

ENDOGAMY AND FREEDOM OF CHOICE IN INDIA

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ABSTRACT

The right to marry a person of one's choice is intrinsic to Article 21 of the Constitution of India. Article 21 deals with the right to life that according to Supreme Court cannot be violated in any circumstances. The caste system has a stronghold in Indian society and one of the drawbacks that India faces today due to caste system is endogamy and effects after that. Discrimination based on the caste system hampers the Constitutional values and is proved with the help of various judgements of the highest courts of the country. Marriage outside caste is still a taboo in India. Love marriages are still not given any importance in orthodox Indian society. Love marriages most of the time are not accepted by parents and sometimes lead to honour killings whereas arranged marriages result in increasing the percentage of suicides in the country. In India love is not the reason for getting married rather marriage is the reason to love someone. The National Crime Records Bureau of India shows how many people end up there lives as a result of not being allowed to make their choice while they marry. Arranged marriage is also a reason for an increase in cases of marital rape. Scientific studies show that children born out of endogamous marriages are predisposed to genetic defects and diseases. A uniform system of governance can help people to become rational.

KEYWORDS

Adolescent, Arranged-Marriage, Caste, Constitution, India, Rights

The Constitution only gives people the right to pursue happiness. You have to catch it yourself.

-Benjamin Franklin

INTRODUCTION

In India, reports suggest that only 5 percent¹³¹³ of marriages are inter-caste. This often results in eagerness to know that marriage outside caste has not yet found social approval in India, as

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we see untouchability still practiced and cases of honour killings across the country are reported constantly. However, the Constitution strictly opposes the practice of casteism and untouchability. It is still a general observation among Hindus in India that prohibits a member born into one caste from marrying into another.

Rigveda (sacred text) gives information about the existence of an egalitarian society in ancient India. Casteism is an aberration and not an integral part of Indian society. No evidence of caste is found in the Early Vedic age and the members of the same family indulged in different occupations. This is well illustrated in the *Mandal 10* of *Rigveda*¹³¹⁴. Lord Krishna also conveyed through *shrimad Bhagavat Gita* (the holy text of Hindus) that it is not the birth but the '*karma*' (deed) and '*guna*' (quality) of a person which decides his status and position in the society¹³¹⁵. The caste system originated afterwards and over time became a means of discrimination and division within the religion.

According to a team of American and Indian biologists¹³¹⁶, the caste system is thought to have prevailed for more than 2,000 years, long enough to have impressed a subtle genetic signature on the population. Genetic studies show that the practice of inter-caste marriage was common in the Indian subcontinent until 1,900 years ago when it disappeared.

This taboo of caste ethnicity has become so sturdy that breaking it in any way always results in brutal violence. India's ancient citadel of caste is unshaken regardless of changes happening globally. Urban educated families are also not left out of the clutches of this orthodox practice of marriage within the same caste. Today in the United States social acceptance of marriage between black and white has dramatically increased as a result of their rational mindset, which led them to ignore this taboo of discrimination and to welcome what society needs. This is universally accepted that change in society is inevitable with the passage of time. But the problem with Indians is that they are not susceptible to even positive changes in society. In India love is not the reason for marriage instead marriage is the reason for love. Indian culture is considered one of the best and unique cultures in the whole world but we know that a good always carries some evil with it and that evil needs to be removed from the system in order to bring a healthy environment in the society, for example, the

¹³¹³Rukmini S, just 5 percent of Indian marriages are inter-caste, The Hindu 13 Nov 2014, <https://www.thehindu.com/data/just-5-per-cent-of-indian-marriages-are-intercaste/article6591502.ece>.

¹³¹⁴Hymn 191, Mandal 10, *Rigveda*.

¹³¹⁵Chapter 4, Verse 13, Vyasa, *The Bhagavad Gita*.

