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CHAPTER VI
MARRIAGE

"The problem of marriage is one of those few problems that man has tried to solve in all ages and all the countries without being able to come to an all embracing final conclusion thereon.\textsuperscript{1} As Dr. Betai has rightly noted, the problem of marriage as a socially essential institution and an extremely individual happening is a very complicated phenomenon unanswered satisfactorily so far.

The very notion of marriage implies so many other things like legality, children, their rights, extramarital relations, levirate, sonorate etc. So, when one thinks about marriage as a social institution one has to think so many other things. Moreover marriage is a happening for two individuals but two individuals come from two different sections - families of the society, which become socially and legally connected by the marriage and marriage certainly affects these families in certain aspects and respects. Considering all such implications the concept of marriage becomes very difficult to define and describe precisely. Many ancient and modern sociologists have tried to define and describe its scope. The encyclopedia of sociology starts its discussion on marriage from family forma-
It has defined marriage as "a culturally approved relationship of one man and one woman, or one man and two or more women or one woman and two or more men, in which there is cultural endorsement of sexual intercourse between the marital partners of opposite sex and generally the expectation that children will be born of the relationship".

Our ancient law makers and sociologists look upon marriage as more of a duty towards one's family and society than an individual relationship to enjoy sex. Marriage is one of the Sāṃskāras, where bride is gifted to bridegroom to perform the duties together as house-holder (grhastrā). Even Manu has put stress on duties of husband and wife rather than the pleasure to be derived. From the viewpoint of Indian thought marriage is always thought in connection with society, family - which includes elders and youngsters and duties towards all.

Nārada is concerned with legal side of the marriage and subjects implied thereof. He speaks about the legal side of it fully. He does give a definition of this title of law, and not a definition from the sociological point of view. Still in the length of his discussion he speaks so many things concerning marriage that one can conclude from his definition. He has discussed marriage as a social institution, its moral implications, its relation to society
through an individual and safe-guarding human interests through law. He has clearly stated his aim, "this law in which the legal rules for women and men regarding marriage and other mutual relations between them and laid down". 

Nārada suggests so much in 'other mutual relations' and his broad sociological view is unmistakably expressed here. 

Manu's view about marriage is rather puritan. He starts his discussion about marriage saying, "external laws a husband and his wife, who keep to the path of duty, whether they be united or separated". It is very much obvious from these two statements that the views about marriage are transitory and change according to time and society's patterns. For Manu it was mainly duty and for Nārada it is 'mutual relation' between man and woman. From the time of Manu to Nārada's mere duty has developed in warm human relation.

Nārada starts the discussion very systematically and step-by-step, from the choice of bridegroom and bride, which is definitely essential before both enter the permanent wedlock. Here preference is given to bride's choice, and if bride accepts the proposal then the marriage ceremony can take place. Nārada calls this procedure as two steps in marriage, i.e., bride approves the marriage proposal and conveys her consent to her parents, elders and after that actual ceremony of marriage takes place. Thus the
marriage is two fold. Nārada has stated the different between the 'choice of bride' and the marriage ceremony. The choice of bride can be termed as betrothal. A very peculiar thing about Nārada is that he has placed full stress on a girl's choice of her husband. In the contemporary society where woman was more of a commodity than human being and constantly she was treated as inferior to male, this view is definitely bold. Nārada's predecessor Manu speaks only about a man's choice. Manu has given in details the qualities of a maiden whom a man can marry. He gives the right colour of her hair, her health, her family background, her eyes, what is all the more, he even wants man to consider her name. Manu does not seem to consider a woman's choice about her life partner. For Manu a maiden is it seems to be an article to be gifted, to be sold and to be enjoyed. Yājñavalkya speaks about the qualities of bridegroom, but does not seem to give any importance to the bride's choice. Only Nārada has given importance to this necessary part and considered, declared it as an essential part of marriage. The 'bride's choice does not essentially seem the ritual of betrothal, but it might have been an important ritual. This bears somewhat likeness to the 'Swayamvara', though it looks more like arranged marriage where elders bring in suitors, whom a maiden approves or disapproves. Most revolting point of
Narada is, he has stated exactly opposite view of Manu's. Though Narada mainly speaks about maiden's choice and maiden's choice only, he has suggested that both the parties (bride and bridegroom) should not have blemishes. Manu speaks mainly about a bridegroom's choice.

The marriage is two fold and the first step, i.e., choice of bride or we can term it as betrothal is not of permanent nature like marriage. Betrothal is dissoluble in the cases where some blemish is found either in bride or bridegroom, if a suitor who is more virtuous and eligible than the prior one is available then the betrothal can be annulled. 'Kanyāyām dattaśulkāyām' a maiden's whose nuptial gift has already been presented, by a suitor, even her engagement can be annulled if a better suitor approaches. And it is already said that betrothal is not a binding force like marriage.

Marriage when it takes place with the chanting of mantras, with the ritual of joining hands, is only the legal marriage and permanently binding. Manu has on the other side, expressed the view about the permanancy of marriage saying 'a maiden given in marriage is once only'. Narada has exactly followed Manu saying 'once the family property divided, once a maiden is given in marriage and once does a man say 'I will give' each of these acts is done a single time only among the virtuous'. Narada's descrip-
tion about the permanency of the marriage raises some points. Joining hands of bride and bridegroom is the permanent token of matrimony. If this is the only recognised, authorised and legal form of marriage, then the other forms of marriage viz., Gandharva, etc., are they not considered legal?

Intervarna Marriage

Narada thus prepares the ground for further discussion of marriage. He has here taken up a very important point, which directly concerns the society. Varna arrangement was in vogue. Contemporary society seems to be a mess of intermingled castes and varna; principally varna system seemed to be very rigid. Intervarna marriages were outrightly disliked by law makers. Still the human passion, sentiments and sex play very important role in human life and society both. It cannot be plainly negated. So the intervarna marriages and issues born thereof obviously become a challenge for the law makers. There might have been many intervarna marriages in the society despite the rigidity of varna. The duties and status and customs were different for each varna. Some provision was therefore necessary to regulate and fit it in the arrangement of varna. Vyavastha. Not only social arrangement but legal provision also was necessary.
First and foremost point in Narada's opinion is that men and women should marry within their caste and varna. Manu's opinion is also the same but his rule mainly binds Brāhmaṇas that also for the first marriage. Brāhmaṇas should marry wives of their own caste and if they have to remarry for some reason they can take wives from the lower varna than theirs. Manu does not seem to put an explicit rule as Narada has laid about all the varnas. It seems as if Manu does not seem to give importance to other varnas and at the same time he is not very rigid about Brāhmaṇas also. It is a recommendation that Brāhmaṇa should take first wife of his caste only and not a restriction. In comparison to Manu, Yājñavalkya's opinion is much similar to that of Narada's. Yājñavalkya also opines that bridegroom (and bride) should be of the same varna.

