previously involved in a marriage. Considering a person is involved in a marriage with oneself, there is no scope of terminating a relationship with themselves.

Cris Galera is a woman who wed herself, then filed for divorce 90 days later. This took place due to her falling in love with someone else. People who marry themselves frequently claim that their behavior is a step toward self-love and self-satisfaction. They contend that they do

not require the love or fulfillment of others. In the case of Cris Galarreta, the act of self-divorce indicates that after finding love as well as fulfillment in another person, she stopped loving herself and was unable to please herself. This argument is flawed because it suggests that she lost love for herself when she got divorced to herself and instead found love in another person.

Marriage under various Indian Legislations and implications of sologamy

The Special Marriage Act, of 1954¹

Section 4 of the act states “a marriage between any two persons may be solemnized under this Act...”. Here the act mentions the presence of any two persons and there is no room to assume otherwise.

The Hindu Marriage Act, of 1955²

Section 5 of the Act provides the conditions for a Hindu marriage and states “A marriage between any two Hindus, if the following conditions ...”

The Hindu Marriage act, it specifies the union of any 2 Hindus

The Indian Christian Marriage Act,1872³

Section 4 of the Act talks about the solemnization of marriage and states “ Every marriage between persons...”

The mention of the plural form of a person (persons)implies the presence of 2 people in a marriage

In all the above following acts, the sections mention the presence of 2 people for the solemnization of the marriage. The direct mention is not handed out to us, but with a literal interpretation, it can be understood that there is a requirement for 2 people in a marriage. This does not give place for sologamy coming under the ambit of any present laws for marriage currently in India, implying that It has no legal standing at present In the country.

¹ The Special Marriage Act, of 1954

² The Hindu Marriage Act, of 1955

³ The Indian Christian Marriage Act,1872

Muslim marriage is not governed by any specific act. The Quran, the Ijma, the Qiyas, customs, urf, precedents, justice, and other laws are among the codified and uncoded sources from which Muslim law is derived. Marriage in Muslim law is more a contract than a sacred union. According to Ashabah in *Abdul Kadir v. Salima*, "Marriage is a contract underlying a lifelong partnership based on mutual consent on the part of a man and woman."⁴

Fyeez mentions marriage as "juristically marriage in Islam is a contract and not a sacrament"

It has been established that marriage under Islam is contractual and a contract must be entered into by 2 independent individuals. If a person were to indulge in sologamy under Islamic law, legally it would be difficult to do so as a contract is necessary and there is only 1 party to the contract thus there is no contract, resulting in the absence of marriage.

Concerning the current legislation, no scope or legislation caters to sologamy implying that a person marrying themselves has no marital rights in the eyes of law.

The first case of sologamy in India

Kshama Bindu, a Gujarat-born Indian woman, married herself by following all the customs and procedures required of a Hindu wedding. This was the first sologamy ever documented in India. She was bisexual and decided to marry herself since she had always preferred being a bride over being a wife. The 24-year-old broke the traditional mold of marriage by being married to herself. She adhered to all the procedures and traditions of a typical Hindu wedding, including elaborate haldi and mehendi ceremonies as well as performed 'seven pheras' or saptapadi which is regarded as a necessary component of the Hindi wedding rite, and took part in ceremonies in front of sacred fire (vivah Homa). She also carried out Lord Ganesha and Goddess Laxmi pujas as prescribed, garlanded me and applied sindoor to her head, and even took seven vows she had written for herself. The priest had withdrawn following criticism, and the temple had canceled her wedding reservation. This led her to get married in her residence.

Kshama Bindu followed the Hindu marriage customs. In Hindu customs, there is a concept of Husband and wife and they are said to be the better half of each other, this customary practice is not possible in the case of sologamy and there is no concept of husband or wife if one is married to themselves. There are certain ceremonial aspects of a Hindu marriage i.e., saptapadi, vivah homa and kanya dhana. These 3 practices are considered essential in a Hindu marriage.

⁴ *Abdul Kadir v. Salima* (1886) 8 All 149

In a sologamy, vivah homa and saptapadi are physical possibilities but kanya dhana which is giving away the girl is impossible as the girl is not leaving to her husband's home.

Sologamy and inheritance

The practice of passing on, or rather transferring, a person's legal heir's possessions, titles, debts, rights, and duties upon that person's passing is known as inheritance. Either a will or the laws of succession can do this. Religions, cultures, and local communities all have different laws governing inheritance.

If a person indulges in sologamy, the law that governs their property would be the same as an unmarried person in the context of the present legislation. The legal heirs of the person would be the parents followed by the siblings, the same as the status of unmarried people in the present legal context. If sologamy were to be legalized, in matters of inheritance they would be treated the same as an unmarried person, the same provisions would apply to them as well. There are no children or spouses as such, thus giving them the same rights as a single or unmarried person. Under the inheritance law, there is no basis to segregate both of these categories of people.