¹³¹⁶Nicholas Wade, Women Can Marry Up, The New York Times 27 Oct 1998, <https://www.nytimes.com/1998/10/27/science/in-caste-system-women-can-marry-up.html>.

practice of 'Sati'(burning woman alive on the pyres of her husband), untouchability, discrimination against women in various aspects and the recent one which is to be discussed in this research is one's right to have a say in life's most important decision that is to get married to a person of his/her choice. This research to a great extent will unmask the truth and the wrong that people always tend to ignore. It will show how adolescents (especially females) are being exploited by their own family and society? What impact does it put on them, how is it wrong (morally and legally)? How it impacts the nation as a whole? And what is the result of this exploitation? All these questions not sequence wise but answered in this research.

The right to make choice is integral to "Right to Life" (Article 21)¹³¹⁷

Right to life is a fundamental right, enshrined in the Constitution of India. The importance of this right has been time and again reiterated by the highest courts of the country in a plethora of judgements. In a landmark judgement case of *Maneka Gandhi vs. UOI*¹³¹⁸, justice Bhagwati said that Article 21¹³¹⁹ embodies a Constitutional value of supreme importance in a democratic society and justice Iyer has characterized Article 21 as a procedural *Magna Carta* protective of life and liberty.

In a judgement of 2018 of the honourable Supreme Court in the case of *Shafin Jahan vs. Asokan K.M.*¹³²⁰, famously known as Hadiya's case, the court said that right to marry a person of one's choice is integral to Article 21 of the Constitution of India. The court further said, "The social values and morals have their space but they are not above the constitutionally guaranteed freedom". Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to decide on matters central to the pursuit of happiness. A thorough reading of the said judgement can make it crystal clear how once choice plays an important role in a person's happiness.

There are plenty of cases in our daily life where adolescents are put under this ambiguity by their parents; it is a mental trauma that is faced by a plethora of young population today. Here the great mortification goes to our law experts and to an extent to the government too, who tend to ignore this very fact that the rights of people are violated to a considerable level and

¹³¹⁷ Art. 21, The Constitution of India.

¹³¹⁸ *Maneka Gandhi vs. UOI*, (1978) 1 SCC 248.

¹³¹⁹ Art. 21, The Constitution of India.

¹³²⁰ *Shafin Jahan vs. Asokan K.M.*, (2018) 16 SCC 368.

still it goes unnoticed and there is no promulgation and implementation of the policies regarding this cause because of the belief that choice of parents and their progeny cannot differ. But we need to understand that two different entities hold different interests and choices.

Compulsion is wrong (both morally and legally)

The practice of *Sati* (burning woman alive on the pyres of her husband) has still not come to an end as it is prevalent in our society in semblance to the concept of arranged marriage, the difference between the ancient and modern practice of *Sati* is, first; in ancient *Sati*, only women were the victim but in modern both male and female might be victims, second; in ancient *Sati* practice, suffering was for minutes but in contemporary life suffering sometimes lasts throughout life. If presented simply, in the practice of *Sati* widows were compelled to burn themselves alive on the pyres of their husband and the suffering lasted for few minutes but in arranged marriages, adolescents are compelled to marry a person unknown to them and as a result, sometimes they burn in the flames of agony throughout their lives, however, sometimes they end up losing their life to avoid suffering. This nation has already suffered a lot so now once again it has become necessary to take combined steps by the nation as a whole.

Article 16¹³²¹ of the Universal Declaration of Human Rights underscores the fundamental importance of marriage as an incident of human liberty. Men and women of full age, without any limitation due to race, nationality, or religion, have the right to marry and to find a family. It is declared by an International Organisation as well as by the honourable Supreme Court that a right to marry a person of one's choice is a basic human right.