Obviously law makers were all for 'Savarna' marriage only, but as it is already discussed they could not rule out the complicated nature of society and individual. Certain arrangements for the intervarna and intercaste marriages and relations was therefore to be made.

In Narada's opinion men can take a wife from the lower varna also than theirs, viz., A Brāhmaṇa can marry a Brāhmaṇa girl and a Kṣatriya, Vaiśya and Śūdra as well. This rule is similar to Manu's. Though Manu seems to have half-heartedly recognized the custom prevalent i.e.,
Brāhmaṇa’s marriage with Śūdra, he has opposed such marriage vehemently. Manu calls it a 'folly' and in their 'folly' Brāhmaṇa may marry a Śūdra, but they degrade their families to the state of the Śūdra.27 Manu has even quoted Atri and Utathya’s opinion that the Brāhmaṇa marrying Śūdra becomes outcaste.28 A Brāhmaṇa marrying a Śūdra sinks to hell and if he begets a child from her he even ceases to be a Brāhmaṇa.29 Manu does not stop his opposing here but he states that even the religious rites performed with a Śūdra wife are fruitless.30 Manu has atleast for name’s sake accepted the custom prevalent in the society of Brāhmaṇa marrying Śūdra, but Yājñavalkya even in theory does not accept it and outrightly refutes it, viz., it is said that a Brāhmaṇa may take a Śūdra as wife, it is not approved by me, or nor is this my opinion, because Brāhmaṇa is born himself in her.31 Here one can feel the same fear of varna-saṅkara (mixing of varṇas) expressed in Bhagavadgīta,32 i.e., the fear of that the women of higher order may get spoiled. Though the fear in Bhagavadgīta is expressed about the women of higher order. Yājñavalkya’s problem is more or less the same. He is afraid that if a Śūdra and a Brāhmaṇa get a son, his status will spoil the Brāhmaṇa’s position in the society and to create a legal and religiously and socially sanctioned niche for such mix generation must have been a problem for the ancient law makers.
Though Yājñavalkya disapproves such practices personally, obviously he cannot have control over the dealings and practices in the society. So he recognizes the practice by merely stating that Brāhmaṇa can marry 3 women besides one of his own caste. Moreover Mitakṣarā explains it as if one has a son and lost his wife and he still wants to remain as a householder, only then one can take wife from another varna. In Manu's view first marriage of the twice born men should be with the women of their own caste, (Manu III. 12). Manu disapproves the marriage between Śūdrā and Brāhmaṇa. He rather disgustedly states that there is not even a story of a Śūdrā marrying a Brāhmaṇa (Manu III. 14). He actually prohibits Brāhmaṇa to marry Śūdrā.

Comparatively Nārada seems to think coolly about the problem. It is important also that he has recognized the legitimacy of marriage unions between Brāhmaṇas and Śūdras.

According to Nārada a Kṣatriya can marry two women besides those of his own caste, i.e., he can marry a girl of his own caste and can marry a Vaiśya girl and a Śūdra girl as well. In the same way a Vaiśya can marry one woman besides his own caste, i.e., a girl from his own order and a Śūdra girl as well. A Śūdra man can marry a woman of his caste only, not with the upper varna women.
This is 'Anuṭoma' vivāha or marriage. Narada has recognized the legitimacy of the Brāhmaṇa man and Śūdra marriage. By doing so he goes one step further than his predecessors, but when it comes to 'pratiloma' marriage he still seems to be in the same position where Manu and Yajñavalkya stand, though Narada does not say it explicitly but from inference one can conclude that 'Pratiloma' vivāha is not only prohibited but treated as something like out of question to speak about. Narada gives only ascending order of husbands for women of different order and not descending.

Silence About Pratiloma

Another important question arises from the silence about 'pratiloma' vivāha. If a child is born of father of the higher order and a mother of lower order the child's status in caste goes according to the mother's caste and status in a case where mother is of higher order and father is of lower order, does the child born of that union gets mother's higher status and caste? So long such question does not seem to be answered by contemporary law makers. The placement of the sons born of higher order men and lower order women is given a wide space.

Sagotra Etc.

Sagotras and Samānapravaras are prohibited to marry till seventh generation from father's side and fifth genera-
tion from mother's side. This is the same as the opinion expressed by Manu and Yājñavalkya. Manu is not very exact as Nārada. He says, viz., a damsel who is neither a sapinda on the mother's side, nor belongs to the same family on father's side is recommended to twice born men for wedding. Yājñavalkya is much clearer, he says that a girl born in a family not having a common Arṣya (Pravara) and gotra from mother's side till fifth generation and till seventh generation from father's side. Of course the reason to do so is not explained by any of the law makers.

Man's Virility

The mere choice of a maiden is not enough to select her husband. Elders are advised to test the masculinity of the suitor. "When the fact of his virility has been placed beyond doubt, he shall obtain the maiden. This test seems to be like a medical test. Examination of his collar-bone, bones, body structure, skin, gait and his voice, more the more the test of his semen also is suggested. This severe test put by Nārada for the suitors is an unique step. Especially in the male dominated society, it was definitely a courageous step taken by Nārada. A suitor is known as a potent person by the test of his semen and urine. If the tests are negative then he is declared an impotent one, and naturally he would not get the maiden in the
marriage. Narada seems to be indicating that impotent men cannot marry or should not marry. According to Manu's opinion impotent men or eunuch can marry, viz., if eunuch and the rest should somehow or other desire to take wives offspring of such is worthy of a share. If the word 'Kliśa' is taken in a stricter sense, the impotent persons are not able to procreate the progeny, they might adopt the system of levirate or adopt a son. Manu does not seem to clarify the word 'Kliśa and etc.' Now, if a person is not able to beget the progeny, he can have issue only through levirate (Kṣetraja). Since Kṣetraja son is a legal one, he gets the share in the ancestral property not that impotent person. According to Medhatithi some of the persons are disqualified from inheriting i.e., Vātaretas Kliśa, lame or blind person, these can marry, but cannot inherit, Madmen, out-castes and the rest cannot marry. It can be concluded that an impotent one can marry to get Kṣetraja sons. Narada considers that an impotent person and out-caste cannot contract a legal marriage at all.

