

Nata Pratha -Modern in Outlook but Exploitative in Reality

Himanshu Gupta

Assistant Professor, Banasthali Vidhyapeeth, Rajasthan

Email – himanshupansari@gmail.com

Abstract: State of Women's condition even in this 21st century has been a matter of great concern. Even today practices such as Nata, Child Marriage, Dowry Death etc. are rampant in the society resulted into pathetic condition of women. Under Nata Pratha Women are sometimes sold to another person which is not contemplated when this tradition was started amongst the tribal community in the parts of state of Rajasthan, M.P. and Gujarat. This article talks about this Pratha and its impact on women and child born out of such marriage arrangement.

Key Words: Nata Pratha, Marriage, Live-in-relationship, Rural society, Condition of women.

1. INTRODUCTION:

Under Hindu law, Marriage is and has always been considered a holy sanskar (sacrament) unlike Muslim Law where it is considered as a contract (at least in form). The two Legal maxims explain the relationship of husband and wife according to the law of nature and to the law of human society. Firstly the maxim "*conjunctio maritum perminae est de nature*" contemplates that to keep husband and wife together is the law of nature and the second Legal maxim "*viret unum consentur in lege una persona*" contemplates that husband & wife are regarded as one in law.¹ Even in Muslim Law talking about breakdown of marriage, according to Muharib "The Holy Prophet Muhammad worded: Allah did not make anything lawful more abominable to Him than Talaq."² And on other account according to Abdullah ibn Umar: " The Holy Prophet Muhammad worded: Of all the lawful acts the most detestable to Allah is Talaq."³

Stepping ahead of other religion of the world, marriage under Hindu mythology is an unbreakable knot for next seven births. Marriage amongst Hindu is not regarded as merely a social transaction between husband and wife but is a social institution. So it is in the interest of the society at large to preserve and protect this institution of marriage. Resultantly we have mechanism in the form of Hindu marriage act 1955, applicable to all Hindus in matters relating to Marriage and Divorce. But unfortunately there exists other parallel customs e.g. Natha Pratha, which although was made for the splendid purpose but was with time manipulated and distorted by the male partner in such a fashion that it causes more hardship than benefit to women counterpart in matters relating to marriage and divorce.

2. RESEARCH METHODOLOGY:

This work is analytical, descriptive and doctrinal wherein the author has researched this project work by reviewing and critically analyzing the primary and the secondary sources available. While primary source refer to the opinion of the different people witnessed such practices, the secondary sources relate to the books and scholarly articles that have also been referred to. Due to the certain limitations, the research is restricted to articles and publications on the Internet.

3. LITERATURE REVIEW:

The Author came across sufficient literature which is relevant to the topic and some of the articles and other material has been briefly reviewed as under:

- Different Cases reported in the News Papers
- Opinion of the people living in tribal areas of Rajasthan
- Different views from Indian electrical and print media like The Hindu, Times of India, Economic Times, Indian express,
- law Journals like EPW Economic and Political weekly, Jstore

Findings and Analysis:

¹ Hindu Law, Universal Publication, available at:

https://books.google.co.in/books?id=2Sa82CViqjEC&dq=conjunctio+est+de+nature&source=gbs_navlinks_s (last modified February 23)

² Sunan Abu-Dawud Book 12, No.2172; A.S.Parveen Akthar vs The Union Of India.

³ Sunan Abu-Dawud book 12, No 2173; A.S.Parveen Akthar vs The Union Of India.

Nata Pratha is a common custom prevalent mainly in the tribal parts of Rajasthan (*esp.* in Bhel Rajput & Gujjar community), parts of Gujarat & Madhya Pradesh. Apart from Sati Pratha and Dowry Pratha, the Nata Pratha has added to the deteriorating and pathetic condition of women mainly in rural areas of western India.

The Word “Nata” means “Relationship”, Under this custom in order to live together the couple doesn’t have to perform rituals or ceremonies as required by the s.7 of The Hindu Marriage Act, 1955⁴. Under Nata Pratha no marriage ceremonies is required as it is not a marriage but a kind of marriage arrangement to live together and to perform all obligation of husband and wife without getting married. The custom requires the man to pay some amount either to the married woman with whom he wants Nata or to her first husband⁵ if she is living with her or to her paternal family as the case may be, so that she can move in with him. The sum may range from a few thousand bucks to even a few lakhs depending upon paying capacity of person concerned. As it is not a marriage the women under Nata Pratha has no safeguard in terms of maintenance under s.125 of Crpc⁶ and also the ward born out of this arrangement doesn’t acquire any inheritance right in the ancestral property of his biological father under Hindu Law. Speaking about this traditional custom Mr kanhaiyalal Rathore⁷ said, earlier in some rural areas, the tribal communities used to organize a special fair on a particular day called purnima (full moon), where all the male members unhappy with their marriage alliance (married women) could come there with their women counterparts. Those married women than have to stand up with veil on their faces and coins amounting Rs.1.25/- tied up with their pallu⁸. Person interested can release the coin from the pallu and take her with him and the women than would be considered his lady for the coming next one year. Now for the next one year he has to maintain her even though he is not happy with this Nata till the organization of next fair where the similar procedure will follow. This system is not in practice now as was long back abolished by the than Maharaja Sajjan Singh.

