

“HINDU MARRIAGE RITUALS AND CEREMONIES UNDER THE SHADOW OF DIRECTIVES FOR SOCIAL DISTANCING DURING COVID 19: A SOCIO-LEGAL OVERVIEW”

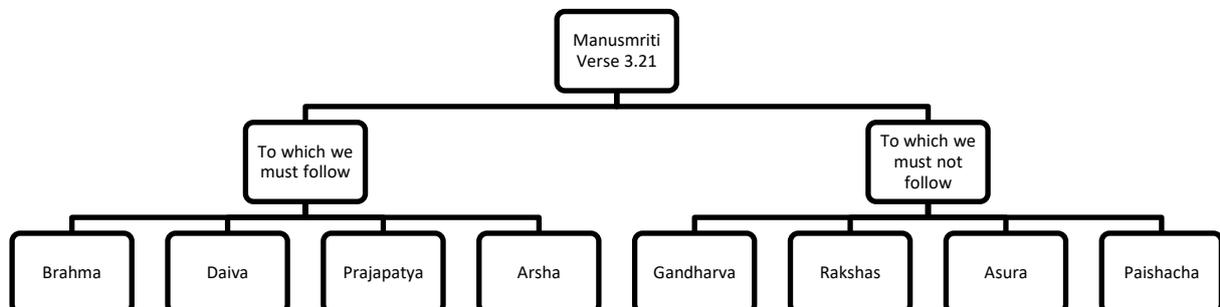
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INTRODUCTION

Our Hindu personal law is based on the practices of Hindu community. Our Hindu personal law take its roots from Hindu customs, usages, traditions and ceremonies etc. There are number of ceremonies, which take place before a Hindu Marriage, during a Hindu Marriage and after a Hindu Marriage. These all type of ceremonies takes place according to the ‘Customs and usages’ of families of the interested parties. Time to time all ceremonies and traditions became flexible according to the situations and circumstances. Education and modernization has played a big role in flexibility in the execution of ceremonies of a Hindu Marriage. We have moved from Ancient types of Hindu marriage to Modern types of Hindu Marriages. Several centuries have been passed to arrive from Ancient type of Hindu Marriages to Modern types of Hindu Marriages. In Verse 3.21 of Manusmriti there are eight forms of a Hindu Marriage have been defined as:

“ ब्राह्मो देवस्तथैवार्षः प्राजापत्यस्तथाऽसुरः । गान्धर्वो राक्षसश्चैव पैशाचश्चाष्टमोऽधमः ॥ २१ ॥¹

It defines Hindu marriages into two parts



¹ Manusmriti; Verse 3.21

But in 21st century there so many forms of Hindu marriages are in trend. We are living with the concept of 'Globalization', which has a big impact on Hindu marriage system too. We cannot deny that in between the ancient to modern Hindu forms of marriage, there were a lot of ups and downs. We have no evidence today that when the "Concept of Swamvar" was introduced and when it had lost its existence. Even in middle ages the 'Child marriage' we so much in trend but it was not preferred by our educated society and later on it lost existence. Yet still we see scattered cases of child marriage in India. From the Middle Ages 'Widow Marriages' took its roots and still exists. In few years so many new concepts of marriages have been introduced in our modern society and can be seen in practices in Hindu communities too. Like:

- a. Widow marriages
- b. Inter caste marriages
- c. Inter Religion marriages
- d. Live in relationship
- e. Homosexual marriage

These new trends not only given new heights to the institution of Hindu marriage but also set a staircase for another one. Few of them show the positive way to the society on the other hand, others are not able to give positive approach as they have never been a recognised form of marriage in society, for example: 'Live in relationship' and 'Homosexual marriages'. These new trends are still finding their way in Hindu personal law. Though Hindu personal law is silent on these new trends but other legal remedies are available to find their recognition in society, for example: 'The Specific Relief Act, 1963'.² Manusmriti has considered four unapproved form of marriages among the eight types of Hindu marriages as like as Asura Vivah, Paishachya Vivah, Gandhrva and Rakshas Vivah.