**Impotent Men - Their Types**

Narada has described fourteen types of impotent men, viz., (1) one naturally impotent, (2) one whose testicles has been cut out, (3) Pakṣaśaṇḍha, (4) one who is deprived of the potency because of a course, (5) by illness, (6) by wrath of a deity, (7) one jealous, (8) a
sevya, (9) one whose semen is like air, (10) a mukhebhaga, (11) one who spills his semen, (12) whose semen is devoid of strength, (13) one timorous, and (14) one who is potent with another woman (than his wife). Narada has clearly stated that an impotent person cannot marry, since women are created for creating progeny and one who cannot beget the progeny has no right to take a wife. This is Narada's practical view and it also shows that he was concerned with women's life and society as a whole. If an impotent marries then the girl's life is ruined and she may resort to extra marital relations, which may create many familial and sociological problems, besides of course the moral problems. Narada's description of impotent men appears rather of medical type, than just a legal discussion. He thinks about the cures both from psychological and medical point of view and discusses about the curability of the impotency and even suggests the solutions. First two kinds of impotent men i.e., one naturally impotent and one whose testicles have been cut are incurables. A pakṣa-śandha is one who is able to approach his wife once in a fortnight, and the cure suggested for him is, he should wait for one month. It is very difficult to say whether waiting for one month is a cure, Narada does not specify on it. A person who is deprived of his potency due to a curse given by his spiritual guide or one who has lost potency due to illness or the one who has lost his potency
due to the wrath of the goddess, all these three should wait for an year so that the effect of curse or illness or goddess's wrath may subside and they can opt for matrimony.

Very curious cure is suggested for the one who has become impotent because of jealousy, i.e., his wife should avoid him, because it is his fault. The other three types i.e., sevya, one whose semen is like air and one who spills his semen also should be avoided by their wives. Nārada does not seem to find any cure for them, neither psychological nor physical. One the contrary Nārada suggests that wives of such men (whose impotency is due to spilling semen and whose semen is devoid of strength) should take to another husband after waiting for six months. This is a very important statement made by Nārada. In the land where the law makers ask women to treat their husbands as Gods despite their grievous faults and blemishes, Nārada's far liberal viewpoint certainly stands out glaringly.

Though he does not say anywhere that he is out to emancipate women from their age old slavery, his approach and logical thinking make him stand as such a one. For a man, who fails while approaching his wife, his cure is to show him other maidens, that will arouse his interest in worldly matters and make him confident. This is rather a psychological treatment suggested by Nārada. Nārada seems to under-
stand in fullness the nature of Ādhi and Vyādhi i.e., mental and physical illnesses respectively - in regarding this important matter in man's and woman's life.

The last type of impotency is - one who is potent with another woman, but not with his own wife. Narada does not seem to see any cure for this type of impotency. He suggests course of action to the wife that she can leave her husband and go to another man. This type of impotency has nothing to do with physical fault but the deep rooted feelings like hatred and dislike could be the root cause, and there is no medicine for human nature and feelings. There might be questions about course of action suggested to such wives. Many times husbands abandon their wives if they dislike them, never thinking about the future of their wives. In such situation what a wife is supposed to do? Her problem of livelihood and her progeny can be solved much easily if she prefers to marry and live with another man who can take care of her. So Narada straight away gives solutions for both husband and wife. Man can take another wife of his choice.

Marriage Forms

Regarding the marriage forms Narada expresses very definite views. Like other law makers, he also feels that the Brāhmvivaha is the best form socially and legally adopted. A maiden (Kanyā) is given in marriage by her father or
brother or some elder relation in the house. According to J. Jolly the object of this rule (of giving the maiden in marriage according to Brähma rite) is to prevent any marriageable maiden from remaining unmarried. This rule is a bit far stretched in the sense that if father or brother is not present then even one among kinsmen can give the maiden in marriage.

In default of father, brother and aforesaid kinsfolk, mother has the right to give the daughter in marriage, if she is competent enough. Here Nārada does not explain what is meant by 'competence'. This competency could be 'mental saneness' or 'good character' or she should learned enough to understand the meanings of her own doings. There can be various interpretations regarding the quality of 'competent enough'. There is another important thing propagated here by Nārada that, mother is eligible to give away daughter in the marriage. There seems to be no bar for a woman to perform the rituals. Nārada's uniqueness comes forth with this statement. No other law maker seems to have allowed women to perform the rituals with vedic mantras, alone. Usually if any ritual is to be performed where woman is included, she is allowed to do it with her husband, sitting on his left side. A widow does not seem to have any right, nor is a young maiden allowed to perform rituals. A man married or unmarried or widowed can perform the rites. It is not necessary for a man to
have his spouse on his left side, but according to tradition and other Smrtis woman is not allowed to do so. Probably in the Vedic period women had equal status with men, and Nārada wants to retain and recognize the same status. Yājñavalkya also has allowed mother to give daughter in the marriage in default of other men in the family

The main view of all the law makers seems same that the girl should not remain alone, without marriage, when she comes of age. So, if the girl is alone and there is no one to give her in marriage, she should go to king and seek his permission and choose herself the bridegroom. According to Julius Jolly this paragraph refers to the 'Swayamvara', and it appears that Nārada does not allow this custom to be practised except with certain restrictions. This sounds little trifling, i.e., if the girl is old enough to understand the marriage and be taking herself to the bridegroom, that also of her choice with the permission of the king, then she definitely is not a child. She is a young woman at least not less than sixteen years of age. If Manu's opinion is taken into account about the girl's age, then Nārada's description about the girl's choice and freedom does not fit in. According to Manu a man of the age of thirty should marry a maiden of twelve, and a man aged twenty-four years should marry a maiden of eight years old. The marriageable age of the girl according
to Manu seems to be from eight years to twelve years. A girl of that age hardly can have maturity regarding the marriage procedure described by Nārada. Though Manu has specified the age, he has also mentioned the maiden's choice. 'If she chooses the bridegroom herself and be she takes herself to him, she shall not take any ornaments with her given by mother, father, or brother'. It is a clearly known fact that a girl of 8-12 is almost a child and a girl mature to choose her husband could be at least not less than fourteen years or even older. Yājñavalkya also has stated that in default of other relatives, who can give the maiden in the marriage - the maiden should select the bridegroom and take herself to him. Yājñavalkya has just indicated the age of marriage, viz., 'by not giving the daughter in marriage, he (father) incurs the sin of feticide at each period'. This clearly suggests that the girl should be given in marriage before her menstruation starts.

