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Professor P.S. Gupta Memorial Prize & J.C. Jha Prize: ENACTING MARRIAGE LAWS:  
REGULATING WOMEN'S RIGHT AND SEXUALITY IN NATAL 1860-1913

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*Professor P.S. Gupta Memorial Prize & J.C. Jha Prize*

**ENACTING MARRIAGE LAWS:  
REGULATING WOMEN'S RIGHT AND  
SEXUALITY IN NATAL 1860-1913**

**Madhawi Jha**

It is not of course supposed that registration has put a stop to adultery among the Indians; but it at least affords the means of establishing the validity of their marriages, and there by facilities as prosecution for adultery if committed. The best effect however is that it has certainly raised the women as class; it has given married women a proper status; making them respectable in the eyes of the men and thereby raising their own self respect.<sup>1</sup>

The source from which the above quotation is taken, is the annual report of the Natal emigrant protector. This is a very rich source of information on the condition of Indians, and particularly that of Indian women on the plantations. Maintenance of law and order was the prime necessity for the processes of production in the plantation-economy. In this context, the Natal government constructed immigrant laws not only to control the workforce of indentured labour but to control their bodies, culture, beliefs and movement. In this context the government passed a series of marriage laws to extend the government's control over the private, and even 'sexual life', of indentured labour and thus made the personal sphere a direct sphere of state intervention. There was a strong belief in the plantations that Indian women with "loose character" and indentured "sexual needs" were responsible for all kind of chaos and disorder. They thought that the only way to regulate these overt sexual needs was through the construction, re-production, regulation and rigid implementation of marriage laws. Thus, marriage laws became a tool to control Indian sexuality and consequently determined women's subordination to men.

This paper will focus the various marriage laws passed by the Natal Government to stabilize the economic and cultural interest of the colonial state and planters. An attempt shall be made here to unravel various layers of these laws by focusing on shifts and changes in the laws that were enacted from time to time. Here one would like to emphasize that marriage laws were important for the colonial government during the period of, and also after the abolition of, indentured labour. During the indentured regime it helped reconstruct a 'moral' family structure for Indian immigrants, while on the other hand, after the abolition of indentured recruitment from India, when migrants became a "dangerous-problem" for the white settlers, it helped

to force Indians to leave the country. Natal emigrant marriage laws not only made Indian marriage customs illegitimate but a crime also in the eyes of laws and morality. This paper focuses on the impact of these laws on the condition of women. It also highlights the role and agency of Indian people in Natal in forcing the state to reformulate and remould the marriage laws in a new way. Thus, these laws reflect a political and cultural struggle between the colonial government and Indian immigrants. The historiography of indentured migration has established that the government utilized marriage laws from time to time to solve the problems of crime, suicide, murders of women generally and wife murder in particular, and regimented the lives of labour. Prabhu Mohapatra remarks that "marriage laws were formulated to ensure orderly access to the woman's body by curbing the immoral nature of the women and to channelize the violence instincts of men".<sup>2</sup>

Before going further on these issues, a brief outline of the history of indentured migration from India to Natal is necessary. As a result of the Natal Emigration Ordinance of 1859 indentured emigration started in 1860, and continued till 1911. From 1868-1872 migration was blocked due to economic crisis and returning emigrants had complained of ill-treatment against by their masters. The complaints were broadly about the non-payment of wages; physical assaults and flogging; bad quality of rations, and deduction from the wages for absence during illness; long working hours, and non-payment of the bonus of 10 shillings that they were promised upon their return to their country after fulfilling their tenure as indentured labourers, many of them returning in a state of poverty".<sup>3</sup> When the economic situation improved the Natal government set up a "Coolie of Commission" for enquiring into these complaints, and the overall condition of Indians in the plantations of Natal. In its report, the commission stated that "they are not and have never been subject to any systematic illtreatment or oppression by their employers."<sup>4</sup> It noted that Indians were in a better position in Natal in comparison to any corner of the world including their own country.<sup>5</sup>

However, the complaints forced the Natal Government to make some improvements in the law related to Indian indentured labour. The Coolie Consolidation law of 1869 became Law no.2 of 1870, which revised the law related to wages, rations, medical facilities etc of indentured labour. Within two years a new law No.12 of 1872, was passed. According to the new law, the Protector of Emigrants was to be responsible for performing all duties relating to emigrants. Further, since the Natal government and planters held women to be responsible for chaos, they initiated oppressive rules and regulations against them.

