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THE ILLUSION OF CHOICE: UNRECOGNIZED CARE-GIVING, AND WOMEN'S AUTONOMY IN MARRIAGES AFFECTED BY MENTAL ILLNESS IN INDIA

AUTHORED BY - SANCHI GUPTA

(6th semester, BALLB (Hons.), Indore Institute of Law)

CO-AUTHOR - KAKUL SHARMA

(4th semester, BALLB (Hons.), University School of Law and Legal Studies)

ABSTRACT

In India, marriage has generally been understood as a stable and self-sustaining relationship based on mutual care and support. However, the concept of marriages differs across in religion in India, even as it has been generally self-sustaining relationship. Where the husband suffers from a mental illness, the ability of the wife exercise autonomous choice is greatly compromised. It has been the argument of the paper that women remain in such marriages not as a result of autonomous choice, but as a result of structural forces.

The study has used the socio-legal approach to examine the gap between law and reality, as understood as the gap between the choices we are given by law and the choices we have. While Indian personal laws recognize mental illness as a ground for divorce, the judicial threshold remains high, as seen in *Ram Narain Gupta v. Rameshwari Gupta*, the case in which the Supreme Court held that mental illness must reach above or at a severe degree to justify the dissolution of marriage. This often results in continued marriages without parallel recognition of care-giving burdens.

The paper examines family laws, the Mental Health-care Act, 2017¹, judicial trends, and a confidential case study. The paper proposes that India should implement a caregiver allowance system, inspired by Australia's Carer Payment model or European union's model or Canada's within its Social Security framework, to acknowledge care-giving as voluntary, rights-based labor rather than an obligatory moral marital obligation.

Keywords: Mental Health Law, Socio-legal Analysis, Indian Family Law, Care- giving, Maintenance, Gender Justice.

INTRODUCTION

In society of India, marriage is not just a legal agreement but it is also considered as a big part of life, deeply rooted in traditions of duty, patience, and respect. In many scenarios, marriage is also known as a partnership of mutual support, where both the husband and wife are expected to stand by each other in hard times. Women are taught to see marriage as something lasting, something where they give up a lot, and a key part of their sense of right and wrong. And if we talk about the situation where one spouse suffers from mental illness, the responsibility and the reliability become even more stronger for another spouse. The relationship which is meant to be together fall into a situation where a spouse feels stuck, mostly not by choice, but only because of what society expected.

This paper focuses on the idea of "choice" in marriages where one partner suffers from mental illness. Sure, the law says people can choose things like divorce, financial support, guardianship, and custody of the child. But it totally skips over the people, often women who stay and take care of their ill spouse instead of demanding maintenance. Even though the law has rules like divorce, support, guardianship, and child care to help, women rarely get to use them because they rely on their husbands financially, because they have to take care of kids and the sick husband, and face a lot of judgment from others. The real problem is the huge gap between what is written in the law books and what people can do in their everyday lives.

Economic dependence reflects in many ways. Many of the women depend on their husbands for their daily needs, economic support for their child's welfare, and be stuck in long-term care-giving without any help. The law has provided the rules like Section 125 of the Code of Criminal Procedure² that is now Section 144 of Bhartiya Nagarik Suraksha Sanhita, 2023³ and different acts like the Hindu Marriage Act⁴, the Muslim Women (Protection of Rights on Divorce) Act⁵, and others to give relief, but it is different in real world situation. Cases take lot of time and the support given is not enough and the relief provided is not enough, and the enforcement is weak, particularly in those situations where the care-giver, continues the responsibility for both children and a mentally ill partner.

Taking care of children and being a guardian keeps women in a tough situation. The law has provided the rules about custody and guardianship that work on the child welfare and talks about his best interest and it is seen as the most important in the Hindu Minority and Guardianship Act,⁶ the Guardians and Wards Act⁷, and the way courts handle Muslim and Christian personal laws. Though, most of the women are the main caregivers, but most of the time they don't get the legal rights to make decisions for their own kids. The courts may assume that a mother's access, the stable custody arrangement, or being a guardian depend upon the marriage staying together, which may pressure a women to be in these different and difficult marriages for the sake of the future of their children.

Although there is nothing in the legal framework to protect the caregivers that is not available to their male counter parts, there is nothing gender neutral about the consequences of such legal position. In India, care giving within marriage is considered feminine behavior, which means duty of women. This study examines not only what the legal position is, but what women experience. The story of a woman named Sunita, she married a man who was mentally ill and his illness was hidden. Her only question, "Phir kya?" doesn't mean that she's giving up; but it means that there are no real options. Her experience shows how women's ability to endure is often seen as agreement, and how the idea of "choice" in these marriages comes more from being forced than from making a real decision.