Nārada does not seem to specify the age of marriage for the girls. As soon as the signs of maturity appear, the girl should be given in marriage. Let no maiden suffer the period of maturity to come without giving notice of it to her elders and relatives. He who does not give such a maiden (who has come of age) in marriage commits a crime of killing an embryo as many times as her period of menstruation passes by without her having a husband. All
these instances show that though Narada does not clearly state the age of marriage, he definitely suggests it. In the tropical country the average age of maturity (i.e., starting of menstruation) is approximately twelve years to fourteen years. So one can therefore infer that the approximate age of marriage suggested by Narada is twelve to fourteen years. There seems a slight contradiction in Narada's discussion about marriage regarding the following two points, viz., (1) Narada says that if there are no relatives, the maiden should take herself to the bridegroom with the consent of the king. For this purpose the girl should be mature enough and learned to do as advised by Narada. In further discussion Narada advocates the views that a girl should not remain unmarried after her menstruation starts and this later view seems to be the influence of Manu and other law makers prior to Narada. (2) Narada states that in default of other relatives mother can give the daughter in marriage. It is a well known fact that Brāhmaṇa, Ksatriya and Vaiśya, who has undergone the initiation (wearing sacred thread) only can perform the religious rites, and a woman, if she has undergone this initiation and studied properly before marriage (as the men folk do) then only she can have equal rights as father to give away a daughter in the marriage. And these seem to be true thoughts of Narada. Here one can see his liberal view as a reformer.
and as a seer. Wherever he has followed his predecessors he seems to be contradicting his own statements and views, and one finds him very traditional and conservative.

When Nārada states that mother can give her daughter in marriage ritual, that suggests two possibilities: (1) either Nārada has approved the women's right of performing rites without having the upanayana or initiation, or (2) at the time of Nārada maideśīs seem to be undergoing the initiation, which empowered them to perform the rituals, or (3) the third possibility is Yājñavalkya also has given the statement that mother can give the daughter in the marriage and Nārada has just followed it. But this third possibility does not fit in with Nārada's liberal thoughts and foresight. Nārada has rather expressed his own liberal view in this statement which probably is contradictory to the earlier smṛtikārasya°.

Annulment of Betrothal and Marriage

In the arranged marriages where parents decide about marriage, Nārada perceives the possibilities of cheating. He has prescribed punishments for such cheating. Nārada has discussed the following points regarding cheating, viz., (1) the engagement or betrothal is non-permanent. If a better suitor is found after the betrothal of the daughter then the verbal engagement is annulled and the daughter is given in
marriage to the better one. (2) If there is defect or blemish in either of the parties then the betrothal can be broken. (3) If the blemish is discovered after marriage, then the person who gives such a daughter in the marriage is punished heavily. (4) If through hatred, one declares a maiden to have lost her virginity, he shall be fined 100 panas, unless he gives proof for his claim. (5) If a man abandons a maiden without fault on her part, after having plighted his faith to her he shall be fined and shall have to marry the maiden though against his will.

Nārada's views are rather similar to those of Manu. Manu has also ordained the fine of 100 panas to the one who, through hatred declares that a certain maiden has lost her virginity, unless he proves so. Manu states that if the blemish is found with the girl even after marriage, her husband can abandon her or the marriage can be annulled. Yājñavalkya considers it as a highest degree offence, when a maiden is given in the marriage without mentioning her faults or defects and blemishes. Yājñavalkya also has prescribed a fine of 100 panas for the one who falsely blames a maiden. The main difference in the statements of Manu, Yājñavalkya and Nārada regarding the defect or blemish is, that while Yājñavalkya and Manu speak about girl's blemishes only, Nārada says, "let no man calumniate a faultless maiden, neither one calumniate a faultless
suitor. When however, there is an actual defect, it is no offence if they dissolve their mutual engagement. Both the parties can have blemishes and Narada considers it positively without taking male side or female side.

There is a rather confusing statement about betrothal. First Narada states that there is no fault if one breaks the betrothal in the case there is another, better suitor, but in another paragraph Narada states that if one promises to give his daughter in marriage to a certain suitor and does not give afterwards then he shall be punished as a thief. Here some points worth noting come up: (i) breaking the betrothal with proper intimation is allowed and so return of the gift given by the first suitor, (ii) breaking the betrothal, not for better suitor, but for cheating purpose, i.e., taking nuptial gift and not giving the daughter is not allowed, and therefore it is considered to be an offence, (iii) verbal engagement or betrothal can be broken if there is mutual understanding between both the parties and none is unhappy on the decision, or there is blemish in either of the parties, and (iv) breaking an engagement on unfound grounds is a punishable offence in the eyes of law.

Most interesting thing is, today one can go to court of law, regarding the marital problems only after marriage and the problems, injustice and cheating during the betrothal
stage is either mutually solved or mutely endured, whereas
Nārada's contemporary society seems to have a provision
that even for the offences regarding betrothal one could go
to court.

Nārada is careful in guarding the interests of the
both the parties. He does not seem to have chauvinistic
male views, nor is he a defender of female class. He does
not accept the blemish on either side. He does not want
the bridegroom to be cheated\textsuperscript{94}, nor does he want that
somebody should deceive a maiden\textsuperscript{95}. The defamation of a
maiden is considered a punishable offence\textsuperscript{96}. A cheater's
offence is regarded as an heinous offence and treated with
the punishment like a thief\textsuperscript{97}. So Nārada discusses the
blemishes of a suitor and blemishes of the maiden.

\textbf{Blemishes of a Maiden}\textsubscript{\textit{ext}}:

(a) chronic or hateful disease, (b) deformity, (c)loss of
virginity or proved intercourse with another man\textsuperscript{98}. This
is possible only when she has a child at the time of marriage
or she is pregnant or she herself accepts this blemish. Here
one thing is important, the son of a maiden or the son of
a girl who is pregnant at the time of marriage is legally
accepted. The husband of the mother is supposed to accept
the son as "Sahodha" son\textsuperscript{99}. 
Faults of a Suitor

(a) madness, (b) loss of caste (Vratya), (c) impotency, (d) misery, (e) if he has forsaken his relatives, (f) affliction with a hateful disease, and (g) deformity, are the faults of a suitor.

Manu has treated abandoning the mother, father or wife as an offence. If one does so he would lose his caste and the fine ordained is six hundred panas.

Though some of the faults of a maiden and a suitor are common like physical deformity, disease, madness, the nature of other faults in maiden and suitor paradoxically oppose each other: Nature of a maiden's faults is more individualistic i.e., the blemishes of a maiden are mostly her physical incapacities like chronic or hateful disease, deformity of limbs, lameness, blindness or handicapped in any other way or loss of virginity, or madness. These faults either concern with the state of her body or mind. The nature of a suitor's faults is less individualistic and more of social and concerned with society. Impotency, madness, handicappedness or hateful and diseases, these physical and mental faults are considered. At the same time if he is an out-caste, or if he is not initiated, or if he is forsaken by his relatives for the fault on his part, or if he abandons his family, or if he is a miser. These faults
point not to his individual fault but point towards his background, they say about his upbringing, they show his nature and his people's attitude. All these points are considered, when daughter is going to live with him for the rest of her life. Apart from the physical blemishes (impotency etc.), his caste, his status and his family background matter more. One who forsakes his family is not a proper suitor. One who is not considerate and kind enough to his own family, always raises doubts about how he is going to behave with his wife.