Deleterious effects of failure in love affairs:

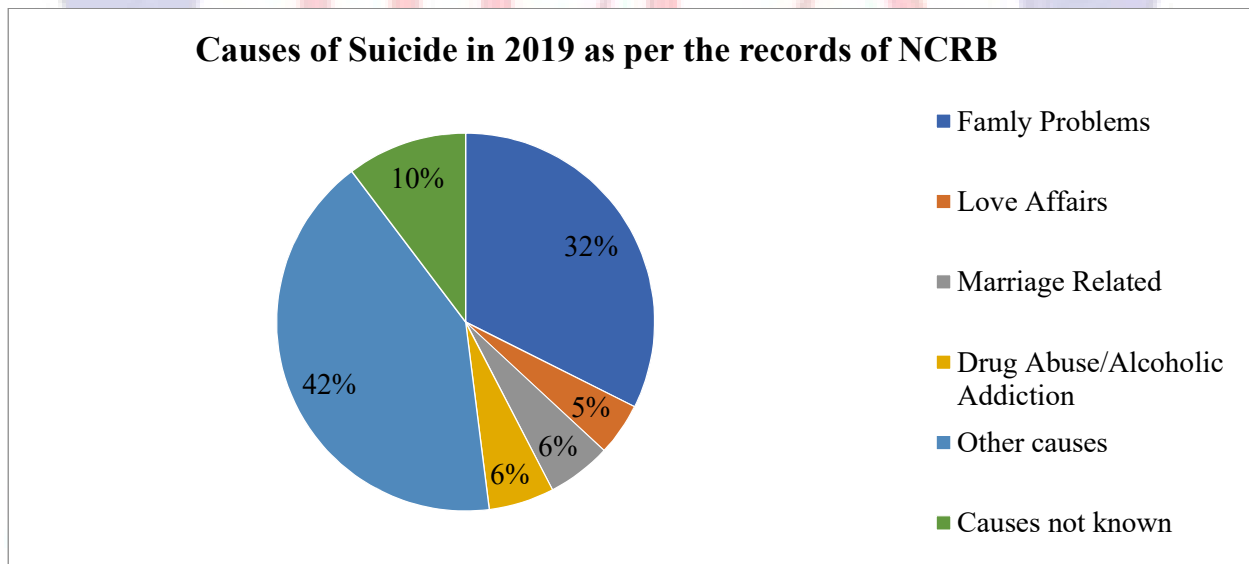
It's not abnormal that two individuals get attached not only physically but emotionally too, now when they are forced to get separated for no reason but only because they are born in different caste or community and this ends up disturbing a person's physical as well as mental health. Mental disturbance in such cases leads to various changes in the body of a person. According to psychologists such biological changes in the body results in anxiety, unease, fear, stress, and sometimes unwillingness to live (varies from person to person). Not

¹³²¹Art. 16, Universal Declaration of Human Rights.

all failed affairs lead to suicide, but the major aspects are depression, loss of social and self-respect.

“The combined wisdom of family members allows young women to feel more secure. If there should be any issue, they assume the entire family will mobilise to solve the problem,” says Dr. Nirmala S. Rao, psychologist, Aavishkar Centre for Self Enrichment, Mumbai, India. This is the reason why women in India feel more assured of their family’s support if they marry men chosen by their parents. Women fear that they might end up losing their parents if they opt for going against their parent’s choice. Women often let go their love interest if they feel the family may have reservations. It is the reason why women feel safe to go with the decision of their family. By doing this they end up ignoring the future consequences of marrying an unknown. Sometimes a failed relationship can also compel women to consider an arranged marriage. It all results in increasing the victims (especially women) of the system. It is further elaborated with the help of a graphical representation of victims on the basis of 2019 data of the NCRB;

Fig 1.1¹³²²



Analysing fig 1.1, prima facie makes it clear that the three main causes that lead to almost half of the suicides in India are love affair, marriage related issues, and family problems. On numerically presenting according to the NCRB total 1,39,123 cases of suicide have been recorded in India in the year 2019 itself. Out of 1,39,123, almost 69,561 suicides took place

¹³²² Accidental Deaths and Suicides in India, Figure-2.6, Page no. 200, National Crime Records Bureau 2019, https://ncrb.gov.in/sites/default/files/ADSI_2019_FULL%20REPORT_updated.pdf.

as a result of these three main causes. In 2018 cases of suicide were 1,34,561, this means cases are drastically increasing every passing year.