In order to control women's sexuality their freedom, and to some extent their possibilities for resistance, the Natal Government enforced Law 12 of 1872. Section 13 of the act had a provision that the Protector of Emigrants should keep a register, in which he registered all Indian women, placing them in different categories: married spinsters or living in a concubinage.<sup>6</sup>

This manner of registration of Indian emigrant women shows that the colonial government was very eager to tie down all women to particular man, or was not possible, to in cases where this record the number of single women. The Protector noted "only one case of seduction of a married woman has been brought forward since the promulgation of new law".<sup>7</sup> Thus, this kind of categorization separated women of one category from the other, also asserted control over women's private lives. During the year 1875, the number of women registered was not less than 1,010. Of these 851, were registered as married, 37 as single, 52 as living in concubinage and 70 as widows<sup>8</sup> This new law was translated into different Indian languages, and copies were circulated widely among the Indians. This sexual census was an important way of increasing the distinction among the immigrant Indians. The census made it possible to get knowledge about them. This acted as a strong tool for social control, as it was believed that vast social world of Indians had to be classified, categorized and bound before it could be ordered.<sup>9</sup> To control women's sexuality and so called 'immorality', The Natal government prepared their sexual census in the form of registration.

The first marriage laws in Natal were passed in 1872 (section 14 and 18 of law 12 o. 1872). According to these laws only Christian marriage were recognized in Natal, while Hindu and Muslim marriage unions were regarded as illegitimate. Hindu and Muslims immigrants made a larger proportion of indentured labour. Polygamous marriage was also censured as illegitimate marriage. Indian custom and culture were seen as being against the Natal Christian culture. Natal marriage laws were defined in accordance with English laws. According to these laws, in which "marriage" was a term having a definite meaning and an understood significance in Christendom, i.e., "the voluntary union for life of one man and one women to the exclusion of all others", it also emphasized that in that case a union formed between a man and a woman in a foreign country was not valid, according to English law, unless it be the voluntary union for life of one man and one woman to the exclusion of others". In other words, non-Christian marriages could get validity only when they acquired validity in the court of Christendom."<sup>10</sup> On this ground Indian marriages remained invalid before the English courts.

It was seen that through mutual consent immigrants entered into 'marital' relationships at depots and places of employment, whether a ceremony was performed or not. It was clear to officials and employers that these migrants understood themselves as "married". Immigrants were also entering into inter-caste and inter-religious marriages. The number of marriages registered under 13<sup>th</sup> and 14<sup>th</sup> sections of the law 1872, from 1873 to 1886, was 4,971.<sup>11</sup> In twenty-seven of these registered marriages the husband had two wives.<sup>12</sup> On the inter-caste marriages, Manning (the Deputy-Protector) reported in 1883 that "from the accident of being employed at the same place, people of different castes, such as Mussulmans and Hindoos, became attached to each other, and perhaps had children. Now they want to acknowledge their union and legitimate their children, but the marriage of such different castes being contrary to their tradition, it would be difficult to accept as a civil contract".<sup>13</sup> The emigrant Protector considered these contracts as unstable and opportunistic because they thought that most of the marriages not contracted in the formal manner prescribed by native religion would not be binding on their return to their native country.<sup>14</sup>

Due to these reasons the government tried to regulate these relationships by the colonial laws, thus questioning the unions of "mutual-consent" and restricted their freedom. The Natal government did not have any special law for the emigrant Indians to solve their domestic and family disputes. For this reason Indians were made subjects of local law of Natal.<sup>15</sup> The Wragg Commission in this context commented: "ceremony was not practical when the bride and groom were of different races, religion and castes".<sup>16</sup> Thus, in order to make their marriage legitimate in the local context, registration was compulsory. Without registration there was no marriage.<sup>17</sup> Every Indian immigrant married in the colony required, under a fee of five pounds, within one month after his marriage, to forward to the Protector a return containing his name, the name of his wife, his abode, and the date of his marriage.<sup>18</sup> This requirement of five pounds made a marriage license, out of reach for most indentured immigrants.