**Marriage II Forms**

Radcliffe-Brown writes, "Marriage is social arrangement by which a child is given a legitimate position in the society, determined by parenthood in the social sense." According to Edmund R. Leach, any attempt at a universal definition of marriage is inevitably vain. Since the institutions commonly classed as marriage are concerned with the allocation of a number of distinguishable classes of rights. It is even suggested that marriage can be defined as the socially recognised assumption by man and woman of the kinship status of husband and wife. There are many definitions and explanations regarding the role of marriage, duties of husband-wife, roles of man and wife in various connections and problems emerging thereof. There are rights claimed in marriage and various duties are described. Nature
of marriage and its types change from society to society as per the people's outlook about marriage. There are several purposes stated for the establishment of this important institution. Edmund Leach has stated ten purposes that a marriage may serve, viz.,

(1) to establish the legal father of a woman's children,

(2) to establish the legal mother of a man's children,

(3) to give husband a monopoly of the wife's sexuality,

(4) to give the wife a monopoly of the husband's sexuality,

(5) to give the husband partial or monopolistic rights to the wife's domestic and other labour services,

(6) to give the wife partial or monopolistic rights to the husband's labour services,

(7) to give husband partial or total rights over property belonging or potentially accruing to the wife,

(8) to give wife partial or total rights over property belonging or potentially accruing to the husband,

(9) to establish a joint fund of property - a partnership for the benefit of the children of marriage, and

(10) to establish a socially significant relationship of affinity between the husband and his wife's brothers.
All these concepts about the purpose of marriage seem to focus on rights in and regarding children, sexuality, domestic and economic services and property. Nārada's discussion or rather the discussion in the smṛtis regarding marriage is also of more or less the same nature, same points. Only one more aspect can be added and that is that marriage in smṛtis is always thought of in connexion with the society. Marriage is equally important socially as it is individually important. But our smṛtis lay greater stress on the social aspect of marriage. Nārada discusses the forms of marriage, duties of husband-wife, fidelity in the marriage, divorce, levirate and legality of the progeny born of different relations and their place in the society.

**Forms of Marriage**

There are eight forms of marriage described by all the law makers, viz. (1) Brahma, (2) Prājāpatya, (3) Ārsha, (4) Daiva, (5) Gandharva, (6) Āsura, (7) Rāksasa and (8) Paisāca.  

**Brahma-Vivāha** - The Brahma vivāha is one where a maiden properly decked is given to the bridegroom with a religious ceremony.  

**Prājāpatya Vivāha** - Daughter is given to a virtuous bridegroom with the words 'fulfil your sacred duties together'.

**Ārṣa Vivāha** - Father of the bride receives a dress, a bull and a cow from the bridegroom and gives his daughter in ceremony¹⁰⁹.

**Daiva Vivāha** - During a sacrifice, when a sacrificer gives his daughter to the officiating priest before the altar is called Daiva form¹¹⁰.

**Gāndharva Vivāha** - When a maiden and a young man unite through love and mutual desire it is called Gāndharva Vivāha¹¹¹.

**Asura Vivāha** - When the price is paid for the bride by the bridegroom and then the bride is given ceremoniously it is Asura form of marriage¹¹².

**Rāksasa Vivāha** - When a girl against her wish and opposing, is abducted that is declared to be Rāksasa vivāha¹¹³.

**Paisāca Vivāha** - When a girl is approached while she is asleep or intoxicated or mad or unconscious, and her modesty is outraged, it is called Paisāca form and is considered as the lowest form¹¹⁴.

These forms described by Nārada are the same as described by Manu, Yajñavalkya and other law makers. Only the order is a little different as given by Manu. Manu places Daiva and Ārṣa forms before Prājāpatya and Asura before Gāndharva, whereas Nārada has given second place to Prājāpatya and fifth place to Gāndharva.
There are certain definite opinions about the legality and morality of marriage forms. Moreover all the forms are not prescribed for all the varnas. These marriage forms have their own merits and demerits. It is desirable that Manu's views be examined first before we go to Nārada's views.

Manu recognizes first six forms of marriage as lawful for Brāhmaṇas. Last four forms, for Kṣatriya and Vaiśya, are legal, except the Raksasa form. Dr. Betai has explained Manu's view in a very innovative manner. He says, "The eight forms of marriage that Manu lays down are not all strictly forms of marriage, but the various ways in which a man can and will secure a woman for himself. The proof of this lies in the sanction that Manu grants to the last two forms, with all their indecency and immorality, even when he himself condemns them in no ordinary terms ... in no country perhaps, shall we find so many forms of marriage having the sanction of the sociologists".

Manu has prescribed the last four rites of marriage for Śūdra except Rākṣasa form and they are recognized as legal. For Brāhmaṇa Manu has prescribed first four forms of marriage i.e., Brāhma, Daiva, Prājāpatya and Ārṣa rites as decent and natural. The Rākṣasa rite is prescribed for Kṣatriya and Asura form is prescribed for Vaiśya and Śūdra. Manu criticizes the Paisāca and Asura forms and
recognizes, Prajāpatya, Gāndharva and Rāksasa rites. According to Dr. Betai¹¹⁹ "The last three forms (of marriage) in particular give so many licences to the Ksatriyas, the military and ruling class of the society. It is not very much likely that this fighting class was always serious about following the rules laid down by Brāhmaṇas and the Brāhmaṇas could not inflict their code on them as easily as they did on meek vaiśyas and śūdras¹²⁰. The acceptance of Rāksasa form is the first proof of this". So Manu seems to have his own reasons to give social acceptance for certain forms of marriage. One peculiar thing about Manu is that he recognizes the Paisāca form which is most condemnable of all, that may be to give social protection to the victimised woman or girl. But he dislikes the Rāksasa form where man may marry with due rites, the abducted girl and make marriage legal, but Manu seems to dislike the idea of abduction at all.

Yājñavalkyasmṛti gives all these eight forms of marriage. Yājñavalkya has almost followed Manu in the description of marriage forms. He does not seem to make any comment on any of the marriage forms¹²¹. The description of the forms of marriage is rather similar in the Manusmṛti, Yājñavalkyasmṛti and Nāradasmṛti.