Under Nata Pratha a married male can keep a female (already married) with him in a relationship akin to marriage without following any Hindu Marriage ritual. The Custom can be considered as a modern day Live-in-relationship with a difference that in today’s live-in-relationship it is the consent and wish of both the parties and women living in live-in relationship has maintenance rights akin to married women⁹ whereas in Nata Pratha the wish of the male is forced on the female counterpart and women does not has any such rights said Dr. K. K. Trivedi¹⁰. This custom in tribal areas was meant to provide the safeguard to the divorced or widow women (victim of child marriage) from other atrocities like sati Pratha or to the women victim of cruelty by the husband, to leave his home and move out with someone compatible without undergoing expensive ceremony of Marriage¹¹, but now days the custom has taken distorted form. The husband sometime gives away her wife so as to arrange money to be paid for bringing another under the pretext of same custom. One such incident was reported in

⁴ S.7-. Ceremonies for a Hindu marriage.-

(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. (2) Where such rites and ceremonies include the saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

⁵ Government may extend scheme for kids under Nata Pratha, available at: <http://timesofindia.indiatimes.com/city/jaipur/Govt-may-extend-scheme-for-kids-under-Nata-Pratha/articleshow/5740962.cms> (last modified February 23)

⁶ If any person having sufficient means neglects or refuses to maintain;

- his wife, unable to maintain herself, or
- his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
- his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or
- his father or mother, unable to maintain himself or herself,

A Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct;

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.....

For the purposes of this Chapter–

- “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;
- “wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

⁷ Zila Adhyaksh Raj Bhoi Mali Samaj, Banswara

⁸ The lose end of the Sari; <https://en.wikipedia.org/wiki/Pallu> (last modified February 23)

⁹ Badri Prasad v. Dy. Director Of Consolidation & Ors [1978] Insc 119: Air 1978 Sc 1557; D. Velusamy V. D. Patchaiammal, Crl Appeal No. 2028-2029 OF 2010; Indra Sarma v. V.K.V. Sarma, Crl. App. No. 2009 of 2013; DO 26-11-2013 (SC).

¹⁰ Assistant Professor in Law, Law college Banswara.

¹¹ DOTW: EXACT CONDITIONS OF 'NAATA PRATHA' IN RAJASTHAN, available at: http://www.india-forums.com/forum_posts.asp?TID=2436125 (last modified February 23)

The Hindu¹² in which a lady named Shanta Bai when refused to be sent on Nata with other man was coerced by her husband to leave home, so that he find another woman on Nata. Now because the Shanta bai failed to observe his this unethical and brutal demand, her husband spread a story in the village calling her a witch (Another evil practice existed in Rajasthan State). The rumor spread like anything and resulted in her sad demise. The body was reported to be found in some well and suicide FIR was registered¹³.

As Nata is not a marriage relationship, so the prime requisite of this custom is that both the parties should be already married and thus an unmarried cannot enter into such arrangements. Resultantly unlike incidents are reported from tribal areas more frequently. Recently in an uncanny incident, an elected representative from Rajasthan purportedly married a six year old child (girl), so that he can move in with a married woman¹⁴. As reported by "The Indian Express" A Thirty-Five year old Ratan Jat, an elected ward panch of Somiyana village who was purportedly in a relationship with a married woman and wanted to move in with her, in order to be eligible for the age-old custom of Nata performed marriage with a young girl of six year from his own community.

Story of women of Kadisna village (District- Tonk) dictate the pathetic condition of life a women has to undergo due to this Nata Pratha. 30 years Sanjana Bairwa was married off during her childhood but the consummation of marriage never took place owing to the insanity of the husband. After dissolution of this marriage she was then sent to a second man but this Nata also last only for few years. On repeatedly being physically abused by her second husband she left him and returned to her paternal home. Though she had a son from this Nata but she was not allowed to take him along with her. Her third marriage was with a bachelor which was also short-lived because as per the custom she cannot marry a bachelor. Finally she settled down with Mangla Bairwa, with whom the Village Panchayat had no objection as he himself had undergone a broken child marriage.¹⁵

Not only is the women who is the victim of this Pratha but it is also the child who has to bear the pain of living separately from her biological mother and sometime has to accept the unethical treatment of other women who has come under Nata Pratha. Although state government has shown some interest in providing certain safeguards to the children born under Nata Pratha¹⁶ but nothing concrete has been done in this direction. A recent study conducted by Vaaghdhara an NGO in collaboration with UNICEF quoted that around 2% out of as much as thirty five lakh tribal children (age group of 4 year-14 year) have been impacted because of this age old Nata Pratha¹⁷. Another Study on "ensuring protecting rights of tribal children in Rajasthan"¹⁸ released at a state-level consultation quoted that thirteen percent of children witness humiliation at schools because of Nata in their immediate family, out of this thirteen percent, Six percent witness verbal and physical abuse.