Love is a cause & marriage is an effect OR marriage is a cause & love is an effect

According to a report 73 to 90 percent people¹³²³ gave love as a reason for getting married in the US, but in India marriage has to be a reason for love. Today almost all love relationships in India are kept secret from parents as they already know that as soon as their parents get to know about their relationship, it comes to an end especially as a result of difference in their castes or family status or due to cultural differences. Relationships in India are just a part of enjoyment and part-time pleasure as the couples in a relationship know that there is scarcely any future together because ultimately what prevails is “**You may not marry the person you love. But you will love the person you marry**” means you have to anyhow make love with a person you are being compelled to marry. Simply saying, love is considered a trivial by-product that comes as a discount or an offering in our marriage market. As per the records of the National Crime Records Bureau (NCRB) in the year 2019 alone 6,311 suicides¹³²⁴ were attributed to a failure in love relationships plus the number of deceased has maintained its uniformity every year and a major part of this record covers population between 18 to 30 years of age who couldn't get married to their choice. Moreover, the NCRB says that the number of people who commit suicide over failed love affairs is larger than those who kill themselves due to the other reasons according to statistics. At least 10 people end their lives every day in the country after being let down by their lovers. It is a heart-breaking situation for the whole nation to lose the young and enthusiastic population as a result of societal non-acceptance of these relationships and the inflexible ideology of parents. It's not wrong but a right to love someone or to be loved by someone. Let the family not take away the right guaranteed to you by the Supreme law of the nation that is to make your choice.

‘Mummy-papa knows best’ mentality, signals ruining the institution of marriage in the aftermath

¹³²³ Juliana Menasce Horowitz, Nikki Graf & Gretchen Livingston, Marriage and Cohabitation in the US, Pew Research Centre 6th Nov 2019 <https://www.pewsocialtrends.org/2019/11/06/marriage-and-cohabitation-in-the-us/>.

¹³²⁴ Accidental Deaths and Suicides in India, Table-2.4, Page no. 214, National Crime Records Bureau 2019, https://ncrb.gov.in/sites/default/files/ADSI_2019_FULL%20REPORT_updated.pdf.

Most households in India teach the girl child to accept what family members tell them to. They are taught not to question elders, especially the men in the family. So, when the parents ask her to marry a man she doesn't even know, she follows her lifelong script and acquiesces. She makes herself satisfied by telling herself that her life so far has turned out pretty okay. In India, many young girls and boys are indoctrinated to believe that their own caste/community is superior to all others. Families forbid inter-caste relationships or marriages and children grow up imbibing this bias.

Caste system; nothing but an obstruction

Caste is a reason for plenty of problems faced today by the people. It's not only the lower caste but in some aspects, upper caste people too face discrimination with respect to reservation policies framed by the administration. On the other hand, it is not hidden that lower caste is still a victim of various practices such as untouchability, division of work, etc. In India, it's caste of a person that decides the status of his/her life. One unique problem that is faced by both strata of population in India is not having a choice to marry in different caste. Lives of countless Indian young men and women have been desolated because they dared to love a person from a different caste. As India becomes more globalised; there are intense deliberations in orthodox families on the merits of getting married within their own community. The caste system is a form of social stratification. It divides people belonging to the Hindu religion into four main categories, which are further divided into about 3,000 castes and 25,000 sub-castes, each based on their specific occupation. After India's independence, the new Constitution (Supreme Law) of 1949, says that the caste system cannot become a hurdle in the lives of people, but it still marks social life. Considering the importance that Indian society places on marriages, inter-caste marriages are always difficult but sometimes the results are more brutal as they result in honour killings and suicides. According to the National Crime Records Bureau (NCRB), a love affair is one of the reasons for murders. According to the reports of the NCRB, the cases of Honour killings in India are; one case (in surat) in 2018, 71 cases in 2017, 77 in 2016, and 251 such murders in 2015.