Some of Nārada's views regarding the marriage forms are very bold and expressive. Sometimes he is almost in opposite direction of Manu in certain aspects.
Nārada recognizes only first four forms of marriage as legal i.e., Brāhma, Prājāpatya, Daiva and Ārṣa. Manu recognizes all eight forms in connexion with different orders of men (i.e., first four forms for Brāhmaṇa etc.). Nārada calls last three forms i.e., Āsura, Rākṣasa and Paisāca, as not lawful. He prohibits strictly in clear terms. For all the orders of men the recognized and prescribed legal forms of marriage are first four only. This stress on the legality of four forms of marriage is extended by Nārada so much that even in the inheritance of property he considers lawful only the four rites of marriage. Property of a childless woman goes to her husband after her. Only if she was married to him according to one of the four praiseworthy forms beginning with the Brāhma form.

Regarding the first four forms there does not seem much distinction. The basic thing is that the daughter is offered ceremoniously to the proper bridegroom. And whatever way the daughter is offered i.e., either it may be Daiva form or Ārṣa or Prājāpatya, the marriage ritual is the same and elders only decide about the marriage. In the Ārṣa Vivāha only token price of bride or gift is given to the bride's father and in Daiva Vivāha, daughter is given to the officiating priest. If he is worthy and virtuous enough. In the Prājāpatya Vivāha, the father of the bride
addresses few words to both, but again the ceremony of marriage is the same. So there seems to be no basic difference in first four forms of marriage. As Dr. Betai has pointed out, "There is no fundamental difference amongst the first four (forms of marriage) and their original difference is more or less lost even in the days of Manu. Again, it is not clear, even from the Manusmrti why the various forms are said to be superior or inferior."  

Nārada does not give any opinion on the Gāndharva Vivāha except that he declares it to be common for all the castes. Manu has declared Gāndharva form and Rākṣasa form either separate or mixed permitted by the sacred tradition. Regarding Gāndharva marriage Devala has very clearly stated that "in marriages under the Gāndharva and other (forms) the nuptial rite is intended to be performed by the members of the three varṇas by an agreement in the presence of the fire. This implies that in whatever form a maiden is secured, the legalization of marriage is done only after rituals with mantras in the presence of fire."

Nārada does not seem to accept Gāndharva form, nor does he oppose it. But when Nārada clearly states that first four forms of marriage are the only legal forms of marriage, it automatically leads us to draw a conclusion that other forms of marriage are not considered legal by Nārada. Moreover, it seems a social understanding that
in Gandharva and other last three forms of marriages the marriage is duly legalized with rituals afterwards. These all eight forms of marriage might be prevalent in Nārada's time, but Nārada does not permit last four forms of marriage. If all eight types of marriages are recognized as legal forms, then it amounts to legalizing the practices like abduction, rape and buying and selling women. Recognition of all eight forms could literally be accepted as legalizing the practices and offences like rape and abduction. Since Paiśāca Vivāha is nothing but rape and Rākṣasa is only abduction. Some later texts like Madanapārijāta suggest that marriage by last four forms can be legalized afterwards with vedic mantras. Yet, the justice is not perfect in these cases, though the girl's future and honour is protected by legalizing the marriage. Socially the girl may get stability and status, but one cannot say that in such condition she can be happy, or she may face mental torture, since in these form it is man's choice and not woman's. Nārada being a great social thinker might have considered all these aspects and prohibited later four forms of marriage and recognized only first four forms.

Wives - Their Types

Nārada has declared seven types of wives apart from the legally married one. He separates 'remarried' women
and 'wanton' women. The word 'Punarbhū' is used for the remarried woman, and the word 'Svairinī' for a 'wanton' woman. 'Punarbhū' women are of three kinds and 'Svairinī' women are of four kinds viz., 'Punarbhū' - (1) a maiden whose marriage is not consummated but the ritual has taken place\(^1\), (2) who has left her husband and joined another man and again if she returns to her husband's home - she is declared as second Punarbhū\(^2\), (3) in the case of young widow, if she has no brothers-in-laws or she has but they have not accepted her then her relatives marry her off to a 'Sapinda' then she is declared as third Punarbhū\(^3\).

The Punarbhūs seem to be compelled by the situation to take another husband for various reasons. But this is not the case of Svairinī women. When a woman without thinking about children or husband goes to another man through love, she is the first Svairinī\(^1\).

A woman, after her husband's death rejects her brothers-in-law or other sapindas and unites herself with a stranger through love, she is called second kind of Svairinī\(^2\).

Third sort of Svairinī is a little different, a woman who has come from foreign land or when she is purchased with money or while she is oppressed with hunger and thirst gives herself up to a man saying 'I am yours' - she is called third Svairinī\(^3\).
When a woman already married properly to one person and after that she is forcibly married to another (probably abducted) she is called the fourth Svairini.  

Manu has given two types of Punarbhūs and does not mention or discuss about Svairini women. The two types of Punarbhū given by Manu are as follows: (1) a maiden whose marriage is not consummated but ritual of marriage has taken place, (2) one who leaves her husband for another man and returns to him after some time.  

Yājñavalkya's views are the same as of Manu regarding Punarbhūs. Yājñavalkya declares that one who remarries - whether she is maiden or not - is Punarbhū.  

Yājñavalkya mentions one kind of wanton woman who leaves her husband and goes to live with the man of her choice.  

The discussion regarding 'Punarbhū' brings forward certain points. Nārada mentions that women previously enjoyed by another man are Punarbhūs. So, Nārada seems to consider remarriage as the most natural thing. For the first kind of 'Punarbhū' marriage ceremony is suggested to be performed again (for second time). It can be inferred that the custom of remarriage was in vogue in contemporary society. The references like 'first punarbhū is required to have the marriage ceremony performed once more or 'she is delivered by her relatives to a Sapiṇḍa, suggest that a young woman, when she has lost her husband or when abandoned
for some reason, she was not left to live alone as a destitute
or widow, but society only forced her, pursuaded her to lead
new life.

Nārada seems to have prescribed marriage ceremony for
only first 'Punarbhū'\textsuperscript{144}. He does not express any opinion
about the other punarbhūs. Manu gives two kinds of punarbhūs
and prescribes marriage ceremony for both\textsuperscript{145}.

