



The potential of love to disrupt the status quo, in the interests of justice, is something that the courts of law, at the trial court level, need to explore, if we are to envision and bring into being an equitable world. This is all the more necessary in times, when laws are being enacted to retain the status quo, which affects the dispensation of justice. It is necessary to take stock of how love is being weaponised to maintain a stereotyping status quo, and to leverage the law and the Constitution to make sure that love becomes a medium to disrupt the conservative and unjust status quo.

There are numerous examples of where this fails to happen. For example, people idolise and stereotype maternal love. A woman who does not exhibit that ideal form of maternal love is seen as a bad woman, who deserves to be divorced. She did not carry out her responsibilities – the responsibilities that society has cast on her as a mother, not the equitable responsibilities that can humanely be expected of a mother and father. So it is OK to abandon the ‘bad mother’ wife, and find another woman who can replace her –all supposedly for the sake of the children. This seems to be the logic that pervades.

If one moves on to child custody issues, one again finds that the obligation of a father to love his child is strangely turned into the right of a father to have access to his child (at his whims and fancies – he can visit/turn up when he wants, and *if* he wants to, and not turn up when he does not want to, even on the set days and times). If one looks at how courts approach it, in matters pertaining to custody of children, it seems that fathers seem to have a birthright to visit or to share custody automatically, on the basis of this assumed love of a father for his child towards whom he has only contributed his sperm, towards whom he has not lifted a finger to assist in the raising of the child, towards whom he has not shown any affection, not contributed a rupee (even devalued as it is) to the bringing up of that child, and has even cast aspersions regarding the paternity of the child.

This same so-called fatherly or motherly love strangely vanishes out of the window, when their children are marrying against their wishes to persons from another caste or class. Oftentimes, a person who actually cares for someone very deeply is forced to marry someone else because the former is not from his caste or class. Invariably, there are problems in such a marriage, because the person’s heart lies elsewhere. All these things never get factored in a court case, because it is simply seen as the issues between one person and another, when the fact remains that love is socio-politically constructed.

Love and politics are seen as two different poles. Those among us who have an aversion to ‘politics’ might not understand that love can also be a conditioned phenomenon, with a connect with power. One can see a reflection of this in the love jihad laws in the news of late₁

i.e. Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, and the Uttarakhand Freedom of Religion Act, 2018. There is no reference to the expression love jihad in the laws, but the rhetoric that preceded and succeeded the legislation is full of it, and of how Muslim men are supposedly engaging in a conspiracy to turn Hindu women away from their religion by seducing them.

The cultural imaginary that we are fed thus is one of maintaining the status quo. But besides this, there are also the cultural imaginaries from Bollywood where love means running around trees, or showing the other cheek. It's great to run around trees, and it is important to forgive and forget, but the idea of forgiving so easily metamorphoses into an expectation on a woman to adjust, because "a man is made up like that". These kinds of perspectives often also infiltrate into mediation strategies, which fail to get the pulse of the actual problems.

There are a few silver linings though. The Supreme Court, in the case of *Shakti Vahini vs Union Of India* on 27 March, 2018, has deliberated on issues of honour killing and assembly of Khap Panchayats arising due to love marriages, and has recommended a slew of measures to be taken by the State, which includes identifying Districts, Sub-Divisions and/or Villages where instances of honour killing or assembly of Khap Panchayats have been reported in the recent past. One cannot help wondering, though, how these directives will sit with the expectations of the UP and Uttarakhand governments, for their cadres to comb their states for Hindu women marrying Muslim men, disrupt the ceremonies, round them up, and prevent their marriages from taking place.

The Supreme Court has, in the same judgement, noted that "the concept of honour with which it is concerned has many facets, where, sometimes, a young man can become the victim of honour killing or receive violent treatment at the hands of the family members of the girl when he has fallen in love or has entered into marriage". It has remarked that "the collective behaves like a patriarchal monarch which treats the wives, sisters and daughters subordinate, even servile or self-sacrificing, persons moving in physical frame having no individual autonomy, desire and identity. The concept of status is accentuated by the male members of the community and a sense of masculine dominance becomes the sole governing factor of perceptive honour". It has, in this context, called upon the administration to implement the constitutional goal of social justice and the rule of law.

Mercifully for these times, the SC does not seem to endorsing the meek and submissive kind of love, the sort that upholds peace only of the graveyard variety.

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