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Conjugal Self, Conjugal Citizen: Negotiating the Either/Or of Post-Independence Indian Citizenship

National integration, a primary goal of the 1950s in India in both the cultural and state spheres, required the constitution of Indianness as a shared cultural and legal identity. Its determined outcome, Indian citizenship, thereby entailed the production of affective ties in terms of both national affiliation, as well as legal rights, in order to give coherence to the hyphen binding an already existing idea of nation to the newly formed Indian state. A driving question of the post-Independence era was thus: how can, will, and already do all Indians embody Indian citizenship vis-a-vis the nation—as a cultural entity—and the state—as a governing entity?

In this presentation, I juxtapose the production of cultural citizenship as it takes form in Hindi and Tamil short story writing of this period with the juridical production of post-Independence legal citizenship. These discursive arenas demonstrate that underlying the conceptualizations of both citizenship-as-national identity and citizenship-as-rights (Sundar Rajan 2003; see also Sinha 2006 and Yuval-Davis 1997) is an anxiety over the institution of marriage. Not only is marriage being newly defined in both arenas in this moment, but also it is through this institution that the relationships between citizens are framed. That is to say, conjugality, *the* principle relationship that generates Indian subjectivities in post-Independence Hindi and Tamil short story writing, is also that which confers citizens' rights in the state-juridical sphere (see for example: Hodges 2008, Majumdar 2009, Sreenivas 2008, and Uberoi 1996). By virtue of the man-woman relationship conjugality designates, Indian subjectivity, as it manifests in both Hindi and Tamil short stories and Indian constitutional and juridical discourses, is profoundly gendered.

Further, in both the Hindi- and Tamil-literary-cultural and the national state arenas, the institution of marriage is framed by the gendered trope of consent, which lies at its heart and makes marriage possible. Consent demarcates the modern, Indian, and Hindu nature of marriage in this moment. But also, it occasions the anxiety over this institution that arises due to the double and seemingly incompatible meanings of the consent trope; on the one hand, consent signals the willed choice of rights-bearing individuals to enter into a conjugal contract, while on the other, it is pre-

determined by one's birth into the community. In the first instance, the nature of consent defines marriage as contractual—i.e, as a secular and civil union between two individuals based on their knowing consent (and conferrable by the state). In the second instance, consent defines marriage as sacramental—i.e, as a holy and indissoluble union ordained by the divine and irrespective of the consent of the parties involved (Uberoi 1996).

As both the literary-cultural and the state-juridical spheres show, the trope of consent serves as the pivot upon which understandings of post-Independence Indian subjecthood/ citizenship turn. This is because the term consent accommodates a continuum between individual right on the one hand and birthright on the other. The individual herself negotiates this slippage in Hindi and Tamil short story writing as she transitions into the conjugal sacrament/contract, while state constitutional and juridical discourses negotiate it as a historically based incongruity between individual rights and community rights—an incongruity that concedes individual rights to community rights. Perhaps, though, the literary-cultural sphere suggests that what feminist and historiographical scholarship of the post-Independence moment reads as a concession of liberal rights by the Indian state in the name of uniformity is elsewhere successfully produced as an aesthetically desirable, coherently integrated, and utterly modern Indian self.

Either/or: consent, conjugality, and post-Independence citizenship

Many scholars have shown that the trope of consent defined the nature of conjugality in colonial and nationalist discourses in the Indian context (see for example: Loomba 1994, Mani 1998, Sarkar 2001, Sinha 1995, and Spivak 1988). In the sati debates, for example, this conjugality was based on the wife/widow's already willing (by virtue of her Hindu piety) and absolutely chaste, monogamous relationship to her husband. This, in turn, implied her husband's possession of her, body and soul. For colonial authorities and "progressive" nationalists, the good wife's body (as sati and as matured woman) embodied consent as the voluntary fulfillment of her wifely role as companion and benefiter of her husband's good will, maintenance, and protection. For "conservative" nationalists, alternatively, it signified consent as an always-already-given concession to the strictures Hindu marriage, wherein conjugality was no less than what Tanika Sarkar (2001) calls "the union of souls in a higher love."