REAL LIFE STORY - "THE QUESTIONS NO ONE ANSWERS"

This is a real-life story. A large family resides just opposite my house. This is the story of a woman who was deceived by her own family, by her husband, and by her husband's family. The family married off their youngest son, who was not mentally stable.

In this story, the real name of that woman is kept confidential. Let us say the name of that woman is Sunita. I know her name only because she lives in front of my home; otherwise, everyone in the society calls her "wo bechari." She is a housewife. Her husband is not well; people often say he has "dimag ki problem." This was known to her family as well. At the time of marriage, he was given a high dose of medicines to keep him quiet for some days during the marriage ceremonies. Before marriage, he used to shout, scream, and do strange things. But during the marriage, he was quiet and calm, and after marriage, the same things started happening again.

After one month of marriage, Sunita conceived a child. Everything went well, but after six to seven months of pregnancy, she came to know about her husband's condition. She got worried about the child and tried to abort the pregnancy, but the doctor denied it because it would also affect her life. After the child was born, things became more difficult for her and for her child.

The child used to cry a lot because of his father's actions and his parents' disputes. A few people asked her to leave her husband's house and go back to her family, but she always said, "Mayeke chali jaongi fir kya," "Kon rakhega," and "Kon palega mujhe or mere bache ko." Some people even asked her to remarry, but she said, "Kon apnayega bache ke sang, kon shadi karega?" and she would always say, "This is my only destiny; I have to fulfill the wife's responsibility, and no one will accept me with a child of five or six years old."

She knows that even if she leaves the house, how will she look after her child? She is not a working woman; she is a housewife, and the child is too young to take care of himself. Every time a thought strikes her mind about what society would say that she is a single mother and that the child needs his father's protection, support, and love she says, "uska baap zinda hai," and "log kya kahenge agar mein chhod ke chali gayi to."

Many questions arise in her mind, which stop her from leaving her husband. Her biggest fear is not her ill husband; it is the future, especially her child's future. Society asks her to stay strong, but on the other hand, no one supports her. I see her sitting, working, looking after her child and her husband, and simply surviving.

People pass by some with sympathy and some with judgment. No one stops. The things that stop her are society, her child, her husband, and her responsibilities.

And that question "Phir kya?" hangs in the air, and no one answers it.

MAIN TEXT

1. Marriage- 'A bond of Care and Control'

In India, marriage is seemed to be a bond that provides care as well as control. Society expects women to give support whether it is emotional, physical, and mental and the same time, society and marriage imposes rules on women that talks about obedience, selflessness, and a lot of

patience. Many feminist experts have pointed out that marriages rapidly turns a woman's work into a duty and naming it moral duty rather than something she is legally entitled to.

Meanwhile, Indian personal laws view mental illness mostly as a ground for divorce rather than viewing it as where there is a legal shared responsibility between spouses, especially if they have chosen to stay together. Section 13(1)(iii) of the Hindu Marriage Act, 1955⁸, says that a spouse may seek divorce if the other spouse is suffering from a mental disorder which is impossible to cure or which is incurably and it is becoming impossible for other spouse to live with such partner or spouse.

Women are required or expected to take care or look out their mentally ill husbands, no matter how much it will affect to them or the cost to themselves, while families and the government doesn't offer any support for this care-giving role of women.

This was decided by Supreme court in the case of Ram Narain Gupta v. Rameshwari Gupta⁹ that not only mental illness is required but illness which is serious in nature that cohabitation become unreasonable is required for the divorce. This decision shows that divorce is allowed only in extreme situations, thus forcing many spouses to take up the responsibility of caring for one another using the approach of "complete family" rather than divorce.

The story mentioned above, Sunita's experience illustrates the inconsistency clearly, as Sunita's labor in care giving is judged as righteous but not supported as labor. The tag line or notion that a "good wife" is willing to accommodate suggests a blurring of love and pressure that it is a duty of a good wife or obligation of good wife that must fulfill. People think that there is a choice, but if it is refused than it leads to being ostracized by the society.

Thus, the law offers remedy or relief by taking divorce in such cases, but it does not offer a framework or structure for the protection of those women who stay in such marriages. The above is the key point of the argument of the paper.

