

## NATA PRATHA: AN UNUSUAL CUSTOM

Written by *Dr.Rachna Choudhary*<sup>1</sup>

There is a Mewari<sup>2</sup> saying for Nata Pratha,  
*Asal Marad parne nahi, mathe ni bandhe mod,*  
*Parni laave paar ki, jave Ghhosunde daud.*<sup>3</sup>

Which means “Real men don’t get married, nor do they tie ornamental studs on their head, they bring their life partner from lands situated abroad, wherein they choose their life partner by taking her hand from a fare in Ghhosunde<sup>4</sup>.”

Across time and culture, a core meaning constitutive of the marriage institution has nearly always been the union of a man and a woman. Married love is a unique form of love between a man and woman which has a special benefit for the whole of society. Marriage is a unique relationship different from all others. An essential characteristic of marriage is the biological fact that a man and a woman can join together as male and female in a union that is orientated to the generation of new life.<sup>5</sup> Marriage is one of the necessary *Samskara* or religious rites for all Hindus. Marriage being a necessary *Samskara* for a Hindu woman of any caste.<sup>6</sup> While marriage is according to Hindu law a sacrament, it is also a civil contract, which takes the form of a gift the Brahma, a sale in the Asura and an agreement in the Gandharva.<sup>7</sup>

“Nata” means “Relationship”, in which couple can live together without performing any rituals. Rituals are required for marriage; subsequent relationship does not require any such kind of formalities. So Nata primarily exists where there is presence of marriage. In such custom a married

<sup>1</sup> Assistant Professor in Law, Unitedworld School of Law, Gandhinagar

<sup>2</sup> Mewari one of the major dialects of Rajasthani language of Indo-Aryan language family. It is spoken in Rajsamand, Bhilwara, Udaipur and Chittorgarh district of Rajasthan.

<sup>3</sup> Ghosunda is a village in Chittaurgarh Tehsil in Chittorgarh district in Rajasthan.

<sup>4</sup> A place in Rajsamand district in Rajasthan

<sup>6</sup> Gopalakrishnan v Venkatanarasa (1914) 37 mad 273

<sup>7</sup> Muthuswami Mudaliar v Masilamani (1910) 33 Mad 342

person can keep a woman with him in a relationship akin to marriage in absence of any ritual. Same in Live-in-relationship couple can live together without performing any rituals but this custom is different from that live-in because it is a system, in some parts of Rajasthan by which a married woman can go away with another man in lieu of money paid to her husband/in-laws/family by the second man.

On the hand marriage is an institution, where a man and a woman make a permanent and exclusive kind of commitment to share the burden and benefits of domestic life. The foremost object of marriage is procreation of children. The evolution of the concept of Nata is a difficult thing to trace. According to ancient Hindu Law marriage is sacrament (Samskar). There are sixteen sacraments to be performed in a Hindus life. These are Garbhadhan, Punswana, seemantonnayan, Jatkarma, Namkarana, Niskramna, Annaprashana, Chudakarama, Karnavedha, Upnayana, Vidyarambha, Samavartana, Vivaha, Awasthyadhana (Saptpadi), Tretagnisanraha, Antyeshti. Samskaras give a sense of belonging, culture, and refined sensibilities. They direct energy to humanitarian causes thereby building a strong character. As per the Hindu mythology there are four objects of life, four stages of life and four castes were there in Hindus. Four objects of life- Dharma (duties), Artha (Money), Kaama (Sexual needs) and Moksha (Salvation). All these samskara are not required for a relationship like Nata. Four stages of life *bhramacharya*, *grihastha*, *vanaspratha* and *samnyasa*. Four castes were Brahamin, Khshatriya, Vaishya and Shudra. In each and every aspect of life there are a few rituals to be performed. But for Nata no ritual required. Basically there are total eight types of marriages in ancient Hindu society-

- **Brahama Vivah-** It was the best form of marriage, in which a daughter got married with a man of good conduct, learned in the Vedas. In this kind of marriage, girl was given costly garments, presents and jewellery by the parents.
- **Deviya Vivah-**It was a marriage of one's daughter, decked with jewellery to a pujari/pandit/priest who duly officiated at a religious ceremony, during the course of its performance.
- **Arsha Vivah-** It was a marriage when the father gives away his daughter, after receiving a bride price in form of a cow or bull or two pairs of either from bridegroom.
- **Prajapatya Vivah-**When a girl's father gives her in marriage to the bridegroom, treating him with respect and addresses them, "May both of you perform your duties together".