The honourable Madras High Court in the case of *B. Dilip Kumar vs. The Secretary to the Government*¹³²⁵ observed that "The caste system is a curse on the nation and the sooner it is destroyed the better. It is dividing the nation at a time when we have to be united to face the

¹³²⁵ B. Dilipkumar v. The Secretary to the Government, (2016) SCC OnLine Mad 2122.

challenges before the nation. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system". This is a free and democratic country, and once a person becomes a major, he or she can marry whosoever he/she likes. Furthermore, the Court observed that sometimes we hear of 'honour' killings of such persons, who undergo inter-caste marriage of their own free will. There is nothing honourable in such killings and in fact, they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. After observing what is said by the Apex court we should make sure that this barbaric and age-old practice should cease and should eradicate this substandard system of caste and make ourselves accountable enough to stand for our rights and responsible enough to educate our society to be rational in understanding the same.

Not culture but the mindset is defective

In ancient India, women had limited freedom. Sometimes women were bought and sold, abducted, forcibly married, and forced into slavery or prostitution. These cruelties still prevail but in a slightly different format, for example, marrying a woman without her choice with a person she doesn't even know as a result of societal pressure parents face due to lack of understanding the rights of their child. Parents do a lot for their child but especially in the case of a woman when it comes to taking life's most important decision that is to decide to whom she gets married to, at that very instance parents make their daughters akin to a cloth displayed in a showroom and ask the selected customers to decide whether they are interested in this cloth or not and if they are then that cloth is handed over to them because a cloth cannot speak or raise any objection for its rights. Apart from a few exceptions, this is how a human being is treated in our society. As a result, it ends up increasing the depressed population of the country. As per the records of the National Crime Records Bureau, the number of married women who killed themselves in the year 2019 is 21,359 (almost 15.4% of total suicide victims)¹³²⁶. It is a record of a single year and every year plenty of lives are lost. This loss can be saved at an early stage if a woman and her parents show some vigour against the stiffness of the society and the caste system and let the adolescent make choice for coming life. Her feelings should be allowed to be expressed rather they're squashed by her

¹³²⁶ Accidental Deaths and Suicides in India, Page no. 201, National Crime Records Bureau 2019, https://ncrb.gov.in/sites/default/files/ADSI_2019_FULL%20REPORT_updated.pdf.

own parents and she's left with no choice but to accept whatever is predefined for her coming life. It's more than seven decades now that India got freedom but still not freed from the clutches of the caste system and still adolescents experience serious maltreatment at the hands of their family members.

As rightly said by one of the great social scientists, Deepa Narayan, "Even when they are mistreated, usually, their family asks them to 'adjust', causing them further despair", these words are self-explained. Basically, we have adopted it as an intrinsic part of our life to use the word move on and keep ourselves in a melancholic situation, however having all the rights and privileges of defending our rights. Move on is a good word for an impasse but the same word sounds coward when used in the attainable position.

'RAPE' also has two categories; unlawful and lawful

Marital rape is not a crime in Indian law the reason being the marriage happened with the consent of both, agreed but what if the marriage itself is under compulsion. So we can call marital rape a lawful one. Here a parent is wilfully giving her daughter to a person whom she doesn't even know and forced to make love with him and adjust accordingly. Here the women give an 'implied consent' to get raped, by agreeing to marry the person with her parent's choice. This is actual cruelty to women (sometimes men too) by her own parents to get raped by an unknown person, just because the parents know him and his family plus that guy belongs to the same caste. It is her choice that doesn't matter at all. The same parents, who did everything for her, accepted every choice she made, now in return favour want her to accept the person of their choice for her entire life. This practice has made love a by-product of marriage.