2. Gender Construction of Mental Illness in Indian Families

The problem of mental illness is not treated equally in the society. When a man in the Indian family is suffering from any mental health issue or illness then most of the time it is covered up just to save and to maintain the family reputation and its name in the society.

In some of the cases, we see that families arrange the marriage of the man with the ideally or thinking that marriage will fix the problem of the man and considered the women as the solution rather than an individual with her own needs and rights. This is evident in Sunita's story. It happened with her in the same way that the problem with her husband was known yet it was hidden by administering or giving medication so that marriage can be happened.

In the case of *Sharda v. Dharmpal*¹⁰ supreme court held that 'mental health is a mentally diagnosed condition and that is why it is provided that court may order or allowed a medical examination in matrimonial cases in which mental illness is in question or the main topic'. However, while recognizing the gravity of mental illness in this case it did not provide protection of those spouses who become long term care givers.

On the other hand, women who have mental health issues are often left alone, sent to institutions, or not allowed to get married at all. This unfair treatment shows how mental illness is seen through traditional, male-centered social norms.

On the other hand, in the case of *Vinita Saxena v. Pankaj Pandit*¹¹, the Supreme Court granted divorce where the husband's schizophrenia was found to be severe and persistent, holding that the wife could not reasonably be expected to continue the marital relationship. This illustrates that there is a recognition of breakdown, but only through divorce not through granting the any protector measures to the care giver.

Therefore, the legal system functions with clear categories; either the mental health issue is very serious or extreme which amounts to divorce or the marriage has to go on without any support to care giving spouses by the approach of 'complete family' followed by the court. Hence, there is a big gray area where most of the women like Sunita exist or fall into.

3. Psychological Exhaustion and Unseen Emotional Labor

Care-giving is not only about doing physical tasks or work for their spouse. For example, women who take care or look out of a spouse suffering from mental illness have to persistently regulate their emotions, stay alert. They also have to cope up with their fear, and avoid conflicts. This results in burnout, anxiety, and depression.

In case of India, law does not take into account emotional exhaustion as suffering. The law mainly looks cruelty mainly in the form of physical actions. The long-term psychological changes do not taken into the account.

Section 13(1) (ia) of the Hindu Marriage Act, 1955¹² says that cruelty is a ground for divorce, spouse suffering from cruelty can seek divorce. However, what is required is mental cruelty or any such actions that makes cohabitation impossible or difficult. Continuous emotional exhaustion due to caregiving does not meet this requirement that a court set for making cohabitation impossible.

Sunita's exhaustion is same as it does not result in physical harm, because it is emotional harm and it is hard to see.

In *Samar Ghosh v. Jaya Ghosh*¹³, it has been accepted by the Supreme Court that mental cruelty or harm may exist without physical damage or harm and may include sustained emotional neglect or actions which causes deep pain. However, psychological harm caused by caregiving has not been distinctly accepted in this context.

The survey carried by the National Mental Health Survey (2015–16)¹⁴ found that stress faced by the caregivers of people with mental ill patient is much higher. However, very little support is available to the caregivers by the institution.

4. Extralegal Coercion and Informal Mediation

In real life cases women like Sunita does not go to court for the help usually. Rather they are pressurized by older members of family, neighbors, and community leaders to adjust, adapt and continue the marriage.

This is done mostly to preserve and to protect the family honor and its name in the society rather than on protecting and focusing on the woman's dignity, her freedom, her rights and needs. This reduces inequality personal issue and does not allow a woman from exercising her legal rights.

The Family Courts Act of 1984¹⁵ says that courts must try to bring families back together before granting a divorce. This is called the "complete family" approach.

This provision is intended to protect marriages; however, in instances of mental illness, it frequently exacerbates the expectation of adaptation instead of assessing whether caregiving has turned exploitative or untenable.

It also encourages silence. Women are advised to compromise for the sake of children, reputation, and stability.

The Supreme Court said in the case of Naveen Kohli v. Neelu Kohli ¹⁶that an irretrievable breakdown of marriage can be a ground for justifying divorce, even though it is not a legal reason. However, unless the breakdown is severe and evident, courts continue to prioritize the preservation of marriage. This backs up the idea that staying together, means support and taking the responsibility of giving care to the mentally-ill spouse is better than divorce.

It personalizes the social problems so that women are made to feel they are the ones who need to keep the family together.