Another major objection to Indian marriages related to the authenticity of the Indian religious priests. The Natal government was against Indian marriage customs, in which they found no intelligent participation by the parties, especially by the women, besides being against Christian culture.<sup>19</sup> Sanctification of marriages by native religious leaders was not recognized, and the status of such relationships was unclear.<sup>20</sup> During 1872, apart from sugar plantations, other sectors of the economy were flourishing and the demand for indentured labour was increasing day by day. In this context, when the colonial state failed to get more labourers from India, it was through these marriage

laws that an attempt was made by the government to stabilize indentured labour by resorting to the labour-power of the indentured “family-unit”.<sup>21</sup>

In 1891 the Natal government passed a new law. The law made a provision for recognizing polygamous Indian marriages. Ironically polygamous marriages were not contracted and no further polygamous marriages were registered by the protector or by any magistrate.<sup>22</sup> Every emigrant who wanted to get married, and had reached marriage-able age, had to express before the protector a desire to get married in the presence of two witnesses. Then the Protector registered the marriage and this was considered as a conclusive legal evidence of the marriages. This shows that in the absence of marriage proof, marriages were regarded as null and void. It is also remarkable that colonial marriage law provisions show that the state was encouraging emigrants to contract marriages within their caste and religion. Here one example would suffice. There was a provision that any marriage contract would be void if the party’s religious norms prohibited marrying on the grounds of consanguinity or affinity.<sup>23</sup> In Natal, however, no polygamous marriage was to be registered and emigrants were clearly informed that “no further contracted in Natal with another women during the lifetime of a first wife, whether she be in Natal or in India, will be treated as valid or should be registered”.<sup>24</sup> Thus government tried to restricted their freedom by closing and possibility of entering into future relation in the colony and thus closed all routes of escaping from unhappy marriages.

The issue of polygamous marriage was used by the colonial government to exercise greater control over women. The women in these marriages were not regarded as wives in the eyes of colonial law, but as concubines. The following two examples would be helpful in examining the social status of these women and the problems they faced.

Munasamy had two wives Thogi and Tuluknem. On first March 1899, under the section 18 of Law 25, 1891, one of his wives Tuluknem notified by Natal Government for nullification of her marriage with Munasamy. At this time she was mother to three children. Her marriage was declared illegal, on the ground that, when she got married while Munasamy’s first wife was alive.<sup>25</sup> In another case, the union of Ramaswamy and Poly who lived together [not married lawfully according to the colonial government], had two small children, was regarded as illegal. Ramaswamy was arrested. After that nothing further was heard about Poly. Ramaswamy even was not able to report about her because they were not legally married. Consequently it was assumed by the colonial officer that poly became a Prostitute.<sup>26</sup> Thus in the absence of registration their marriage

became illegal. And in this situation planters, sirdar and overseers abused women, against which the women could not even complain because they were not married according to their laws. Thus they were considered as concubines, corrupt, immoral or even as criminals. Natal marriage laws represented these women as social evil, which degraded their position even in the eyes of their own people.

This issue soon ignited a major debate amongst the colonial officers, not only because they supposedly wanted welfare of Indian migrants, but also because of the resistance of Indians to humiliating laws. Polygamous marriage was considered illegal as it violated in various ways Native Indian personal laws. The marriages contracted on their land (India) became null and void in the plantation economy of Natal. When the issue of Indian personal law became a central issue, the Natal government made a provision in the law 25 of 1891 (under section 68) that those Indians who had entered in to a polygamous marriage in their own country before the passing of the law of 1891, would have their marriage registered under the said section and thus then could be regarded as valid. The law also had a provision that within the colony the male contracting party would not be under the age of 16 years and the female under the age of thirteen years.<sup>27</sup> Ostensibly the colonial government believed that it was liberating Indian women.