The trope of consent can be traced through nineteenth century and twentieth century legislations and public debates into the post-Independence moment when it began to be redefined as

an incongruity between community rights and individual rights (see for example, Agnes 1999 and Nair 1996). This incongruity took full shape as the post-Independence stand off that resulted in the Hindu Code Bill of the 1950s, a spinoff of the Indian Constitution that focused on legislating the family and pertained to marriage, inheritance, maintenance of dependents, and adoption. Archana Parashar (1992) shows that the acts that came to make up the Hindu Code Bill, while undeniably about Hindu conjugality, were also central to the effort to create national uniformity and unity (see also Derrett 1999 and Som 2008). That is to say, the Hindu Code Bill sought to bring all Indians under the umbrella of the state through its legislations. However, the closest the Indian Constitution came to instating uniform equality through these acts was in its dual guarantees of equality among and non-discrimination towards all Indian citizens on the one hand, and freedom of religion for all citizens on the other. Feminist scholars have flagged these as creating a contradiction for gender justice because the individual right of women to equality and non-discrimination has continually been sacrificed in the name of guaranteeing communities' freedom of religion (see for example: Agnes 1999, Jaising 2005, Kapur 1996, and Menon 2003). That is to say, there has been a constant coming to heads of individual rights with community rights since the inception of the Indian constitution and a constant trumping of individual rights by community rights. This is because women's rights, these scholars demonstrate, have been circumscribed by personal laws such that, although the notion of consent has evolved significantly by the post-Independence moment and allows for a much greater expression of women's voices and choices, their consent is still defined either by their birth into a particular religious community and subjection to its stewardship, or alternatively by the secular Indian state that serves as their guardian if they turn away from this community.

This either/or seemingly situates the secular state one side and the religious community on the other. But, through her examination on post-Independence judicial interpretations of conjugality, Patricia Uberoi suggests it should be viewed instead as a collusion between the two, or rather as state ratification of the sacramental contract. Uberoi questions scholarship that views the transition through the colonial period of marriage as sacramental to one of secular contract. Though legislation consolidated legal subjects into nuclear conjugal units, the institution of marriage, she shows, was never fully liberalized—that is to say, transformed into a consent-based, companionate unit. She demonstrates that judicial decisions from the 1950s up to the 1990s consistently view marriage as sacramental: holy, indissoluble, ordained by the divine, and irrespective of the consent of the parties involved. In this way, marriage within the courts is still viewed similarly to a “union of

two souls in a higher love,” as opposed to a contractual conception of the institution, which holds it to be secular civil union between two knowingly consenting individuals. Even the language that frames consent in the Special Marriage Act (1954) and the Hindu Marriage Act (1955), says Uberoi, define it as requiring the parties involved to be of sound mind and consenting age. Nowhere is the notion of choice raised. Thus, in the judicial decisions Uberoi examines, the wife is regarded as a member of her husband’s family, not her natal one, who has been transferred as a gift. Her consent to the marriage, furthermore, is given not by way of her volition but rather by way of the act of sexual consummation. Consent, here, is bodily—as it took shape in the sati and age of consent debates. Further, it entails a particular affective relationship between husband and wife: the act of consummation instills in the wife eternal devotion and faithfulness toward her husband and in the husband eternal ownership of his wife. In this way, the postcolonial institution of marriage in part inherits its colonial sacramental form and suggests that community rights win out over individual rights, for the affective ties of the community define the conjugal unit and not the individual desires of the couple.

This postcolonial legislative and juridical construction of consent leaves little space for women’s autonomy and expression of their volition outside the conjugal unit. It is most often interpreted the always already given birthright of a woman within her religious community. But also, as the history of this trope demonstrates, consent enables the elision of marriage-as-contract with that of sacrament because it presupposes choice, regardless of whether it is the state or the community that defines it. In this way, the trope of consent functions as a pivot upon which individual and community rights hinge, and its persistence points to the reformulation of women’s and minority rights as a question of Indian citizens’ relationships to the state and to their religious community via the conjugal contract.

Intending individual, coveted community

However, while Hindi and Tamil short story writing of this period also takes up the trope of consent, the nature of consent here enables an understanding of Indian subjecthood that coalesces the individual- and community-directed meanings of marriage. In this section, I would like to briefly describe and examine two exemplar post-Independence short stories that demonstrate this negotiation between individual and community: a Hindi one by the female author Mannu Bhandhari entitled, “The story of a weak girl” (1957) and a Tamil story by the female author R. Chudamani entitled, “Birthright” (1965). Both authors are preeminent writers who began publishing their work

in the early 1950s and who have since become two of the very few women writers canonized in the modern literary traditions of these languages.

Bhandhari's "The story of a weak girl" is about Rup, a smart young woman, who, as events turn out, decides to give up her professional and romantic goals to marry a man her father chooses and live as a housewife with him away from the city she loves. The story focuses on Rup's desires—her wish to continue and excel in school and to marry her childhood playmate Lalit—and illuminates how at several important junctures in her life, Rup deliberately *chooses* to follow her father's wishes instead of her own. Lalit repeatedly calls her "weak" (*kamzor*) for remaining so committed to her family and encourages her instead to embrace the freedom of choice modern women enjoy. But in the end, Rup rejects the label "weak" by willfully electing not to run away with Lalit, but rather to take on her wifely duty and remain in her marriage.