“ ब्राह्मणो दैवस्तयैवार्थः प्राजापत्यस्तथासुरः। गान्धर्वो राक्षसश्चैव पैशाचश्चाष्टमोऽधयः॥ 3.21 ॥. मनुस्मृति³ ”

In between all this "Corona Virus Pandemic" has also disturbed the equation of institution of marriage. Being an important institution Government has issued various guidelines for the same. The question is - whether this pandemic has the affected on new trends of Hindu marriages? Or it has effect on ceremonies for Hindu marriage?

² Act No. 47 Of 1963

³ Aaachara Khanda, *Essence Of Manu Smriti*, Kamakoti.com, (30th Jan 2021 :12:49), <https://www.kamakoti.org/kamakoti/books/ESSENCE%20OF%20MANU%20SMRITI.pdf>

SOCIAL DISTANCING AND THE HINDU MARRIAGE ACT, 1955

These trends put a hammer on Hindu ‘*Customs and Usages*’ and ‘*Ceremonies of Hindu Marriage*’. Similarly, due to ‘*The Corona Virus pandemic*’ Hindu marriages are going to take a new way to execute a Hindu marriage. This pandemic is a hit on big fat marriages. This, *Corona virus*, has introduced the *Concept of Social Distancing*. On the other hand, in India Hindu marriages had been becoming the symbol of social status. We all are the eye witnesses and many times have become the part of these type of Hindu marriages, having lots of show off, luxuries and what all could be a symbol of status of a family. The social distancing means distance approximately of one meter. This is not possible in a Hindu Marriage, where we are used to of lot of pre- marriage, post-marriage and during marriage ceremonies, celebrated with all relatives, friends and all near and dears of both interested parties. The concept of social distancing and format of a Hindu Marriages are too much contradictory to each other. But still The Hindu Marriage Act, 1955 mentions in Section 3(a) in its proviso which explains that any custom or usage must not be opposed to the public policy. Section 3 of The Hindu Marriage Act, 1955 defines “Customs and Usages” as:

“Section 3 :- The expression “Custom” and “usage” signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindu in any local area, tribe, community, group or family;

Provided that the rule is certain and not unreasonable or opposed to public policy;

Provided further that in the case of the rule applicable only to a family it has not been discontinued by the family;”⁴

The first proviso of the said provision is very appropriate regarding the concept of social distancing during ‘*The Corona Virus pandemic*’. The Government of India has issued so many guidelines time to time for the welfare of public at large. Similarly, considering the pandemic, various guidelines have been issued for the institution of Marriage. This public policy was so instant and seems to be appropriate for the welfare of the people of India. If any person does not follow these guidelines, sanction will be imposed according to The Disaster Management Act, 2005⁵.

“Section 7 of The Hindu Marriage Act, 1955 mentions ‘Ceremonies for a Hindu Marriage’. Which says:

(1) A Hindu marriage may be solemnized in accordance with the customary rites ceremonies of either party thereto.

⁴ Act No. 25 Of 1955

⁵ Act No. 53 Of 2005

(2) *Where such rites and ceremonies includes the saptapadi, the marriage becomes complete and binding when the seventh step is taken. “*

That means either from groom side or bride side ceremonies for the establishment of the institution of marriage can be executed. In fact, a Hindu Marriage has always been solemnized with all *Customs and Ceremonies* as per their prevalent customary rites and rituals. But in 21st century people has been moulding these *Customs and Ceremonies* according to their availability of time and convenience. In most of the Hindu families, *Saptapadi* is a common ceremony for a Hindu Marriage. Even during this pandemic situation of *Novel Corona Virus*, ceremonies and traditions have been followed in different places of India. It has been seen in many incidences in different places of the country that guidelines have been followed strictly but on the other hand it had no adverse effect on customs and ceremonies during a Hindu Marriage. It is another matter that interested families in the institution of marriage wind it up in a very short span of time.