Thus, even though the law does not clearly express or says or command the women stay in the marriage but in real life situation or scenarios the care-giving role is presented as the moral duty of the spouse, and which they have to fulfill this under the pressure of moral obligation in marriage or under the pressure of society, as the one spouse is totally dependent on the other one. It is not done on the basis of choice, the result of all the factors led to an indirect coercion or burden on the other spouse, who is not mentally ill and most of them are females.

5. Economic Dispossession Beyond Income

Economic dependence in marriage is not only about absence of income or having a formal income, it is also about the system of control and dominance that holds women in marriages.

In India, women's ability to manage their own money is often taken away through informal means like dowry extraction, control over jewelry, property owned by women (known as stridhan), savings, and shared marital assets, usually under the excuse of household management.

The Supreme Court in the case of Pratibha Rani v. Suraj Kumar¹⁷ recognized that stridhan is

the absolute property of a married woman and that refusal to return that property amounts to criminal breach of trust. However, despite this recognition, if we look into the reality of the society, its enforcement is weaker, when a woman asks for her property, she is often refused access to it, even though she has absolute rights over it, on the pretext that it will be used only for her own well-being

While laws like the Hindu Succession Act, 1956¹⁸ and judicial recognition of stridhan aim to protect women's rights over property, traditional male-dominated practices often prevent women from exercising effective control, making them financially vulnerable and limiting their social mobility.

This situation is made worse because the legal protections in place are not applied fairly or effectively.

Laws like maintenance under Section 125 of the Code of Criminal Procedure, 1973, the Protection of Women from Domestic Violence Act, 2005¹⁹, and personal law provisions are meant to give financial support.

Under the Section 125 of CrPC²⁰, a wife who is unable to maintain herself may claim maintenance from her husband. However, this provision has an assumption that the husband is financially capable and does not account for situations where the husband is mentally ill, unemployed, or incapable of providing support.

Similarly, while the Protection of Women from Domestic Violence Act, 2005 provides orders such as residence orders, monetary relief, and compensation, but it requires the woman to initiate legal proceedings, now this is something that is practically difficult for a full-time caregiver managing a mentally ill spouse and children in the reality of the society.

In reality, accessing this help is slow, unpredictable, and difficult especially for women who are already caregiving.

Making the court cases for maintenance, return of property, or assertion of economic rights involve time, knowledge of legality, and emotional capacity resources that are beyond the reach of the caregiver for the mentally ill spouse.

The data of NCRB shows the pattern. According to this data, it says that in India, crimes against women are increasing day by day, with around 4.48 lakh cases reported in 2023²¹ and it says that many of them fall under the cases of cruelty done by husband or relatives.

The Supreme court in the *K. Srinivas Rao v. D.A. Deepa*²² case stated that continuous mental cruelty is considered as a valid ground for seeking divorce. However, the economic neglect or vulnerability which is related to care-giving has not been clearly recognized by the court as a form of cruelty in marriage.

These patterns illustrate the subtle ways in which economic control operates or work in marriages.

In case of Sunita, whose husband is a mentally ill or is suffering through mental health issue and whom she has cared for, and her question "Kaun rakhega?" ("Who will support us?") is not emotional point or sign of weakness but it is a logical response to the situation and question to economic dependency.

The law says that the husband and wife are entitled for maintenance in the situation where they are not capable of maintaining themselves, but there is a gap because it does not ensure that husband and wife will get it right away, or for the care giver. The problem in the law is that the law does not consider the care giving as a compensatory work in a marriage.

She has no own assets, no financial support. Even though divorce does not provide any economic surety and security, especially if the husband's ability to earn is impaired by mental illness.

Until economic surety and security is made timely and effective, then such economic dependency will restrict or will continue to bar the women from making choices in marriage and marital disputes.

6. Taking Care of Children and the Fear of Being a Single Mother

Children also become a reason why the parents stay together even if the marriage is not healthy. Instead of taking divorce, they remain together even one partner is suffering from mental disorder. So, in simple words children act like a restraint. Children emotionally and

unintentionally keep the marriage from breaking. Women are repeatedly told by families and communities that being a single mother will damage the child's emotional stability, social standing, and prospects.

The presence of a father even if he is not capable of caregiving is treated as socially necessary, turning the child into a reason to prevent marital exit.

Under the Hindu Minority and Guardianship Act, 1956 and the Guardians and Wards Act, 1890, the welfare of the child is the primary consideration in the matters of custody. However, in practice, welfare is often interpreted in terms of maintaining family continuity as mentioned above “complete family” approach rather than evaluating the psychological environment of the home.

Courts often emphasizes stability and continuity over separation.