Indians strongly objected to these laws since they did not want to register their marriages in accordance with Natal laws.<sup>28</sup> In this situation the Natal government passed another marriage law in 1906.<sup>29</sup> According to the new law whenever a marriage took place between Indians according to Indian rites or customs, the parties were obliged to register marriages before the magistrate or the Protector of Indian immigrants within one month from the date of the marriage ceremony. If the parties failed to do so within the specified time, the husband was to be liable for conviction in the court of a magistrate. The penalty was a fine of twenty pounds and in default of payment imprisonment with or without hard labour for three months. The wife was also liable to similar punishment if she willfully refused or neglected to obey the obligation of the Act. If the women were in under the age of eighteen years then parents of the women were responsible for the registration. The law also made the provision to punish the parents of women who after promising to any Indian man to give their daughter in lawful marriage received from him any presents, money, or goods in expectation of such marriage, and thereafter refused to consent to such marriage. Thus by this Act Natal government legalized the marriage customs of Indian culture which was earlier not acceptable.

The colonial government legitimized its action by stating that “the first object of this Bill is to put down a growing evil among the lower

classes of the Indian community of this colony, which if not allowed to remain unchecked, will be productive of much immorality and other crime.” Further the state made a woman’s parents responsible for the registration because if it was left to the husband only, then in practice, the in laws often declined to allow registration of the marriage in the expectation of more money as bride price.<sup>30</sup> The protector state in his report that:

the system of betrothal by parents of their young female children on the payment to them of a monetary consideration as practiced here, is attended with many abuses, and I regard it as having a very pernicious influence and girls are often made the means of bringing in large sum of money from the intended husband by succeeding engagements being cancelled by the parents and new are contracted for a further pecuniary consideration. It is a very common occurrence for me to meet with cases in which girls have been “sold” (as it is called) in this way three or four times, and I fear that this system is responsible for a great money of the murderous assaults, suicides, and murders that take place in Natal”.<sup>31</sup>

The government actually tried to protect the rights of the men. Colonial marriage laws were designed to preserve the traditional family system based on male domination and demanded complete control over female lives and sexuality. In order to restore the emigrant household, the Natal government made a provision that if any emigrant was held for seducing or cohabiting with, or committing adultery with the wives of other migrants, or enticing or abducting unmarried Indian emigrant girls under sixteen years old from the custody of their lawful guardians, he would be punished with a fine of ten pounds, or imprisoned for any period not exceeding thirty days. The Protector of immigrants was also empowered to punish the wife so committing adultery, or a girl eloping without the consent of her parents or lawful guardians, with imprisonment for any period not exceeding one month.<sup>32</sup> In this respect the abduction and adultery, no more remained a crime against women but now became a crime “against Marriage”.<sup>33</sup>

Marriage laws thus became the legal basis that reinforced women’s inferiority at social, economic, cultural and legal levels. The state made itself the guardian of ‘morality’ and of Hinduism at large in order to punish the offender on behalf of the natural and legal guardians.<sup>34</sup> ON the question of women’s consent the colonial law was contradictory. While on the one hand it laid down the minimum age for a girl to get married, on the other hand, on a moral basis it strengthened the control of “legal guardian”. As in colonial India, law in Natal represented women as ‘immature’, ‘unreliable’ and of constantly shifting mind. Her consent was considered “lust-worthy” rather than credit worthy.<sup>35</sup>