STEPWISE GUIDELINES FOR INSTITUTION OF MARRIAGE BY ‘MINISTRY OF HOME AFFAIRS

There are few guidelines which have been issued by ‘The Ministry of Home Affairs’ to conduct a marriage. It begins with ‘Lockdown’, as of first stage, and still in continuance with Unlock 5.0, as of sixth stage. These stages are as follow as:

1. Stage one: ‘Lockdown’ is considered as the first stage for the Institution of marriage. As lockdown had stopped every social and economic activity around the country, the institution of marriage was also not untouched by this.⁶
2. Stage two: ‘Unlock 1.0’ is considered as second stage for the same. ‘The Ministry of Home Affairs’ had issued guidelines for Unlock 1.0, in which following were mentioned for the gathering during the ceremonies of marriage:

“Marriage related gatherings: Number of guests not to exceed 50”^{7,8}

3. Stage three: ‘Unlock 2.0’ is considered as third stage for the institution of marriage. ‘The Ministry of Home Affairs’ had issued guidelines for Unlock 2.0⁹, in which similar guidelines, as of Unlock 1.0, had been directed for the gathering during the ceremonies of marriage.
4. Stage four: ‘Unlock 3.0’ is considered as fourth stage for public gathering in marriages. ‘The Ministry of Home Affairs’ had issued guidelines for Unlock 3.0, in which no changes have been made for the gathering during the ceremonies of marriage.¹⁰

⁶ No. 40-3/2020-DM-I(A), Ministry of Home Affairs, Government of India, Dated 24th March 2020

⁷ MHAOrderDt_30052020.pdf.

⁸ Order No. 40-3/2020-DM-I (A) dated 30th May, 2020, Ministry of Home Affairs, Government of India

⁹ Order No. 440-3/2020-DM-I (A) Dated 29 June 2020, Ministry of Home Affairs, Government of India

5. Stage Five: 'Unlock 4.0' is considered as fifth stage for the same. 'The Ministry of Home Affairs' had issued guidelines for Unlock 4.0, in which following were mentioned for the gathering during the ceremonies of marriage:

*"However, marriage related gatherings with number of guests not exceeding 50 and..... will continue to be allowed upto 20th September 2020, after which the ceiling of 100 persons will apply."*¹¹

6. Stage Six: 'Unlock 5.0' is considered as second stage for the same. 'The Ministry of Home Affairs' had issued guidelines for Unlock 5.0, in which following were mentioned for the gathering during the ceremonies of marriage:

- a. *In closed space, a maximum of 50% of the hall capacity will be allowed, with a ceiling of 200 persons. Wearing of facemasks, maintaining social distancing, provision for thermal scanning and use of hand wash or sanitizer will be mandatory.*
- b. *In open spaces, keeping the size of the ground/ space in view, and with strict observance of social distancing, mandatory wearing of face masks, provision for thermal scanning and hand wash or sanitizer.*¹²

In spite of above, national directives, State Governments were made authorised to make necessary guidelines to deal with present pandemic situation. In this regard, in few areas of the Country various different steps have been taken by prescribed authorities for the execution of marriage. Various incidences took place on various places of the country. Those have been discussed further. On the other hand, new trends of Hindu marriage have similar effect of this pandemic. But these new trends have one more point to add in the sequence, that is the flexible approach for the execution of marriage in case of inter caste marriage and inter religion marriages specifically. Even few incidences happened in cluster areas of the country, where marriage had been executed within half an hour without any pre or post marriage ceremony. Considering all types of Hindu marriage, it had been done in the virtual presence of parents and other family members during pandemic circumstances.

HINDU MARRIAGE CONSIDERING SOCIAL DISTANCING

Corona virus pandemic has made new standards for this institution. In this context, the Collector of Gwalior, Madhya Pradesh, passed an order for the execution of Marriages during this time. The interested parties have to follow guidelines passed in the order. These guidelines mentions:

- (a) Permission from Sub Divisional Magistrate
- (b) Only 4 members from each, bride and groom side, are permitted to be the part of marriage.
- (c) After marriage bride side have to seek permission from the administration by furnishing relevant documents to leave station.¹³

¹⁰ Order No 40-3/2020-DM-I (A), Dated 29th July 2020, Ministry of Home Affairs, Government of India