- **Gandharva Vivah**-This is the voluntary union of maiden and her lover which springs from sexual desires.
- **Asura Vivah**-In this kind of marriage the bridegroom receives a maiden, after having given of his own free will as much wealth as he can afford, to the bride and her father.
- **Rakshasa Vivah**- This is the marriage of a maiden involving her forcible abduction from her home after her kinsmen have been slain or wounded.
- **Paishacha Vivah**-When a man by stealth seduces a girl who is sleeping, intoxicated or mentally challenged, it is called Paishacha Vivaha.<sup>8</sup>

It means the ancient Hindu law did not recognise rape and seduction as marriage. These eight methods of obtaining a wife really resolve themselves into three forms of marriage, namely, the gift of the girl, the sale of the girl and the agreement between the man and the woman. Nata does not fall in any of these category. In the Indian history Smrities regarded the Brahma, Daiva, Arsha and Prajapatya forms as the approved or blameless marriages and the other four Gandharva, Asura, Rakshasa and Paisacha as the unapproved or blameworthy marriages.<sup>9</sup>Of these various forms of marriage, all but three, the Brahma, Gandharva and Asura, are now obsolete.

### Hindu Marriage- Present Scenario

According to Hindu view, marriage is a sacred relationship. It is a part of sixteen sanskaras. As per Hindu marriage Act, 1955, certain conditions are essentials for marriage between two Hindus. In a simple method following are the requirements of a valid Hindu marriage<sup>10</sup>-

- Parties must be Hindus;
- The bridegroom completed the age of 21 years and the bride the age of 18 years;
- Free consent for the marriage by both the parties of marriage
- Both the parties are mentally sound and fit for marriage and procreation of marriage
- Any of the parties must not suffering from recurrent attacks of insanity
- The parties are not within the prohibited degree of relationship unless custom permits

---

<sup>8</sup>Manu, III, 27-34

2.Cf. *RelatioSynodi* of the Third Extraordinary General Assembly of the Synod of Bishops: 'Pastoral Challenges of the Family in the Context of Evangelisation' (5-19 October 2014), 4.

<sup>9</sup> Manu,III,24,39,41,42

<sup>10</sup> Hindu Marriage Act,1955; Sec.5

- The parties are not within the Sapinda relation unless custom permits.

In Indian society Hindu marriage is regarded as a sacrament. In a sacramental marriage the relationship of husband and wife is established exclusively by the performance of some religious ceremonies and not by a contract between the parties. I do agree that after the commencement of Hindu Marriage Act, 1955, some conditions of Hindu marriages are similar to contract nevertheless we can consider it as a sacrament. In Hindu law the status of wife is acquired only by the *Panigrahnika Mantra* of which, as the wise and learned have indicated, the limit is the ceremony of *Saptapadi*. Some essential conditions are made in Sec 5 and Sec.7 of the Act.

When the fact of the celebration of marriage is established, it will be presumed, in the absence of evidence to the contrary, that all the forms and ceremonies necessary to constitute a valid marriage have been gone through.<sup>11</sup> There is an observation by the Supreme Court: “The bare fact that a man and woman live as husband and wife, it does not at any rate normally give them the status of husband and wife even though they may hold themselves before society as husband and wife and the society treats them as husband and wife.”<sup>12</sup> The rule in the ancient law books regarding marriage between persons of different caste has long ago become obsolete.<sup>13</sup> Marriage between persons belonging to different castes is therefore invalid in the absence of a usage to the contrary.<sup>14</sup> A marriage between a Vaishya and a woman who was assumed to be a Sudra was held to be valid.<sup>15</sup>

### **Nata: An Ethical Dilemma**

Nata System was prevalent in various parts of Rajasthan. Especially Gujjar, Jat, Rajpoot and Bheel are the main caste in which we may find the Nata system. In the present scenario most of the persons who are attached with such kind of system they are uneducated and not aware with their rights and duties. In past it was prevalent in a special manner. In Ghosunda, Sajjangarh a special fair was organized by the nearby people on puranmasi (full moon day), in which all the male who were not happy with their ladies could come there with them. It was obligatory for these women to stand up with their covered faces and with a coin of Rs.1.25/- in their pallu<sup>16</sup>. Anyone who just

---

<sup>11</sup>Kasturi Devi v Chiranjilal AIR 1960 All 446

<sup>12</sup>Bhanu Rao Lokhande v State of Maharashtra AIR 1965 SC 1564

<sup>13</sup>Visvarupa's Balakrida,247

<sup>14</sup>NarainDhara v Rakhal (1878) I Cal. 1

<sup>15</sup>Bai Gulab v Jiwanlal (1922) 46 Bom. 871

<sup>16</sup>A pallu is the end part of sari/odani, a female garment from the Indian subcontinent.

