

Who Cares for Child Marriages?" by Shobha Saxena. Pioneer. 29 January, 1999,p.10.

Who Cares for Child Marriages?

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No one, finds Shobha Saxena in Rajasthan. Despite laws prohibiting such marriages, thousands of children are forced into it. The officials are least interested to punish the guilty and the people are too callous and orthodox to change.

Akha Teej or Akhsya Tritya is a time of rejoicing in Rajasthan. This is the most auspicious day for marriage. On this day practically everywhere in western Rajasthan, Bikaner, Tonk, Jhalwar, Jodhpur, and Jaiselmer, marriages are performed *en masse*. Every street, house, tractor and even buses seem to reverberate with music and the cackle of gorgeously dressed marriage guests.

But in all marriages the bride and the groom are children, some just two or three years old and some babies barely able to walk. These brides and grooms are carried by their parents or are perched on a thali and taken round the holy fire for performing the most important ceremony of their life.

Child marriages are common in Rajasthan. The child brides or grooms may not understand the solemnity of these ceremonies, but for the elders it is the safest and most tested way of keeping property and money within the family. Innocent children become pawns in family businesses.

Ironically child marriages are rampant in a state where the Child Marriages Restraint Act, popularly known as the Sharda Act, was first conceived. Sri Harvilas Sharda, who had given concrete shape to Sharda Act, was a native of Ajmer in Rajasthan.

In such unions, girls are the worse sufferers. Inadequate socialisation, discontinuation of education, great physiological and emotional damage due to repeated pregnancies devastates these girls. Child marriages increase the girl's reproductive span. Boys suffer less in this male dominated society. Most grooms, once educated and grown up, migrate to urban areas and get better jobs. Many abandon their village brides for city women. Some continue to keep two wives. In some cases the grown up boys, don't even bother to acknowledge their child marriage and the brides are forced to go back to their parents' house.

In case the husband dies even before consummation of marriage, these child brides are treated like widows. They cannot remarry and are invariably given in nata to some widower in the family. Nata is an obnoxious custom. Officially, the child is the wife of some widower but in fact she becomes the common property of all the male members of the family.

Attempts to end this ancient custom were first made in 1929, when the British government, under pressure from social reformers enacted a law against child marriages. However, the British didn't want to upset the popular traditions, so they enacted an ambivalent act called Child Marriages Restrain Act, popularly known as the Sharda Act. The Act prohibited the solemnization of child marriages but it did not declare these marriages either invalid or illegal. The Act was weak and the punishment for the offence too mild.

After Independence it was realised that despite the Sharda Act child marriages continued, especially among the backward and uneducated village community. The status of women worsened with such social customs. In 1978 this Act was amended raising the age of marriage to 18 years for the girls and 21 for the boys. It also made child marriage a cognizable offence. However, it did not empower the police to prevent the marriage by arresting a person without warrant or magisterial order.

Under the amended provisions of this Act the jurisdiction to take cognizance of cases of child marriage has been given to metropolitan magistrates or to judicial magistrates. They have been empowered to try any case related to child marriage. Anybody including social organisations, the police or any public spirited person can make a complaint to the police or to the magistrate directly. Acting on a complaint any court can itself make inquiries. But in practice this whole process is so complicated and so time consuming that by the time these authorities are in a position to take preventive action the marriage is already over and all proof of such a ceremony obliterated.

Further, Section 12 of the amended Child Marriage Restrain Act empowers the magistrate to issue in junctions prohibiting marriages in contravention of this Act, but before issuing injunction the affected parties have to be given a notice to enable them to present their defence. An injunction issued without notice is not valid. This procedure is so time consuming that marriages in contravention of this Act are completed, before the court can pass an order preventing them. The court cannot even issue a general direction that marriage of a child shall not be solemnized within some particular time limit, say eight months or two years.

The punishment under the amended Child Marriage Restraint Act remains mild, only simple imprisonment extended to three months and a fine of Rs 1000.

According to the provisions of Section 5 of the Act whoever performs, conducts or directs child marriages shall be punishable. According to the interpretation by various courts these words mean working towards an end, they do not suggest arranging marriage or even attending the marriage ceremony with a view to assist the solemnization.

The saddest part about child marriages is that despite the administration being fully aware of the custom, and sometimes even having advance knowledge about it, the crime against innocent children continues. As the administrators have turned a blind eye to the problem, local -people have no fear for law. Caste affinity and social pressure is so great that no one reports such cases or comes forward to give evidence. Past experiences have taught a lesson to many, that authorities don't respond in time of such crisis.

Of course, every year routine appeals for not performing child marriages are issued by the government and non governmental organisations. Sathins, aaganwadi workers, social organizations and the police are alerted and asked to take preventive measures. Yet the baarat with the baby groom arrives for the toddler bahu. Festivities take place in the open. The tractor trolleys with the festive people even drive past the local police stations but no action is taken by the one. How can anyone raise hue and cry over the issue. Almost everyone is equally guilty, whether it is the local MLA or the school teacher. They have either themselves married their children very young or have enthusiastically participated in such marriages.

Besides administrative laxity, it is the rigidity and callousness of the local people which has led to the widespread and open practice of child marriages.

The elder of any family are not willing to yield, while the youngsters and the women folk have no guts oppose them. Elders are convinced that child marriages since they are solemnized groups, are cheaper and easier to perform.

Some parents also believe that it is easier to impose their will on their children while they are still infants. They believe that once married boys do not flirt around with village girls and the girls learn to take responsibilities early in life. There is also this conviction that it is easier for the couple to adapt themselves to each other if they have known each other since childhood. Some argue that as the children stay with each other only after the girl attains puberty (gauna) there is no adverse affect on the latter's health. But in many cases, guana is also done before the permitted age. The girl becomes a mother early, herself a child, she is unable to look after another child. She is crushed under multiple responsibilities of being a wife, mother and daughter-in-law. Despite growing up together, the

boys are not completely connected or committed to their wives and some even seek relationships outside marriage.

Sadly, these people fail to appreciate the basic fact that each child is an individual, with different likes and dislikes which depend on the environment, experience and education the child has undergone.

Moreover, people in Rajasthan jealously guard their customs and traditions. They fail to appreciate that the social and political conditions that created these customs have become extinct. In earlier days travelling to religious places and coming back safe was an achievement. So, when people returned safely from pilgrimages, marriages of daughters was considered auspicious. Since friends and relatives had already gathered, match making became easier. Thus a custom developed to celebrate marriages after returning from a pilgrim. Similarly, it was considered auspicious to marry a girl child on the death of some elderly person in the family. Today in the garb of social customs, families damage, their own children only to strike better financial deals for the future.

The malaise is so deep rooted that mere vocal condemnation of the practice won't do. What is needed is consistent and planned campaign against child marriages. The campaign should not operate only during Akha Teej. The patvari, sarpanch and the police should be vigilant throughout. Both the government and non-government organisations need to coordinate to draw a long term strategy. The campaigners need to identify the opinion builders of the community. Until and unless these leaders make people realise the cruelty they are inflicting on their own children, the crimes will not stop.