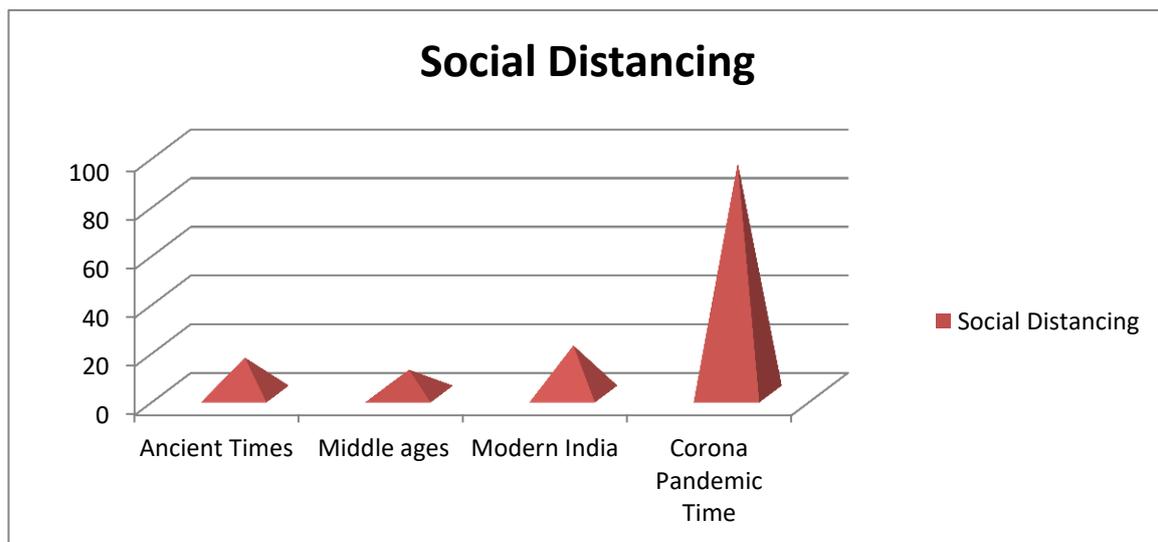
¹¹ Order No 40-3/2020-DM-I (A), Dated 29th August 2020, Ministry of Home Affairs, Government of India

¹² Order No.40-3/2020-DM-I (A), Dated 30th Sept 2020, Ministry of Home Affairs, Government of India

During this, neither we are following any pre marriage ceremony nor post marriage. For the solemnization of a Hindu Marriage only few ceremonies are being executed by both of the parties, especially *Saptpadi*. Section 7 (2) of The Hindu Marriage Act, 1955, specifically mentions *Saptpadi*. A different and rare type of marriage has become the subject of discussion during *Corona Virus pandemic*. A marriage, Garmukteshwar, Uttar Pradesh, held in the presence of only eight family members. During this marriage, the concept of *Social Distancing* was followed. Similarly, in Hapur, Uttar Pradesh, District Administration issued passes only for three members of groom family to move to the bride's house for marriage. Total number of members, who attended the ceremonies, was five. All other family members, friends and near and dears joined the ceremonies with *Video Conferencing*. In this manner people not only following *Social Distancing*, but also it is helpful to save money and time. Simultaneously, marriages in such manner shall definitely lower down the burden of dowry on bride side. This will be helpful in the eradication of *Dowry System*. However, a criminal always finds ways to commit crime. A Hindu Couple, Gurugram, had their marriage during *Corona Virus pandemic* time. They tied in wedding knot in presence of their parents, family members and friends through a *Chatting Application*. These types of Marriages are called *Virtual Weddings*. *Virtual Weddings* had never been in practice in *The Institution of Hindu Marriage* earlier. The reason is the sacramental form of Hindu Marriage. But in other religion few evidences of *Virtual Marriages* can be seen very easily. In Hindus a marriage is considered as an event and a festival of two families and friends to enter into *Grahstha Ashram*. In Hindu religion, it is considered that a Hindu must go through each and every Ashram from *Brahmacharya*, *Grahstha*, *Vaanprastha* to *Sanyas*. It becomes necessary for a Hindu to enter into *Grahstha Ashrama* to be free from *Daiva Rinn*, *Rishi Rinn* and *Pitra Rinn*. In furtherance to this, so many rites, rituals and ceremonies are there to fulfil religious aspect of a Hindu Marriage. In this manner we can say that our customs, rites and rituals are also being affected with *Corona Virus Pandemic*. Absence of ceremonies, rites and rituals show the lacking of religious roots in the establishment of *The Institution of Hindu Marriage*. It has been always a question of great importance that since when our *Ceremonies and Customs* change its format. Practically, it is not possible to find the actual time and date of its change but it can be seen presently, during *Corona Virus pandemic*, that these times give way to *Ceremonies and Customs* to be changed. Section 3(a) of The Hindu Marriage Act, 1955 mentions the words "*continuously and uniformly observed for a long time*". *Social Distancing* is being followed in Hindu marriages to avoid impact of *Corona Virus*. But we have to follow this pattern of *Social Distancing* for a long time and have to make it a part of