open the pallu and took the coin of Rs.1.25/-, she would be considered his lady for next one year, if he is not happy with the lady he had to maintain her for one year (up to the next fair), where he can drop her again. This kind of system was abolished by Maharaja SajjanSingh. Rajsamand is a district of the state of Rajasthan. The Aravalli Range forms the north western boundary of the district, across which lies Pali District. There are 4 sub-divisions, 7 tehsils and blocks Railmagra is one of the tehsil. This study is based on three villages of this tehsil. These are Sakrawas, Morra, Madara. These villages are characterized by acute food insecurity, water shortage, large-scale out migration, decline in resource productivity levels and its impact on health and education. In these villages society and families still looks upon women as mere house wives. Girl children are deprived of basic requirements like education, health, clothing, food, clean drinking water etc. As in this society they still perceive the girl as “someone else’s property”. Women in the Indian society have been victim of humiliation, torture and exploitation for as long as we have written record of social organization and family life.<sup>17</sup>

In the present scenario, in 21<sup>st</sup> century, in some villages nothing is new. People are not aware with the progress outside their village. What is happening in outside world they don’t know and at the same time they do not have curiosity to know all these. In this society woman are still sold openly by way of Nata pratha. In this patriarchal society, women are treated as bonded labour and they have no access to economic resources. Nata pratha is now a social problem. A social problem has been defined as “a situation confronting a group or a section of society which inflicts injurious consequences that can be handled only collectively”.<sup>18</sup> Social problems arise out of pathological social conditions.

#### Basic Characteristic of Nata

- Presence of marriage<sup>19</sup>
- No ceremonies
- Payment to other party
- “Woman” is subject matter

---

<sup>17</sup> Ahuja Ram, Social Problems in India, 2<sup>nd</sup> Edition, page 242

<sup>18</sup> Reinhardt, 1952:14

<sup>19</sup> In Nata, a person who is married, starts living with any other person. As per Hindu law it is void but somehow it is prevalent in many parts of Rajasthan.

In *Nata*, a person, who is validly married with a lady, can keep another woman with him, after paying a certain amount to her relative. For *Nata* no ceremony is required. From Vedic times, though monogamy has been the rule, polygamy has an exception, existed side by side. The rule relating to *anuloma*<sup>20</sup> marriages allowed a man more than one wife who was first wedded was alone the wife in the fullest sense.<sup>21</sup> The first married wife had precedence over the others and her first-born son over his half-brothers.<sup>22</sup> It was held in **Raghveer Kumar v Shanmukha Vadivar**<sup>23</sup> that a custom obtaining among Nadars in Udumalapeta Taluk preventing a second marriage while the first marriage was subsisting even if established cannot have the force of law. The prohibition against second marriage of women, either after divorce or upon widowhood, has no foundation either in early Hindu law or custom. Manu declares that a man may only marry a virgin, and that a widow may not marry again.<sup>24</sup> When we examine the usage of those who have not come under Brahman influence, we find some usage. Among Jat population of the Punjab, not only a widow, but a wife who has been deserted or put away by her husband, may marry again and will have all rights of a lawful wife. The same rule exists among the Lingayats of South Kanara.<sup>25</sup>

### **Nata versus Live in Relationship**

In India, live in Relationship's trend is changing amongst young couples in big cities like Ahmedabad, Bangalore, Mumbai, Delhi etc. It is true that maintaining such relationship in country's rural areas would land us in trouble because of the deeply embedded concept of marriage as a religious sacrament in people's mindsets. In contemporary India we may find the different kind of relationship between man and woman. New generation don't believe in sacraments. We just want to reduce our obligations. And live in relationship is a kind of freedom to both the parties. It is just like "*pahle istemal Karen fir vishwas karen*". It is a new trend. We are adopting western culture. "No right, no duties" can be said the motive of live in relationship. Live in relationship is like a test to check the compatibility of the live in partner before going for some commitment. On the other hand some people think that their love need no certification of marriage. In India we do

---

<sup>20</sup> The marriage of a man of higher Varna (caste) with a girl from lower Varna was called Anuloma Vivah