We can have a note of the rape cases when they are reported but what about the vulnerable position of these women who are forced not to raise their voice while choosing their partner for lifetime and ultimately end up being victims of marital rape. This justified conspiracy starts at the very first stage when a woman is put under family pressure to get married to a person unknown to her. Rape by an outsider is an offence under section 375¹³²⁷ and punished accordingly under section 376¹³²⁸ of IPC but what about this flaw in our system that no lawful security is provided to the spouse after marriage. We can only have a glimpse of the records

¹³²⁷Sec. 375, Indian Penal Code, 1860.

¹³²⁸Sec. 376, Indian Penal Code, 1860.

which come into the limelight, but there are others in millions who are the victim of the same system whose voices are suppressed every time.

This system needs change so the time has come to ask our strong and independent women to raise their voice and stand for their rights. Let us at least stand now and make sure that our posterity is saved becoming the victims. Best implementation of the Constitutional values is important plus it is important that a person's rights must prevail over various rigid and orthodox practices.

Open-minded parents

The same well educated and open-minded parents talk about the overall growth of their child and provide them with the freedom they need but this freedom lasts till the time they aren't married. As a formality, parents ask adolescents to meet and understand the person who's selected by the parents. At the time of marriage in India, the same parents who used to call themselves rational suddenly become so rigid to make sure that their child gets married in the same caste. Now the freedom comes to an end and now onwards what matters to parents is that the respect towards their decision prevails over every right of their child. Now the rationality hides somewhere deep inside them that even if they want they cannot search for it and the societal pressure on their mind ensures that no mercy be given to the choice of the adolescent.

Scientific understanding of endogamy

But as our scientific understanding of diseases and other heritable attributes increases, we have to question whether continued insistence on community-based marriages is relevant. Endogamy is the practice of marrying within the same community, and genetic diseases arising out of a limited gene pool are a major consequence of it. There is a growing need to reflect our attention on these practices and determine what the best way to choose a life partner is? Getting married within one's community-made sense through history, in times of longer commutes between villages and lack of effective communication tools, but today it's not compulsory then also Community-based marriage systems remain prevalent despite rapid urbanisation and the proliferation of smaller families. They are surprisingly [more](#) prevalent among rich urban Indians than the rest of the country. Community-based marriages should, therefore, come with a warning (actually this is true for any marriage, but endogamy

increases the risk). The children of such a marriage may be predisposed to genetic defects and diseases. India as a society needs our future generations to be healthy, educated, and productive individuals. There is a nature and nurture component to their development — endowing them with healthy genes, bringing them up in a peaceful environment, and providing them the opportunities to learn and explore. But for that, we need to provide our current generation education and freedom to make informed choices about their partners.

The above argument is based on an article published by The Print¹³²⁹. This article gives a brief knowledge of the scientific understanding of endogamy. It shows how the side effects of endogamous marriages still remain unnoticed. In today's world science is considered to be most reliable means of living a better life. In the case of marriages, science also doesn't support the practice of endogamy; hence rationality in the marriage practices is essential for the present and coming generations.

Ways to promote love marriages and the right to make a choice

There are efforts that the government can make to save the people from being victimized by the caste system. Some of them can be:

1. Rules must be promulgated by the parliament to organise regular and compulsory teachings of Constitutional rights and values for all age groups in both rural and urban areas.
2. The government must acknowledge and promote inter-caste marriages to bring some rationality and positive changes in society.
3. The government can provide inter-caste couples with some cash rewards and preferential access to few government programs.
4. Public campaigns to favour inter caste marriage should be organised to help reduce the barriers to some extent.
5. Implementation of Uniform Civil Code.