¹³ Sanjay Somani, *Madhya Pradesh: Social Distancing Goes For A Toss At Govt Official's Wedding Ceremony*, Freepressjournal, (30th Jan 2021 : 15:12), <https://www.freepressjournal.in/indore/madhya-pradesh-social-distancing-goes-for-a-toss-at-govt-officials-wedding-ceremony>

our lives. Even we do not know how long this pattern would be followed. *Social Distancing* is being *uniformly* followed by the society. That means *Social Distancing* in Hindu Marriages is being followed “*local area, tribe, community, group or family*”. Expression “*force of law*” plays an important role. *Social Distancing* in Marriages has taken roots from *rules and regulations*, issued by the Government of India. In the first proviso of Section 3(a) mentions the expression ‘*the rule is certain and not unreasonable or opposed to public policy*’. *Social Distancing in Marriages* is a rule to maintain a specific distance from each other and on the ground of health of common man. Considering the health issues, it maintains reasonability. In the same manner, *Social Distancing* does not oppose to any public policy but it is for the welfare of the public. Second proviso of the Section 3(a) will be the matter of further followings of the families in marriages. We cannot foresee what is in the pockets of the future, but the above analysis makes it clear that somewhere established ‘*Customs and usages*’ and ‘*Ceremonies of a Hindu Marriages*’ are either on the pause or has been stopped. It might be the time for the adoption of new ‘*Customs and Usages*’ in a Hindu Marriage considering *Social Distancing*.¹⁴ In the Image 2, the graph of *Social Distancing* in Hindu Marriages has been defined from Ancient time to *Corona Virus Pandemic time*. Due to number of *Customs and*



Ceremonies in a Hindu Marriage, neither we were following *Social Distancing* nor focusing on health and hygiene. In Image 2, the graph of Ancient time to Modern India is so much similar, 15, 10 and 20 percent simultaneously. Modern India got 20 percent of Social Distancing because of ‘Emerging Trends of marriages’ only. In *Corona Virus Pandemic*, 95 percent of Social Distancing has being followed in a Hindu marriage.

¹⁴ Image 2

CONCLUSION AND SUGGESTIONS

Corona Virus Pandemic is not a matter of a single Country; this is the matter of the whole world. Due to this, today, we have shifted from *Global Village to Restricted In-House Territories*. *Social Distancing* is considered to be the best way to prevent with the impact of this virus. It seems to be never ending situation or it would be best to mention that it will take so long to uplift ourselves with this situation. In Hindus, marriage is considered a celebration of two families. It is also considered a get-together of two *Kutumbas*. But due to present pandemic crucial times, it has become impossible. On one side, social distancing is protecting our lives but on the other side, it is hitting social gathering in public places and also to big fat marriages. Though, social distancing can give a new format not only to Hindu marriages but also to the institution of marriage around the world. Like

1. Considering social distancing, Hindu marriages will be executed only with few near and dears; and
2. There will be low expenses in marriages, as till now we all had been witnessed of large expanses in Hindu marriages in the name of gifts and *Shaguns* etc; and
3. “*Social Distancing* in Hindu Marriage” is a big hit on ‘Dowry System’ too; and
4. All ceremonies for a Hindu marriage can be executed within few hours; and
5. Health check of bride and groom will become the priority and also to all the members attending the marriage; and
6. Lots of food and electric energy will be saved, which will boost ‘*Concept of Sustainable Development*’. and
7. A big reason to curb ‘*Noise Pollution*’ as all D.J. and Barat system will be avoided.

Above all it becomes necessary here to mention that ‘Social Distancing’ during Novel Corona Virus Pandemic is not only advantageous to health but has also become important to curb few social evils, those have been developed in last half century.