In the case of *Gaurav Nagpal v. Sumedha Nagpal*²³, the Supreme Court reiterated that the child’s welfare is primary to the legal rights of parents. Yet welfare assessments frequently prioritizes the idea of a “complete family” over examining the lived reality of care-giving strain and untreated mental illness, and often in the cases where the mentally ill spouse have child the court focuses on keeping the family together not on the environment of the burden of care-giver.

Even though the law states that the child’s best interest is the primary consideration, this often translates into preserving the marital structure, especially when the mother is already the primary caregiver.

This model disregards the effect of untreated mental illness, unstable homelives and emotional stressors n the development of the child.

If we look into the Sunita’s case, the child is not a recipient of care but the main point or the reason why she is continuing the marriage. She was mainly worried about the child’s education, socialization, and financial wellbeing of child and not about her husband wellbeing.

This repeated message of “the father is still alive” is a social bias towards biological presence

rather than functional caregiving.

This is known as motherhood. Staying in such difficult situation or marriage only for the child wellbeing and being presented is a responsible parenting decision rather than abandonment.

There is no explicit requirement or burden on women to remain in the marriage for the sake of child but there is no other framework provided by the law for the welfare of the child.

These leads children being used as a tool for continue the unhealthy marriage rather than being assessed for their true welfare.

7. Custody Choices and the “Intact Family Myth”

Indian family law always focuses on the child welfare and its wellbeing and they follow the principle that child welfare is paramount. However, in real life scenarios court favors the marriages unless it is shown extreme and impossible to be together.

The Supreme court in case of Ram Narain Gupta v. Rameshwari Gupta²⁴, held that unless the schizophrenia is proved and found so severe that makes the marriage unreasonable, or impossible for spouses to live together then it will not be considered as a ground for divorce.

Similarly,

The court in the case of Anima Roy v. Prabodh Mohan Roy²⁵, observed that “without evidence mental disorder of high severity in area of marital obligations” were not a ground for ending or dissolving the marriage.

When the court found that father is mentally ill but it is also found that it is not declared or proved dangerous or incurable, the court found it difficult to end the marriage. The burden automatically falls on mother.

The repetition of the phrase “His father is alive” by Sunita is an example of the social and legal presumption that biological existence equates with paternal responsibility.

Child psychology research has shown that chronic stress or family issues leave long lasting impact on the child’s life and their mind which can lead to emotional consequences and

problems. Yet Indian laws do not consider an environment of emotional instability as a cause of separation of a child from the mentally ill but biologically existing parent.

The “intact family” thus become a silent presumption. It privileges the continuity of relationship within family structure over the emotional wellbeing of the child. It privileges supporting each other as a family structure over changing the structure. This presumption also creates an increased burden on mothers.

8. Lack of Government Responsibility in “Private” Family Issues

The state often hides behind the idea of the “private family” to avoid responsibility for welfare. Mental illness within marriage is treated as a personal matter rather than a structural issue requiring public intervention.

This is reflected in the absence of caregiver support programs, inadequate public mental health infrastructure, and weak enforcement of maintenance laws.

The Article 21 of the Constitution of India²⁶ guarantees the right to life and dignity. The Supreme Court has repeatedly expanded this right to include living with dignity and mental well-being. However, this constitutional protection has not been meaningfully extended to the extent to recognize the dignity of unpaid spousal care-givers.

Women bear the disproportionate burden of this state withdrawal.

Sunita’s life reflected in the same way. She is permitted or allowed by law to leave but it does not provide any structure or provision of safe environment for her to leave.

The Mental Healthcare Act, 2017²⁷ focuses on the autonomy, dignity, and access of patients to care. However, it does not provide any rights for spouses who become care givers. Mental health care law and family law remain isolated from each other.

One law is for the care of the patient; and the other is for marriage. Neither is for the caregiver.

This also reiterates the idea that care-giving is a private moral obligation of the spouse often the wife being the feminine obligation in the marriage.

9. The Silence of Personal Laws on Care-giver Protection

In India, personal laws generally treat mental illness as one of the circumstances or reasons for the divorce rather than as one for support to the care giving spouse.

Section 13(1)(iii) of the Hindu Marriage Act, 1955²⁸ says that, divorce will be allowed when the person suffering from mental illness is incurable and making difficult for another spouse to live with.

In the case of *Vinita Saxena v. Pankaj Pandit*²⁹, Supreme court allowed or granted divorce as the schizophrenia of the husband was severe which was making the marital life impossible. The Court said that it is not reasonable to expect the wife to live with the husband suffering or going through such circumstances.