Chudamani's story "Birthright" traces a transformation in the main character Bhuvana during an afternoon following the rejection for marriage that her family receives from an eligible young man. Bhuvana is angered not by the marriage rejection, but rather by the boy's objectification of her in terms of a dowry her family cannot afford. She walks out of the house angrily, wishing for a man to recognize her not in terms of money, but rather in terms of her femininity (*peṅ urīmai*), which she feels is the birthright of every woman. As she sits on a bench contemplating, she meets a young man who awakens her femininity by acknowledging it through his gaze. Bhuvana is elated and gains regal posture and confidence in response. The young man walks Bhuvana home, asks to see her again, and gives her a ring as a gesture of his devotion to her. She smiles sweetly as she accepts the gift, but then flings it at him, and walks decidedly into her home, denying him a future meeting and choosing instead to leave questions of relationship and marriage to her parents.

Importantly, then, both stories raise the "problem of marriage" and its relationship to consent, or, in other words, to the ways in which the women in these stories come to inhabit the conjugal contract. For both, the sacramental symbols of the contract remain unshaken: in Buvana's case, these entail the negotiations surrounding the arrangement of her marriage according to the rules of caste, family, horoscope, and dowry. In Rup's case, they are expressed in the story in terms of her oath she takes in her marriage before the sacramental fire and the vermilion in her hair. Neither Buvana, nor Rup, indicates any desire to abandon or change these symbols. Rather, they are concerned with exploring the possible ways of taking them on. When Buvana throws the ring in the young man's face, she actively chooses to rethink man-woman relationships from the starting place of the family, and in doing so, she also rejects the type of man-woman relationship for which the

ring stands: conjugal, but also secular-Christian, and individually (as opposed to family or community) focused and initiated. Rup, too, fully embraces the sacramental symbols in her own way—via desiring Lalit, committing her love to him, and even aligning her will with his for a while, she comes back to the site of her marital sacrament as that which provides the ground for her future actions. This returning is simultaneously a turning away from the self-interested, modern outlook Lalit encourages her to welcome.

The difference between the type of choice Buvana makes and Rup's is notable—it signals how the trope of consent in the post-Independence moment is able to absorb various ways of choosing into a worldview that is specifically defined as belonging to the Hindu community. Buvana's femininity is located physically, as a seat or throne within her body, and manifests in her movements, such as her posture and her gait. Moreover, it is defined in relation to other objects that belong to the transaction of marriage, such as money and jewelry. Rup's weakness is, conversely, entirely abstract. Both she and Lalit define it as part of her mental state and character, and while it underlies Rup's actions in the world it always exists irrespective of her physicality. The physical presence of femininity within Buvana is reinforced by the physical choice she makes at the end of the story to throw the ring and walk away. The mental overcoming of Rup's weakness at the end manifests as her internal decision to stay with her husband, one that begets no changes in the physical world around her.

But despite the qualitative difference between Buvana's concern with femininity and Rup's with weakness, both these conceptual devices raise the issue of consent and locate its definition within the (Hindu) community. First, both women define consent in terms of man-woman relationships. That Buvana and Rup refuse the individual, consent-based man-woman relationships the young man and Lalit would like them to accept does not mean these women override their ability to act and choose. Buvana and Rup choose to enter into their relationships with these men. Moreover, these women's choices to leave the young man and Lalit in the final instance are contingent upon the relationships they have made with them. Buvana feels she does not embody her full self until the young man recognizes her femininity and is not in a position to make the choice to walk away from him until she acquires this recognition. Rup understands her weakness through Lalit. Thus, she cannot overcome it in her unique way without engaging with Lalit and defining her desires in relation to him. And secondly, Buvana's and Rup's refusals rewrite the trope of consent. Choice is not antithetical to the sacramental contract for them; rather their consent both

buttresses it and broadens its scope. For not only do these women *choose* to enter into it, but also in doing so, they create and maintain space for their self-expression.

Thus, while in the immediate post-Independence state-judicial sphere the balance seems to tip toward community rights such that women's rights and citizenship fall secondary, Buvana and Rup tussle fiercely with and take full hold of the definition consent. They demonstrate that in some postcolonial spaces, consent as birthright was not always already given. Further, they delineate the complicated ways in which the production of community rights also required the construction of Indian/Hindu citizen-selves, full of desire, hope, and vision for their relationship to conjugality and thereby their place in the world.

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