Another point is that Manu consents to widow marriage
as a provision of calamitous times - Āpatkāla - while
Nārada accepts it in normal course. Manu says 'if a woman
abandoned by her husband or a widow of her own accord
contracts a second marriage\textsuperscript{146} ... or Nārada states that,
'on failure of brothers-in-law she is delivered by her
relations to a sapinda of the same caste\textsuperscript{147}'. According to
Julius Jolly this could be an allusion to the custom of
levirate\textsuperscript{148}, but Nārada has discussed Niyoga or levirate
separately and considering Nārada's clear and logical think­
ing, the concept in these paragraphs alludes to remarriage
and not Niyoga. Moreover, the concept of Niyoga is to
beget son for the one who is diseased or dead, and it is.
the best when done by his own brothers, and not sapinden. 
Probably the first preference might be given to the brothers­
in-law of the girl for remarriage. In case they are already
married or for some other reason they are not free to marry
the girl, then she is given in marriage to a sapinda. So
the reference definitely alludes to widow marriage and not Niyoga. Various interpretations can be given, viz., Nārada does not want a woman to resort to Niyoga and wants her to marry her brother-in-law or a sapinda legally. This can be interpreted according to the tradition of Niyoga where woman is used as a tool to beget male issue and her personal happiness and feelings are not considered.

This discussion can be summed up in the following points:

(1) Manu, Nārada and Yājñavalkya consent the remarriage of woman and the proper ceremony is advised for remarriage.

(2) Nārada gives three types of punarbhūs against two types given by Manu and Yājñavalkya. This third type seems to be a widow, and she also can be given in marriage. Her relatives should undertake this task. Regarding Svairini or wanton women Nārada's description and discussion is lengthier than Yājñavalkya's. Manu does not speak about Svairini. Yājñavalkya gives only one type of wanton woman, i.e., who leaves her husband and goes to live with the man of her choice.

Svairini in Nārada

In four kinds of wanton women each preceding one is said to be inferior to the following one. Nārada does not seem to be very clear whether legal marriage is advised for
second and third Svairinī. A woman joins a stranger (other than her kinsfolk) after her husband's death rejecting her brothers-in-law or sapindas¹⁵¹. It is not clear whether she marries with proper marriage ceremony or not while describing the third punarbhū, it is said that 'on failure of her brothers-in-law - she should be delivered to a Sapinda. So it is very much doubtful that the 2nd kind of wanton woman be called a Svairinī or not? According to Julius Jolly, the wanton woman referred here is apparently one who declines to perform Niyoga or levirate after her husband's death and goes to a man or remarries with a man of her choice¹⁵².

The Svairinī 'who is purchased with a price'. This purchasing a bride is already a form of marriage i.e., Āsura form. So this sort of woman can hardly be called a Svairinī. The word 'Svaira' means - following one's own will or fancy¹⁵³. If this meaning is referred to then there hardly seems any free will of a woman who is subject of transaction - is purchased. There seems another possibility. In Āsura form of marriage the maiden is purchased and probably proper rites of marriage are performed afterwards. This is not done in this case of Svairinī. Here Nārada does not state specifically whether marriage ceremony is performed or not.

The fourth kind of Svairinī also cannot be called a Svairinī at all; she is the one forcibly remarried to
some one against her will. That can be a Rāksasa rite and not a willful union on the woman's part. So only first and second sort of Svairinis can be called Svairinis acting of their own free will and not the other two kinds.

Adultery

As Nārada defines it, "when a man meets a woman at another house than her own that is declared adultry by those conversant with law\textsuperscript{154}\textsuperscript{a}. The offence - adultery could be as old as the marriage institution. Unions other than lawful marriage are known to have existed in stateless societies as well as in states which did not make the legitimization of marriages their official concern. Such unions differ from marriage as they do not create lawful kinship ties between consanguineal relatives of the couple\textsuperscript{155}. So the extramarital relationship is a universal phenomena. Nārada's contemporary society does seem to face problems regarding such relations. There could be strong reasons to state that it is entered into the law. Nārada permits intercourse with a wanton, woman to a woman who belongs to any caste other than Brāhmaṇa, a prostitute, a female slave, a female who abandoned by her husband or master, provided these women should be of lower caste than the man\textsuperscript{156}.

Now one thing is to be remembered that Nārada makes rules against adultery and this rule seems to permit adultery. Regarding the aforesaid rule, this rule gives permission to
such relations. In all these aforesaid relations women may consent for whatever reason. Still such relations are always looked upon as adultery only. Though Nārada prohibits relation with upper caste women, one cannot say that there were not such relations. There is another rule which would illustrate it more. Nārada gives list of twenty women, whom one cannot approach and by the method of deduction, it can be said that all other women than these twenty are approachable.

This law is a little complicated. If woman enters in her paramour's house, with her own free will, it is not an offence on man's part\textsuperscript{157}. If a man approaches a woman, though she may be willing, then it becomes punishable offence on his part. Nārada has taken up complications like this one by one and discussed in his own peculiar way. It is useful to examine those laws in their own order. When a man has intercourse with a woman who has a protector, at another man's house, it is also termed as adultery\textsuperscript{158}.

Identifying adultery and it's signs is the first step in tracing this social offence. Nārada gives three grades of adultery\textsuperscript{159}, viz., meeting with another man's wife at an unreasonable hour or place and to sit, converse, or dally with her\textsuperscript{160}. He further defines the act of adultery, i.e., when a woman and man meet at the confluence of rivers, or at a ghat, in a garden or in a park is also termed adultery\textsuperscript{161}. 
Manu's description is similar. He says 'who secretly converses with the another man's wife'. Meeting at riverside, in a garden or employment of go betweens and exchange of letters are called criminal proceedings by Nārada. Bestowing attention on a woman, sporting with her, touching her ornaments, sitting with her on a bed, or the acts like seizing a woman by hand or the border of apparel or braid of hair and calling 'stop, stop', or sending clothes, ornaments, garlands of flowers, drinks, food and fragrant substance; all these are the signs and rather proofs of adultery. Even when a person brags that he has enjoyed the love of certain woman, then also adultery can be discovered.

Nārada seems to disapprove of the extra-marital relations. He strictly considers it as devaluation of morality in the society. Nārada prescribes not only legal punishment for adultery, but social punishment is also inflicted upon adulterer. Social punishment is that, the son born of extra-marital relations is not considered legitimate. These sons get no inheritance rights.

Legal punishments, for committing adultery which is proved are following: (a) connexion with a woman of his own caste which is supposed to be treason to his fellowmen. The fine of highest degree is ordained for such offence.
(b) if the woman is of lower caste than the man's then the middling fine is prescribed, and (c) adultery with a woman belonging to the higher caste than that of man is considered a grave crime. Nārada has prescribed capital punishment for such offence.