<sup>21</sup> Vedic Index, I, 478

<sup>22</sup> Manu, III, para 12, 14

<sup>23</sup> AIR 1971 Mad 330

<sup>24</sup> Manu VIII, para 240

<sup>25</sup> Punjab Customary Law, II, 131, 174, 190, 193

not have any statute, which directly dealing with live in relationship. Nevertheless we have judgements, which declare that live-in relationships are being gradually accepted socially and even legally recognised. In **D.Velusamy v. D. Patchaiammal**<sup>26</sup> the apex court pointed out certain conditions in which live-in relationship will amount to a relationship in the nature of marriage. Such conditions are-

- \*Live-in partner must complete the legal age to marry.
- \*They must be unmarried/single/divorcee (otherwise qualified for marriage)
- \*Voluntary co-habitation between live-in partners.
- \*The live-in partner must hold themselves out to society as being akin to spouse for a significant period of time.

### **Reasons of Nata Pratha**

- ✓ **Nata of young Widows-** In Rajasthan child marriages are prevalent. There we can find a large number of child widows. These child widows have to live with their in-laws after the death of their husbands. Any person, after giving a sum of money to the in-laws can take a child widow with him.
- ✓ **Deserted wife in Nata-** In some cases where a husband is keeping a woman under Nata custom, the can also chose a new partner for her.
- ✓ **Couples in love-** Husband who is not much happy with his wife, but at the same time he likes someone else's wife, after giving a particular amount of money to husband of that other woman, he can bring a new lady to his house. It is like an extra marital affair.
- ✓ **Widower's Nata-**After the death of a wife, a male can search a new partner for him.
- ✓ **Another possible reason-**In many cases where a legally wedded wife is somehow not able to procreate children, husband can bring a new lady for the same.

### **Broker's Role in Nata**

Now a days in there are some persons who are working as brokers. They are similar to brokers of real estate business. They keep updated themselves with availability of Males and females for such Nata. They demands brokerage for the same. It is well-settled that a marriage brokerage contract

---

<sup>26</sup> AIR 2011 SC 479

or an agreement to remunerate or reward a third person in consideration of negotiating a marriage is contrary to public policy and cannot be enforced.<sup>27</sup> An agreement to pay a sum of money to a father in consideration of giving his daughter in marriage is equally opposed to public policy and invalid.<sup>28</sup> Money paid to a father or brother under an agreement cannot be recovered when once the marriage takes place.<sup>29</sup>

### Children of Nata Pratha

Children born out of nata are being called “galed”. They are not the legitimate children. Because as per Sec. 16 of Hindu Marriage Act, 1955 children born out of void and voidable marriage are legitimate but in Nata, there is a clear absence of marriage. So technically they are not legitimate but as per custom they do have right in the father’s and mother’s property. But in any case of Nata, children are main victims. This custom is resulting in children being abandoned. In our legal framework, we do not have any provision for such children.

### Conclusion

There was a time in the Indian society when a Hindu male can keep a concubine in the house along with the wife/wives. The concubine was called AvarudhaStri. An AvarudhStri is an exclusively kept concubine. At one time it was thought that to be such she should be living in the family home of the paramour.<sup>30</sup> In **Nagabai v Monghi Bai**<sup>31</sup> the Privy Council pointed out that a concubine should be in the exclusive keeping of the paramour. **Ramamorthy v Sitaramamma**<sup>32</sup>, the High Court of Andhra Pradesh pointed out when a woman is a married woman who has deserted her husband to become the exclusive mistress of another, she is an AvarudhaStri.

But on the other hand Nata is based on custom. *Roopsi v State of Rajasthan*<sup>33</sup> it was held that a Nata marriage performed in accordance with customary rites and ceremonies is a valid marriage. The ritual of saptapadi is not necessary in such a marriage. But few questions are still

---

<sup>27</sup>Vaithiananatham v Gangaraju (1894) 17 Mad 9

<sup>28</sup>Dholidas Ishwar v Fulchand (1898) 22Bom 658

<sup>29</sup>Venkatakrishtnayya v Lakshminarayana (1909) 32 Mad 185

<sup>30</sup>Prof.G.C.V.Subba Rao, Family Law in India, 10<sup>th</sup>Edition,S.Gogia& Company, Page 395

<sup>31</sup> AIR 1926 PC 73

<sup>32</sup> AIR 1961 AP 131

<sup>33</sup> 1999(1) SHLR 622 (Raj.)



unanswered. This can be comprehended that in a county like India, marriage continues to be the institution that is preferred to any other form of union, whether it is live in relationship or nata. There is a need of law to abolish such custom. This custom is not much than a selling of a girl. The Government's effort to safeguard the interest of women and children is required.