Similarly, if we talk about the Dissolution of Muslim Marriages Act, 1939³⁰, mental illness is included as a ground for the divorce.

Indian Divorce Act, 1869³¹, also include mental disorder as a ground for divorce among Christians as well.

In all these personal laws, the common thread is focus on the exit.

But the law does not answer the question or it remains silent on the situation that what happens in the case of the spouse not seeking a divorce.

The Supreme court in *Ram Narain Gupta v. Rameshwari Gupta*³² case, it held that schizophrenia per se is not enough unless it is of a degree makes the marital life impossible.

This creates a judicial binary:

- If the illness is extreme → divorce may be granted.
- If the illness is not extreme → marriage continues, without caregiver protection.
- There is no third framework.

There is no statutory provision recognizing spousal care-giving as compensable labor. And there is no provision for presumption of adjustment in economic term in favor of the caregiving

spouse on the ground of mental incapacity since there is no rule or provision for a caregiver allowance.

Especially women who are economically supported or completely depend on the family or husband, raising children, and who is stigmatized in her own community, the option of divorce does not mean real freedom or does not amount to real freedom.

What we have here is a formal choice without examining the realities of the society regarding what is presumed in terms of moral responsibility.

If we look into Sunita's case, she is not asking for dissolution of marriage. She is seeking survival. And, yet the law does not recognize her role, does not compensate her for that role, and does not distribute responsibilities between the family and the state.

10. Comparison: Why Indian Family Law Lags Behind

Now, have a look at comparative study that how other countries deals with mental illness and structural gaps in family law of India. In many countries caregiving is no longer a moral responsibility on the individual or a family but a social responsibility.

Canada

Canada, provide both provincial and federal programs that protect carers. For example, the federal Employment Insurance Act³³ allows carers to access Compassionate Care Benefits, which provide temporary income support to take care of the family member who is sick.

The Employment Standards Act, 2000³⁴ in Ontario and other provinces recognize family carer leave as a right at work. This makes sure that taking care of someone doesn't mean losing your job.

Family courts in Canada also consider caregiving contributions when dividing matrimonial property under statutes such as the Family Law Act³⁵ (Ontario), where non-financial contributions to marriage are legally acknowledged.

Mental illness is also evaluated within custody determinations through a welfare- based framework that incorporates psychological assessments rather than presuming intact family

continuity.

Australia

The Social Security Act 1991³⁶ in Australia gives direct financial help to people who care for someone with a severe disability or medical condition, including mental illness. This help comes in the form of the Carer Payment and Carer Allowance.

The Family Law Act 1975³⁷ in Australia makes it clear that courts must take into account the practical and financial effects of caregiving when deciding on property settlement and spousal maintenance. Section 75(2)³⁸ says that courts must look at how caregiving duties affect a person's ability to make money.

Thus, caregiving is not invisible. It is monetarily and legally recognized.

Europe

A few member states of the European Union have systems for carer allowances. Germany, for instance, helps family carers financially and with social insurance through its Long-Term Care Insurance Act (Sozialgesetzbuch XI³⁹)

In Sweden, support systems in municipalities provide financial support for care and provide money to family members for taking care of mentally ill family members.

These support systems share the burden of care between institutions not only to marital spouse.

Structural Difference

These jurisdictions do not romanticize caregiving. They recognize that:

- Care is labor.
- Care has economic consequences.
- Care can affect mental health.
- Care requires state partnership.

In India, by contrast:

- There is no caregiver allowance.
- There is no statutory recognition of spousal care-giving as compensable labour.

- There is no automatic economic safeguard triggered by mental incapacity of a spouse.
- There is no integration between mental health law and family law.

Indian law still privileges marital integrity over caregiver protection, biological parenthood over functional care-giving, and moral endurance over enforceable rights.

If Sunita lived in a jurisdiction that recognizes care-giving as labor, her economic circumstances would be addressed. If respite care and financial support are in a place, her “choice” would be more than merely rhetorical.

It is for these reasons that question such “Phir kya?” are never answered.

11. Recommendations and Policy Reforms

This paper shows that caregiver means the partner who take care of the mentally ill spouse, especially women are in a stage of legal invisibility. Change must go beyond mere sympathy and establishes structure.

1. Legal Recognition of Spousal Caregiving

The family law in India must recognize caregiving in cases of mental illness between spouses as a relevant status.