The law though did not try to structure the religious rites (whether Hindu or Muslim) but stated clearly that without registration there was no marriage. In this respect it represents a compromise between Western and Eastern cultures. This compromise was for two reasons: firstly, it was due to an increasing demand for indentured migrants, i.e., the needs of the plantation economy tended to make the laws more flexible. Secondly, resistance of Indians against these regulations should be reckoned as an important reason behind these changes. The legal clause of this Act were printed in Hindustani, Tamil, and Telegu for the benefit of the Indian population.<sup>36</sup> Since most of the Indians were illiterate, these printed acts make little sense. But these half-hearted compromises and accommodation on the part of Natal government did not resolve the problem. It did not bring to an end the portrayal of "Coolie-Mariages" as 'immoral'. Indian religious marriages were still not acceptable. Consequently, these questions again emerged after the abolition of recruitment of indentured labour from India for the Natal.

As we have seen, before 1911 the state used marriage laws to protect the "family-unit" of indentured migrants. An increase in demand of indentured labour and higher death-rate of immigrant children made marriage an economic necessity, in which marriage and its stability were crucial both for production and reproduction purposes.<sup>37</sup> After 1911 the state made certain changes in marriage laws, aiming specifically to stop the settlement of free Indians particularly the Muslim traders. Now the effect was to control the reproduction of Indians and restrict their mingling with the white population. Due to these reasons the government once again proclaimed the Indian marriages as illegitimate.

The government of Natal did not allow immigrants to bring their wives and children to settle down in the colony. Their identity had to be proved by the bureaucratic legal norms Indian settlers, those who wanted to bring their wives and children, now had to submit documents that could prove their relationship. In order to fulfill its objective the state interpreted law in different ways and gave it new meanings. The law of 1914 says that "if an Indian has children in union by a wife who is still living, he cannot bring another women as his wife, even though he has divorced his first wife".<sup>38</sup>

Besides, once again the government in accordance with the Christian laws refused to give recognition to polygamous marriage. The new law refused to accept section 68 of law 25 of 1891, according to which polygamous marriage which was contracted among the Indians before landing in the country was accepted as legal marriage. The new law regarded it as illegal by saying that now when indentured migration

had stopped from India the 1891 act was no longer applicable.<sup>39</sup> Henceforth, only monogamous marriages had legal validity in the colony. Further all Islamic marriages were declared as illegal because it was held that Muslim law recognized polygamous marriages. Gandhi remarked in this context that,

Dakshin Africa men rah rahe saare Bhartiyoun ki byahtayen, patniyan na rah kar rakhial ho gayee hain. Yah, sab Sarale Sahab ki karamaat hai. Sarale ka yah faisala Hindu, Musalman, Parasi sabaki dharmik aur samajik paramparaon ko nakarata hai. Bachche apne maaan – baap ki sampatti ke vaidha uttradhikari nahin rah jayenge. Is faisale ne mahilaon aur bachchon ko kahin ka na choda.<sup>40</sup>

All the married women living in South Africa are not legal wives any more rather have become concubines. This is Sarale's decision that refutes Hindu, Muslims and Parsis tradition. Children can no longer claim to be the legitimate heirs to the property of their parents. The decision has left the wives and children of nowhere.

The colonial government once again refused to recognize Indian religious marriage rites as before. It used the argument about Muslim marriage laws to de-recognize all Indian marriages. The colonial state interpreted that "Muslim marriage laws and their religion recognizes the right of a man to marry as many as four wives, and they consider that they should be false to their faith if they renounced that right".<sup>41</sup> Thus once again government declined to give Indian priest any right to perform any marriage and they did not recognize these marriages as proper marriages. Indian Muslim organizations in Natal and South Africa raised their voice against these unjust laws and filed a petition against the government, in which they demanded the validation of Islamic marriages performed in accordance with the Quran.<sup>42</sup>

The Natal government directed the Indian government to allow entry of those who could provide legal proof of their marriage, which was very difficult to get for Indians.<sup>43</sup> In India only European Magistrates had the right to sanction the legal documents that could prove Indian marriage. The form of the certificates laid down certain requirements and colonial officers were responsible for acknowledging a married woman's identity. Under the new law of 1913 the state defined the recruiter's duty in these words: "it was necessary that in his [Officer] personal knowledge the woman concerned is actually the wife of the applicant who seeks to obtain her admission into South Africa, and that he is personally aware that the parties referred to were married on a certain date. Or that he has taken sworn testimony or other evidence as to the circumstances and date of the marriage, such testimony or evidence being attached to the certificates with his finding thereon."<sup>44</sup>