Apart from the government's efforts, it is our responsibility to follow the Constitution and motivate others to maintain its spirit for the betterment of humanity. A request to all adolescents (mostly victims of this practice) and especially those who are pursuing their carriers in the field of law, to come forward and stand for their rights, to make themselves

¹³²⁹Shambhavi Naik, The scientific argument for marrying outside your caste, The Print 8th Feb 2020, <https://theprint.in/science/the-scientific-argument-for-marrying-outside-your-caste/360975/>

strong enough not to go against but to let your parents and society know what your rights are and let them allow you to choose what is best for you and your coming life.

Conclusion

If we carefully look, almost seven decades have passed since the formation of our Constitution that says no discrimination to be made on the basis of caste in India, but people are still targeted and persecuted in the name of caste. Freedom makes us compare between wrong and right for us and this privilege ultimately brings happiness. We can learn this “*lesson of freedom*” from our nature itself, for example, we’ve seen the birds they never drag their offspring to fly in a particular direction once they are mature enough to make their own flight. Humans should also follow what nature wants but we humans are complicated. On one hand this we Fuels the fear of love marriage and on the other hand, we express concern about people who suffer as a result of an arranged marriage; this is bizarre! Sabotaging the feelings of adolescents is considered by the parents to be collateral damage for the bigger cause that is to maintain their dignity in society. But alas no one comes forward to curtail this injustice. There are laws available in case any injustice happens but until and unless we come forward and demand justice, nothing will change. So, we have to unite and stand together to end this injustice.

Science also to an extent doesn’t support endogamy and forced marriage hurts the feelings of the parties to marriage and results in increasing the depressed population. On the other hand where couples in a relationship have an opportunity to love and understand the person of his/her own choice and marriage can make their life better for the future. A free and democratic nation is meaningless if we are not even allowed to freely choose to marry a person we love. In arranged marriage, ‘arranged’ word is for the name sake rather it is forced marriage in most of the cases.

It is a request to everyone in this country and especially to the women who are already fighting countless practices of discrimination. The quest is not to go against your parents but the nasty cast-ism and let your parents know what your rights are. By not allowing your choice to prevail they are committing a wrong. So, every citizen of the country must spread awareness at least in our own family and to stop our people from going against the law. This step will not only protect the violation of law but will also protect our women from being lawfully raped by the person she doesn’t even know under the shield of marriage. As rightly

said by Gandhi ji that “Right is duty well performed”, so it is us who need to make sure that our duties are performed correctly in order to have the fruit of rights.

According to the World Health Organisation¹³³⁰, India is the most depressed country in the world. President Ram Nath Kovind warned the country in the year 2017 that the mental health epidemic was round the corner. Countries young population is caught in the glitches of depression and the prime reason for this cause is a failure in relationships. This reason is also responsible for sabotaging an institution of marriage in the aftermath and sometimes ends up with a divorce.

Dr. B. R. Ambedkar devoted his entire life to draft the governing system (Constitution) of the country and fighting against the practice of caste system in India as Abraham Lincoln fought for the rights of blacks in America. Dr. Ambedkar once said: “I am convinced that the real remedy is inter-marriage. A fusion of blood can alone create the feeling of being kith and kin, and unless this feeling of kinship, of being kindred, becomes paramount, the separatist feeling—the feeling of being aliens—created by caste will not vanish. Where society is already well-knit by other ties, marriage is an ordinary incident of life. But where society is cut asunder, marriage as a binding force becomes a matter of urgent necessity. The real remedy for breaking caste is inter-marriage. Nothing else will serve as the solvent of caste.” His words have carried a simple message that we should unite a nation as a whole and stop practicing what breaches someone’s rights and make sure that the evil philosophy might not infect our souls.

WORDS SPEAK

¹³³⁰India is the most depressed country in the world, India Today 10th Oct 2018, <https://www.indiatoday.in/education-today/gk-current-affairs/story/india-is-the-most-depressed-country-in-the-world-mental-health-day-2018-1360096-2018-10-10>.