Why Women might view sologamy as an escape from patriarchy

Marriage is portrayed to women as always being about making someone else happy. Women are told they must be good wives from a young age. Women are increasingly marrying themselves to satisfy and enjoy themselves. It is stated that if women serve their husbands and in-laws, they will be blessed. The unfairness that lurks behind these beliefs, however, has made modern women less willing to accept them. They now think that benefits come from doing good actions and that the most amazing thing that anyone can do is to value themselves. Domestic violence is a harsh reality for many women in our culture. When it comes to the prosecution of domestic abuse crimes, there are other flaws as well. Women are expected to remain silent and endure all the injustice even when cases are dropped before trial. Daughters are taught by their parents to accept domestic abuse as a normal aspect of marriage. Marital rape is still not viewed as a crime in India. Even if she doesn't want to, women are required to perform sexual favors for their husbands. Husbands have power over their bodies and are supposed to take their wives' consent to sex for granted for the rest of their lives. After marriage, sex is exclusively about male gratification or pregnancy. The desire or assent of a woman rarely matters. But women reclaim their right to orgasm and sexual consent through solo

relationships. They reclaim control over their bodies and refuse to let anyone else make decisions about what they want for them. Marriage is viewed as a means of providing a woman with social and financial security. However, today's women want financial and lifestyle independence. They, therefore, don't require anyone else. A woman's life is owned by her marital family once she gets married. She must fulfill the demands placed on her by her married family to live, act, and pass away. A woman is compelled to quit her beloved work and put in extra effort in the kitchen and to bear the family's male heir. Women who live alone still have the same human right to a peaceful death.

In Indian culture, divorce is shameful. No matter how unhealthy marriage may be, it is thought that it should survive until its last breath. Even then, if a woman seeks a divorce, they will endure blame and humiliation for the rest of their life. Women are attempting to get over these potential obstacles in their life by engaging in solo relationships. Women are never instructed to put their happiness and freedom first. They are always expected to put others before themselves. Women are thereby reclaiming the right to value themselves and be happy through solo relationships. The pressure to have children after marriage is undeniably great. Even though pregnancy is solely a woman's experience, society insists that family members make the final call. Women can recover their rights to their bodies and the decision of whether or not to have children through solo relationships. In marriage, society places all of the weight on the woman to maintain the union. To ensure the durability of marriage, women are required to put in work and make sacrifices. But in solo relationships, women are only expected to prioritize and love themselves. And for any human to thrive, this obligation is necessary.

Sologamists say that because unions have no legal standing, sologamists are not required to get a divorce if they discover someone else. Marriage as well as divorce are legal concepts and if one gets married, to terminate that marriage the only way forward is divorce. If they say that they do not need to divorce to be with someone else, then why call it a marriage? Being married to oneself and married to another would technically be being married twice when the other spouse is still alive and married to them. This would legally and technically come under polygamy which is illegal under the eyes of the law. If none of the rules and regulations apply to this form of marriage, then can we technically call it a marriage?

Analyzing the above text written by a sologamist tells us how sologamy is all about self-love and self-dependence and not about a legally binding relationship. The question that arises is why label a relationship with oneself with a legal term such as marriage when there is no

legality desired by the individual in the first place. If all that is desired is self-affirmation and self-love why bring the legal aspects of a relationship into it?

An opposing perspective

People who are against the idea of sologamy or autogamy advocate that selfishness, as well as self-interest, are highlighted when a person marries himself or herself, not their ability to live their best single life. They are not shielded by the ceremony and it is Even against the law. Even worse than being gestural is that it is empty. For single people wanting security or affirmation, getting married to themselves is not the solution.

They contend that the actual key to being single and content with being single is creating and maintaining various types of meaningful interactions and relationships with other men or women outside the context of traditional weddings. Marrying themselves, on the other hand, further isolates them from the outside world. By encouraging the unmarried to marry themselves, the world pushes them to be quite selfish without worsening this undesirable trait.

When one marries themselves, the worst of what feminists originally criticized as a jail and a cultural license of female enslavement and subservience is made much more acute. Instead of, at the very least, sharing the numerous joys and dramas of daily life with a significant other, the single person simply turns all of that on themselves. Even if they set ridiculous expectations for themselves, they will still be unrealistic. Self-marriage is not a solution for those who are unmarried. Keeping a healthy, rational single life is.