It was also suggested that in order to facilitate conduct of the inquiry in India, the husband or father who were resident in South Africa should be required to furnish their identity proof to the officer. Sufficient information, including if possible the thumb impression of settler emigrants, could be acquired to clarify their identification in India.<sup>45</sup>

There were incidences when the Natal Government refused to allow entry of women in the absence of these documents. In one such case the Natal government refused the entry of a woman when she disembarked from the ship. The state did not give any time or opportunity to her prove her marriage. Some members of Indian community intervened and requested that she might be landed on a visiting pass, issued on the direction of the principal immigration officer, in order to make good her claim. The request was immediately refused.<sup>46</sup> In another case, a woman was not permitted to enter the colony because her name was not mentioned as a wife in the relevant document.<sup>47</sup>

In 1913 these issues forced Indians to launch a movement for their rights. Due to these discriminatory policies of the colonial government, and denial of Indian cultural and religious rights, Indians, mostly indentured, went on strike in 1913 under the leadership of Gandhi. This strike which was started in the Natal coal mines, soon spread to plantations and industrial sectors. In his agitation against the government Gandhi raised four points one of which was “Marriage Question” of Indians. Among these marriage issues one was about the admission of women who were married accordance with the rites of their respective religions.

Under the leadership of Gandhi the movement became a mass movement. All Indians including traders, indentured and free migrants, and particularly women, joined the movement. Thus women’s status and Indian marriage became a sensitive issue amongst the Indians. Gandhi explained this issue to the women and used them as an important force of his movement. As Gandhi told his wife Kasturba,

*tumhen maloom hai tum ab meri patni nahin rahi. Yahan ki sarkar ne kanoon bana diya hai, jiski likhat — padhat me shaadi nahin hui wah patni nahin.*<sup>48</sup>

[I hope you know that you are no longer my wife. The government here has come out with a new law according to which if we don’t have the legal documents then you can’t be my wife.]

This statement mobilized many women like Kasturba. The Muslim community was against the demand of marriage certificates for their women. Now this became the question of their honor. During an assembly in Empire Theatre it was declared

*main bhi allah paak ki kasam khakar kahta hun ki vaise main aman pasand aadami hun lekin agar kisi ne meri Begam se certificate manga to mere pass bhi usaki garden utarane ke sivaay koi dusara rasta nahin hoga.*<sup>49</sup>

[I swear on my lord (Allah) and state that I am otherwise a peace-loving person, but if anybody demands a certificate from my wife, I shall have no option other than beheading him.]

Indians also refused to give their fingerprints to the government though under the new rules this was compulsory if they want to stay in South Africa. Gandhi appealed to Indians that they should not give their fingerprints since the colonial state was treating them as criminals by this requirement. Gandhi argued against this law in these words

*jinke hath — panw, dimaag sab kuchh bandha hota hai ... wah na mar sakta hai na maar sakata hai.*<sup>50</sup>

[Those whose hands and feet are tied.... can neither die nor kill another.]

Gandhi claimed that Union Marriage laws placed a question mark on women's chastity and "satitva". The issue was used by Gandhi as an instrument for Satyagrah movement in South Africa. Gandhi saw the colonial state's attack on Indian marriages as an attack on the male marital rights. However Gandhi was trying to protect social, cultural, and religious beliefs and tradition. By doing so, he strengthened the male control over women and women's traditional role. On the matter of state's objective in enforcing this marriage law, Gandhi argued that,

*hindustaniyon ko bahar nikalane ke liye supreme court ne sarkar ke haath me ek naya hathihaar de diya hai.*<sup>51</sup>

[The Supreme court has given the Government a new weapon in the form of this law to evict Indians.]