4. CONCLUSION:

It is high time, state government as it understand the root cause of the custom, should look into the issue seriously and should come up with a law not only to curb such practice but also to provide certain mechanism to rehabilitate and provide justice to the victims both women and children of this Pratha. All the section of society including media has to work hard to rectify the mistake which has culminated into bane for women and children of these tribal areas. The Pratha cannot be eradicated from the tribal areas where the poverty and the illiteracy is rampant and people are unaware of their Fundamental right as enshrined under Art 14: "Right to equality", Art 23"Right against exploitation", and Art 21"Right to life and personal liberty" which include right to dignified life, just by the statutory provisions until and unless the executive has the will and authority to wipe out such derogative practices and brought to justice the perpetrator of such act.

¹² Sunday, June 18, 2000 (last modified February 23)

¹³ Towards Oblivion, available at: <http://www.thehindu.com/2000/06/18/stories/13180619.htm> (last modified February 23)

¹⁴ Agony of alliances, available at:

<http://indianexpress.com/article/india/india-others/to-move-in-with-married-woman-ward-panch-marries-6-yr-old/> (last modified February 23); What India's old and unusual marriage custom tells us about a women's consent, available

at:<http://www.dailyo.in/politics/child-marriage-natha-pratha-divorce-dowry-women-consent-inheritance/story/1/4683.html> (last modified February 23)

¹⁵ To move in with married woman, ward panch marries 6-yr-old, available at:

<http://indiatoday.intoday.in/story/custom-in-rajasthan-forces-women-into-string-of-marriages-for-bridal-price/1/191576.html> (last modified February 23)

¹⁶ Palanhar Yojana, available at: <http://sje.rajasthan.gov.in/schemes/Palanhar.html> (last modified February 23)

¹⁷ 'Nata' custom: Tribal children vulnerable to abuse, available at:

<http://timesofindia.indiatimes.com/city/jaipur/nata-custom-tribal-children-vulnerable-to-abuse/articleshow/56272168.cms> (last modified February 23)

¹⁸ Tribal children bear brunt of Nata Pratha in Rajasthan: Study, available at:

<http://www.hindustantimes.com/jaipur/tribal-children-bear-brunt-of-nata-pratha-in-rajasthan-study/story-zQXmyxD9ipF7BHTqpAe13L.html> (last modified February 23)

REFERENCES:

1. Hindu Law, Universal Publication, available at: https://books.google.co.in/books?id=2Sa82CViqjEC&dq=conjunctic+est+de+nature&source=gbs_navlinks_s (last modified February 23)
2. 'Sunan Abu-Dawud book 12, No 2173; A.S.Parveen Akthar vs The Union Of India.
3. Badri Prasad v. Dy. Director Of Consolidation & Ors [1978] Insc 119: Air 1978 Sc 1557; D. Velusamy V. D. Patchaiammal, Crl Appeal No. 2028-2029 OF 2010; Indra Sarma v. V.K.V. Sarma, Crl. App. No. 2009 of 2013; DO 26-11-2013 (SC).
4. DOTW: EXACT CONDITIONS OF 'NAATA PRATHA' IN RAJASTHAN, available at: http://www.india-forums.com/forum_posts.asp?TID=2436125 (last modified February 23)
5. Towards Oblivion, available at: <http://www.thehindu.com/2000/06/18/stories/13180619.htm> (last modified February 23)
6. Agony of alliances, available at: <http://indianexpress.com/article/india/india-others/to-move-in-with-married-woman-ward-panch-marries-6-yr-old/> (last modified February 23);
7. What India's old and unusual marriage custom tells us about a women's consent, available at: <http://www.dailyo.in/politics/child-marriage-natha-pratha-divorce-dowry-women-consent-inheritance/story/1/4683.html> (last modified February 23)
8. To move in with married woman, ward panch marries 6-yr-old, available at: <http://indiatoday.intoday.in/story/custom-in-rajasthan-forces-women-into-string-of-marriages-for-bride-price/1/191576.html> (last modified February 23)
9. Palanhar Yojana, available at: <http://sje.rajasthan.gov.in/schemes/Palanhar.html> (last modified February 23)
10. 'Nata' custom: Tribal children vulnerable to abuse, available at: <http://timesofindia.indiatimes.com/city/jaipur/nata-custom-tribal-children-vulnerable-to-abuse/articleshows/56272168.cms> (last modified February 23)
11. Tribal children bear brunt of Nata Pratha in Rajasthan: Study, available at: <http://www.hindustantimes.com/jaipur/tribal-children-bear-brunt-of-nata-pratha-in-rajasthan-study/story-zQXmyxD9ipF7BHTqpAe13L.html> (last modified February 23)