Amendments to the Hindu Marriage Act of 1955, the Indian Divorce Act of 1869, and other personal laws should make it necessary for courts to look at the length, intensity, and economic impact of care-giving when deciding on maintenance and property division.

Care-giving should be treated as compensable legal marital contribution.

2. Integration with the Mental Healthcare Act, 2017

The Mental Health-care Act, 2017 must be amended to include enforceable caregiver protections.

A statutory caregiver support scheme should include:

- Government-funded psychological counselling
- Respite care services
- Financial assistance tied to severity of illness

- Mandatory coordination between family courts and mental health authorities

3. *Automatic Interim Economic Safeguards*

Maintenance proceedings must become faster and caregiver-sensitive, means extend the extent of maintenance not only till the divorce but also for those spouses who are staying in marriage and acting as a caregiver for a mentally ill spouse.

Time-bound interim maintenance orders should be mandatory within a fixed statutory period (for example, 60–90 days).

Courts should presume economic vulnerability where one spouse has undertaken full-time care-giving for a mentally ill partner.

4. *Custody Reform Based on Functional Care*

Custody law must prioritize functional care-giving over biological status.

Amendments to the Hindu Minority and Guardianship Act of 1956 should make it clear that mental illness that hasn't been treated and stress from caring for someone are both important factors in welfare assessments.

5. *Presumption Against Forced Endurance.*

Indian family law must move away from silent preservation bias.

When extended care-giving without support results in demonstrable psychological or economic harm, courts ought to consider it a pertinent factor in awarding equitable relief, encompassing divorce, enhanced maintenance, or property adjustments.

6. *Community-Based Mental Health Infrastructure*

The burden of care has to be shift from private endurance to public partnership.

State-funded community, mental health centers, and rehabilitation programs must be developed to ensure that care extends beyond unpaid spousal labor.

CONCLUSION

This research paper explains how women in India live in a world where they are married to a man who suffered through mental health issues. It will reveal how what is perceived as a woman's individual plight is, in fact, a product of underlying structural elements of legal silence, economic dependency, and social morality. Through a socio-legal approach, this paper will

show, with particular reference to the case of Sunita, how women stay in these marriages do not do so because of free and autonomous choice. Instead, it will reveal how they stay in these marriages because of what this paper will argue is the difference between formal legal choice and the choices provided or available to them in this society.

The study indicates that personal laws of applicable in India, depending on the religion, have mostly considered mental illness as a ground for dissolution rather than a state of vulnerability in caregiving relationship. The judicial standards set in India for dissolving marriages involving mental illness are quite high as a consequence a number of marriages are legally sustained but the lack of parallel consideration of the burden place on the caregiving spouse.

The lack of clear framework has left the caregiving spouses in a state of invisibility safeguard and though the provisions exist in the form of maintenance and domestic violence their delayed, application and procedural complexities have reduced their effectiveness. The law, in this regard, offers provision but make the role of caregiver invisible in reality. The data collected from the National Crime Records Bureau and the judicial trends indicate that domestic conflicts, particularly involve mental illness are not being adequately addressed in the country.

The paper also shows the role of cultural expectations of female adjustment function as informal regulatory mechanisms. There is a preference for marital union over personal freedom. Motherhood makes these demands more intense, as children serve as emotional support as well as legal justification for survival. The ideal of the “complete family” takes precedence over the reality of psychological damage, economic depletion, and unacknowledged care burden.

Comparative analysis of the research reveals that unlike jurisdictions where caregiving is economically valuable work and mental illness is a social responsibility, India continues to see caregiving as an implicit marital obligation. The lack of caregiver benefits, caregiver relief, and mental health family law convergence, and financial reward has gendered consequences despite the seemingly gender-neutral laws.

Sunita’s story demonstrates how these structural gaps functions. Sunita’s fear is not weakness but rather reasonable application of economic insecurity, uncertain child wellbeing, and

social disapproval.

Her question, “What happens next?” is a symbolic of a deeper legal lacuna: what happens to the spouse who stays? The current system provides answers to divorce, but not to endurance.

The present paper contends that real gender justice can only be achieved through paradigm shift from preservation of marriages to preservation of dignity. The Acknowledgement of caregiving as labor, merging family laws with mental health laws, the improvement of maintenance, offering state-funded childcare, and transforming counselling system are not discretionary welfare actions. They are constitutional obligations based on dignity, equality, and autonomy as enshrined in Article 14⁴⁰ and Article 21⁴¹ of the Constitution of India.