Due to the agitation of Indians against this law, the colonial government was forced to give recognition to Indian marriage customs and rites, but polygamy still remained a controversial issue between the state and Indian migrants. The colonial state did not give legal recognition to polygamous marriages. However, it cannot be denied that to some extent Indians in Natal were successful in winning their cultural and social rights.

Thus it can be argued that there were many shifts in the marriage laws during indentured period and after indentured period. During 1872 to 1906, the main purpose of marriage laws was to ensure a stable labour force by constructing a moral family structure. The colonial state realized the necessity of production and reproduction system, in this context they tried to save the family institution. The state in the

phase acted as a welfare state by giving protection to pregnant women and also made some beneficial policies to protect the minor children. In this context, during this period the government compromised by legalizing the polygamous marriages contracted in India but not in the colony. This was the time when the demand for indentured labour force was increasing day by day, and the local labour force was not available. However, there was a radical change after 1911, when Indians were regarded as a 'dangerous' community for the economy of the European settlers of South Africa. The local or 'native' population was also available as a labour force. The increasing population of emigrant Indians also force the planters to recruit more native labour rather than indentured Indians. Thus a new area of labour supply was also opened up. These laws helped them to stop the settlement of Indians in the colony by refusing to legalize their marriages. On the whole it can be argued that women were the chief victims of the norms of these laws as laws failed to give them respectable identity or an identity of their own. On these grounds colonial laws not only controlled their sexuality but also made them objects of moral and ideological censure on the plantations.

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  19. The subordination of Indian women in Indian culture was especially significant in maintaining the British Empire, as the position of women in Indian society was one of the major factors that legitimized British rule. The British government thus selectively intervened in changing the position of women – on some issue it liberalized the law, on other it increased constraints. Nivedita Menon (ed.), *Gender and Politics in India*, New Delhi, Oxford University Press, 1999, p.7.
  20. Ashwin Desai and Goolam Vahed, *Inside Indenture A South African History, 1860-1914*, Durban, Natal, Madiba Publishers, 2007, p.204.
  21. Prabhu Mohapatra in his work has argued that in British Guiana during the crisis period the state recommended the settlement of the labouring population on small plots of lands as peasant proprietors. In this situation Indian migrants emerged as cane farmers. In Trinidad these peasants were producing cane. Due to this reason colonial state emphasized more on women reproductive role. In order to fulfill their purpose colonial state reduced the indentured period for women from five years to two years. Now women's workforce was more engaged in household and subsistence economy rather than on the plantation. Mohapatra, op.cit., pp.247-9.
  22. Annual Report of Natal Emigrant Protector for the year January 1890 – June 1891, Revenue and Agriculture Department, Emigration Branch, February 1892, Pros. Nos.6-7. N.A.I.
  23. *Parliamentary Papers*, 1904, Emigration Restricted Act of Natal, p.34.
  24. Section 60 and 66 of Natal immigration Ordinance, 25 of 1891, Revenue and Agriculture Department, Emigration Branch, March 1893, Pros. Nos.17-19. N.A.I.
  25. Annual Report of Natal Emigrant Protector for the Year 1899, Revenue and Agriculture Department, Emigration Branch, January 1901, Pros. Nos.10-12. N.A.I.
  26. C.G. Henning, pp.237-238.
  27. Annual Report of Natal Emigrant Protector for the Year January 1890 – June 1891, Revenue and Agriculture Department, Emigration Branch, February 1892, Pros. Nos.6-7. NAI.
  28. Annual Report of Natal Emigrant Protector for the year 1902, Revenue and Agriculture Department, Emigration Branch, December 1903 Pros. Nos.3-5. NAI.
  29. Law 12 of 1906 Indian Marriages, this became the Natal Act of No.2 of 1907. Cited in C.G. Henning, Appendix 27, pp.239-40.
  30. Commerce and Industry Department, Emigration Branch, December 1906, "Marriage Bill for Indians in Natal, Pros. Nos.10-11. NAI.
  31. Annual Report of Natal Emigrant Protector for the Year 1885, Revenue and Agriculture Department, Emigration Branch, October 1886, Part A, Pros. Nos.8-