Although living alone is not often associated with sologamy, it does strongly suggest that a companion may not be there. Everyone has friends and relatives, but relationships with spouses or other romantic partners are different from those with friends. If a person is "married" to themselves, having sexual relations outside of marriage is viewed as immoral and is also a reason for divorce. Therefore, in this situation, having sexual intercourse with anyone would be immoral and a cause of divorce. Major perinatal and physical health problems may result from this isolation in sexual and romantic relationships. Living alone for an extended period can result in feelings of alienation and isolation, which can be detrimental to one's mental and physical health. Those who argue against sologamy or autogamy reject both the potential legality of sologamy or autogamy as well as the mentality of self-love and self-dependency that sologamists argue in favor of. Getting married to themselves further cuts them off from the

outer world. The world pushes the unmarried to marry themselves, which exacerbates their selfishness without making it worse.

Could Sologamy be a business tactic?

Another theory of sologamy is that it could be a business tactic to increase the profits of the wedding industry. Since most of the participants in sologamies are women, there would be a lot of money spent on buying dresses, meals, booking a venue, and so on. This would lead the wedding industry to make huge profits. Sologamy not being a legally binding marriage could lead women to think it's not a life-changing event and may just do it for the fun and enjoyment of it, leading to a massive increase in wedding rates and the wedding industry would boom. Since there is no legal basis for this, a lot of people will not give it a thorough thought leading to several impulsive weddings. In recent times, self-marriage has grown in recognition, particularly among educated women. 2014 saw the introduction of self-marriage packages for women in Kyoto, with some of the clients being wives who were unhappy with their first nuptials. Considering the widespread feminist movement, many women might choose this path to assert themselves in this society yet again leading to many weddings.

What would happen if sologamy was legalized?

Sologamy could be legalized through legislation or a judicial decision. Hypothetically, if sologamy is legalized there would be a change not just in the marriage culture of the country but also the society as a whole. To elaborate further, if sologamy is legalized it would mean an increase in the number of sologamists. An increase in the number of sologamists would mean a decrease in population because to be faithful in their "marriage" it would be immoral to have sexual intercourse outside the wedlock leading to a decrease in the birth rate of the country.

Legalizing sologamy could mean an increase in the number of marriages followed by an increase in the number of divorce cases. The Indian courts are already piled up with cases every day, and an increase in divorce cases could only burden the family courts more. The nature of these cases could also be petty as people disappoint themselves often leading to petty divorce cases. Even if one does file a divorce proceeding against themselves there is no difference in their lives as they are still in the presence of the party they divorced for the rest of their life. Therefore, there is no utility or need for divorce at all.

Conclusion

In Conclusion, sologamy does not have any legal backing in the context of present laws and legislation. It does not fit into the ambit of any laws as well. Sologamy is simply a gesture of self-love and self-commitment. Calling it a marriage gives rise to various complexities and calling it just a wedding would better fit the nature of the situation. One could say that sologamy could be a result of patriarchy as most women who take the path of sologamy are trying to escape the concept of husband and wife and the responsibilities attached to conventional marriage. One of the main aspects of marriage is the union of two families which is not possible in a case of sologamy. It is not only the legal implications of sologamy we need to question but if we could even consider this a form of marriage. Many unions are illegal such as polygamy and polyandry. This form of marriage can be called marriage as there is a union of two people and there is a chance of the relationship becoming legal after a divorce from the previous spouse. In these cases, there is a chance of the relationship becoming legal. But in sologamy, there is no chance of the marriage fulfilling the essentials of a valid marriage while the other forms of marriage if performed legally it has the potential to fulfill the essentials of a valid marriage. For example, if person A and B are married, and person B falls in love with one C. B marrying C would be illegal while he is still married to A, but under unfortunate circumstances, if A passes away then there is a chance for B and C to legally marry and fulfill all the essentials of a valid marriage. In the case of a sologamy no matter what the circumstance is there is no way to fulfill the essentials of a valid marriage. Sologamy can be questioned on the basis that it can even be called a form of marriage. At best one may call it a wedding or a ceremony of self-celebration and self-love. If it does attain legal sanction at any time in the future, there would be several loopholes in the provisions. Even though Sologamists claim that they may have sexual relations with other people, it goes against the basic principle of monogamy which is prescribed by most laws of our country. If they do insist on calling it a form of marriage, then they are also obligated to perform the basics if not all the customary practices. It would lead to them violating the basic fabric of marriage as an institution. In the perspective of current laws and legislation, sologamy has no legal support. It does not fall under any laws' purview either. Sologamy is merely an act of self-love and commitment. Simply calling it a wedding would be more appropriate given the circumstances because calling it marriage would bring about several complications. Our legal system is also not equipped to take on extra cases of "divorces" if sologamy is legalized.