Moreover, caregiving must not be made a mandatory moral extension of marriage. It must be understood as a voluntary, rights-based status. The spouse who assumes the caregiving role must be respected, economically sustained, and institutionally protected, rather than being assumed to suffer silently.

Thus, this research strongly recommends that there must be legal recognition of a Caregiving Allowance Framework in India, which should:

- Provide state-backed caregiver allowances in cases of severe mental illness
- Recognize spousal caregiving as compensable marital contribution in property and maintenance adjudication
- Ensure time-bound interim financial safeguards
- Provide respite and psychological services for caregivers
- Integrate family courts with mental health authorities

Such reform would not reduce marriage to economics; rather, it would restore dignity to those whose unpaid work sustains it.

In conclusion, a just legal system is not one that succeeds in preserving institution but one that succeeds in preserving individuals with them. Until family laws in India recognize the cost of women of unrecognized caring and until they begin to see endurance as choice rather than expectation.

women like Sunita will continue to live in marriages that the law preserves but materially fails.

Thus, this research does not call for sympathy, but for structural accountability.

- 1 Mental Healthcare Act, No. 10 of 2017, Acts of Parliament, 2017 (India)
- 2 Code of Criminal Procedure, No. 2 of 1974, § 125, Acts of Parliament, 1974 (India).
- 3 Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 144, Acts of Parliament, 2023 (India)
- 4 Hindu Marriage Act, No. 25 of 1955, Acts of Parliament, 1955 (India).
- 5 Muslim Women (Protection of Rights on Divorce) Act, No. 25 of 1986, Acts of Parliament, 1986 (India)
- 6 Hindu Minority and Guardianship Act, No. 32 of 1956, Acts of Parliament, 1956 (India).
- 7 Guardians and Wards Act, No. 8 of 1890, Acts of Parliament, 1890 (India)
- 8 Hindu Marriage Act, No. 25 of 1955, § 13(1)(iii), INDIA CODE (1955)
- 9 Ram Narain Gupta v. Rameshwari Gupta, (1988) 4 S.C.C. 247 (India).
- 10 Sharda v. Dharmpal, (2003) 4 S.C.C. 493 (India).
- 11 Vinita Saxena v. Pankaj Pandit, (2006) 3 S.C.C. 778 (India).
- 12 Hindu Marriage Act, No. 25 of 1955, § 13(1)(ia), INDIA CODE (1955).
- 13 Samar Ghosh v. Jaya Ghosh, (2007) 4 S.C.C. 511 (India)
- 14 National Inst. of Mental Health & Neuro Scis., National Mental Health Survey of India 2015–16 (2016).
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- 16 Naveen Kohli v. Neelu Kohli, (2006) 4 S.C.C. 558 (India).
- 17 Pratibha Rani v. Suraj Kumar, (1985) 2 S.C.C. 370 (India).
- 18 Hindu Succession Act, No. 30 of 1956, Acts of Parliament, 1956 (India).
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- 23 Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 S.C.C. 42 (India)
- 24 INDIA CONST. art. 21.
- 25 Mental Healthcare Act, No. 10 of 2017, INDIA CODE (2017).
- 26 Hindu Marriage Act, No. 25 of 1955, § 13(1)(iii), INDIA CODE (1955).
- 27 Vinita Saxena v. Pankaj Pandit, (2006) 3 S.C.C. 778 (India)
- 28 Dissolution of Muslim Marriages Act, No. 8 of 1939, INDIA CODE (1939)
- 29 Indian Divorce Act, No. 4 of 1869, INDIA CODE (1869)
- 30 Ram Narain Gupta v. Rameshwari Gupta, (1988) 4 S.C.C. 247 (India)
- 31 Employment Insurance Act, S.C. 1996, c. 23 (Canada)
- 32 Employment Standards Act, 2000, S.O. 2000, c. 41 (Ontario)
- 33 Family Law Act, R.S.O. 1990, c. F.3 (Ontario)
- 34 Social Security Act 1991 (Cth) (Australia)
- 35 Family Law Act 1975 (Cth) (Australia)
- 36 Family Law Act 1975 (Cth) s 75(2) (Australia)
- 37 Sozialgesetzbuch XI [SGB XI] [Social Code Book XI], Dec. 26, 1993, BUNDESGESETZBLATT [BGBl.] I at 2426, as amended (Germany).
- 38 INDIA CONSTITUTION art. 14.
- 39 INDIA CONSTITUTION art. 21.