9. NAI.
32. Law of 1872, "to Amend the Coolie Law Consolidation Law 1869", Revenue, Agriculture and Commerce, Emigration Branch, Pros. Nos.5-7, June 1873.
33. Samita Sen, "Without His Consent? Marriage and Women's Migration in Colonial India" *International Labour and Working Class History*, No.65, 2004, p.95.
34. Prem Chowdhry: *Contentious Marriages, Eloping Couples, Gender, Caste and Patriarchy in Northern India*, Oxford University Press, 2007. p.46.
35. Prem Chowdhry, op.cit., p.46.
36. Annual Report of Natal Emigrant Protector for the Year 1907, Commerce and Industry Department, Emigration Branch, June 1908, Pros. Nos.31-32. NAI.
37. See Prem Chowdhry, She is talking in terms of colonial Punjab and Haryana. *Contentious Marriages, Eloping Couples, Gender, Caste and Patriarchy in Northern India*, Oxford University Press, 2007, p.20.
38. Admission of Wives and children of Indian Residents in South Africa" According to Act, 22 of 1914, Commerce and Industry Department, Emigration Branch, November 1918, Pros. Nos.19-20, Part A. NAI.
39. Indian Enquiry Commission Report, Union of South Africa, Commerce and Industry Department, Emigration Branch, March 1914, Pros. Nos.3-4, Part A N.A.I.
40. Giriraj Kishor: *Girimitiya Gandhi*, Sankshiptikaran avam Sampadan Nirmala Jain. New Delhi, Vani Prakashan, 2001, pp.281-82.
41. Indian Enquiry Commission Report, Union of South Africa, Commerce and Industry Department, Emigration Branch, March 1914, Pros. Nos.3-4. Part A, N.A.I.
42. Petition Regarding Mohammedan Marriage in Natal, by the Secretary of the Anjuman Islam to be Lord Gladstone. Governor-General, of Union of South Africa. In which they mentioned that there were a large part of Indian community belong to this community if government would not accept their marriage as legal their children considered as illegitimate. Commerce and Industry Department, Emigration Branch, July 1913, Pros. Nos.4 Part B. N.A.I.
43. Telegram of Secretary of State for the Colonies to the Officer Administrating the Government of Union of South Africa, 23<sup>rd</sup> August 1912. Commerce and Industry Department, Emigration Branch, January 1913, Pros. Nos.24-25, Part B. N.A.I.
44. Despatch from the Secretary of State to the Acting Governor-General no.426, 1<sup>st</sup> September 1914. Possession of Certificates of Relationship by Wives, etc. of Indians in South Africa, Commerce and Industry Department, Emigration Branch, April 1915, Pros. Nos.16-19, N.A.I.
45. Despatch form the Secretary of State to the Acting Governor-General no.426, 1<sup>st</sup> September 1914. Possession of Certificates of Relationship by wives, etc. of Indians in South Africa, Commerce and Industry Department, Emigration Branch, April 1915. Pros. Nos.16-19, N.A.I.
46. Report of South African British Indian Committee. Commerce and Industry Department, Emigration Branch, August 1911, Pros. Nos.24, Part B, N.A.I.
47. Extract from the Newspaper "Transvaal Leader" title "grievances of Indians in Transvaal, Commerce and Industry Department, Emigration Branch, April 1912, Pros. Nos.3, N.A.I.
48. Giriraj Kishor: *Girimitiya Gandhi*, Sankshiptikaran avam Sampadan Nirmala Jain. New Delhi, Vani Prakashan, 2001, p.282.
49. Ibid., p.228.
50. Ibid., p.227.
51. M.K. Gandhi; "Dakshin Africa Ke Satyagrah Ka Itihaas" New Delhi, Sasta Sahitya Mandal, Choutha Sanskaran, 1989, pp.326-327.