Manu has given in great details about the punishments for 'adultery'. Punishment for adultery of forcible intercourse varies according to caste. Man belonging to the lowest varna, if he commits adultery with a Brāhmaṇī or defiles her, then he forfeits his property and the part of the body. This punishment is ordained, in case the Brāhmaṇī is unguarded, and if she is guarded then he would lose everything including his life. A Vaiśya forfeits all his property if he defiles a Brāhmaṇī and plus one year's imprisonment. For the same offence a Kṣatriya is ordained a fine of one thousand panas and humiliation by public. If a Vaiśya or Kṣatriya offend a Brāhmaṇī—who is well guarded and who is wife of an eminent person, then they are punished like a Śūdra and would be burnt in the fire of dry grass. If a Brāhmaṇa only commits such offence like rape then he is fined one thousand panas and if he has connexion with a willing woman of his caste, then his fine is less i.e., 500 panas.

Manu or Nārada or any other law makers, nobody seems to have ordained capital punishments for Brāhmaṇa.
Brahmana can be banished, his property can be confiscated by the king or he is fined but he is never punished corporally or capitally\textsuperscript{177}.

Yājñavalkya is quite brief about the punishments for adultery. Highest fine is ordained for committing offence with a woman of his own caste\textsuperscript{178}. If the woman is of lower caste than the man then the fine would be of the middle most degree. In the case of a man being low caste and woman of higher caste, then the man is inflicted with death penalty\textsuperscript{179}.

Manu does not seem to differentiate rape from adultery at many places. In Manu's view, committing rape or adultery in any circumstances against the strict social order of varṇa-dharma is itself a grave offence. Manu's view is more moral and that is why he goes into great details about men of different order and approachable women according to their caste. Again Manu might have faced the serious problem about the position of the progeny of such relations, mixed castes and inheritance problems emerging thereby. Another point is, Manu, Nārada and Yājñavalkya\textsuperscript{180} have ordained the highest degree of fine for committing offence against the woman of the same caste. A very moral view is expressed thereby. It is already said that it is like a treason towards fellowmen and it is moral responsibility of a member of caste, or group or a nation that he should safe-
guard the interest of his group against any evil, but if he himself commits offence against it is not only morally offensive but breach of trust, also is there. Hence the fine ordained for such offences is the most appropriate.

Another point which can be called a fault of the contemporary law system is the punishments inflicted for the above said offence according to the caste of the victimised woman. Regarding the Varnaavastha this discrimination may look apparently natural. But, as a murder is always murder, in the same way rape is always rape, or adultery is always adultery. The nature of punishments is also mixed as per the caste specifications - civil and criminal. It is not the men who get complete punishment, but women also get partial punishment which is not visible. If a married woman commits adultery, she is publicly despised for her doing. Though husband should not drive her away, her head should be shaven and she should lie on low couch and be treated as a female slave and her work shall be the removal of sweepings. She is even abandoned by her husband, who, while kept under supervision commits adultery.

Narada's thoughts are very clear regarding rape. If the maiden is other than the highest varna then the offender escapes only with two fingers cut and if the woman or maiden
is Brāhmaṇī then he meets with the death penalty and confiscation of property. Here Nārada seems to have propagated similar view of Manu. Manu has prescribed same punishment for forcibly defiling a maiden, and a fine of 600 panas. Manu does not specify the mode of punishment according to caste. In the cases where maiden is also willing, Manu advises that man should marry her paying nuptial fees. Similarly, Nārada also deems it proper that the person should honourably espouse the willing maiden. Yājñavalkya does not express opinion, that a man should marry the willing maiden or not. Peculiarity of Yājñavalkya is, he feels no offence committed if the connexion is with a willing maiden of lower caste. Yājñavalkya creates one question and leaves it unanswered. If it is high caste maiden then the man is liable to punishment. What if a high class maiden is willing? Pratiloma connexions and marriages are prohibited by law makers. It is clearly stated that such attachment of a maiden should be restrained by confining her in the house by her relatives till her attachment to the low born man is cured.

This discussion clearly brings forth certain points which are related to contemporary sociological views, viz., (1) law makers who prescribe and follow rigid varna and caste system, probably were not able to make place for the progeny of pratiloma relations or marriages. Progeny born
of Anuloma relations is considered and reluctantly given space in the social strata. It seems like they have tried to banish any such practice of Pratiloma vivāha or relations, (2) in the pratiloma marriages the son born does not get mother's status - viz., son born of Brāhmaṇī and Sudra is Cāndāla\textsuperscript{191}. So the pratiloma order creates even more sociological problems.

Nārada has declared twenty women whom a man cannot approach for sexual pleasure. They are: (1) mother, (2) mother's sister, (3) mother's-in-law, (4) maternal uncle's wife, (5) father's sister, (6) paternal uncle's wife, (7) friend's wife, (8) pupil's wife, (9) sister, (10) sister's friend, (11) daughter, (12) daughter-in-law, (13) spiritual teacher's wife, (14) sagotra relations, (15) one who came to him for protection, (16) a queen, (17) a female ascetic, (18) a nurse, (19) an honest woman, and (20) a female of high caste. The punishment to keep relations with any of the afore said women is of two types. The incision of the organ is prescribed\textsuperscript{192}, and he would have to perform penance for the atonement of this moral offence\textsuperscript{193}. Manu's views are more or less similar\textsuperscript{194}.

Nārada gives another category of women with whom the extra-marital sex is no offence, viz., (1) wanton woman, (2) women of other castes than Brāhmaṇa, (3) prostitute, (4) female slave, (5) a female not restrained by her master, and
women of lower caste. Exception to this rule is, if one of afore said women is kept by another man as a keep, then one should not approach her, as it is equally offensive as the intercourse with another man’s wife. Intercourse with the women of superior caste is prohibited.

Yājñavalkya does not permit intercourse with afore said kinds of women (i.e., prostitute etc.), if they are protected i.e., if they belong to another man. If one approaches such women then the fine of fifty panas shall be ordained for him.

Nārada’s approach is stricter than Yājñavalkya. Yājñavalkya says that, “though the intercourse with them (such women who are kept by another man) is permissible.” His approach is rather loose or relaxed, but Nārada strictly prohibits it.

Passiveness Towards Women

Nārada’s glaring passiveness can be felt towards women. Manu stops saying only about the women who are not approachable. While Nārada gives the category of women, who if unprotected can be approached. Nārada’s statement sounds mean in its subtle levels. Nārada seems to allow male community to enjoy the unguarded women, but he does not seem to make any provision to protect this weaker section of the society. The question is some women may be willing to
co-habit with the men, may be out of love or necessity or for the sake of livelihood; but all unguarded, and single women may not like this sort of treatment by male folks. The female slaves in the house are totally at the mercy of their master. Instead of protecting them Nārada's law gives legal licence to men to use female slaves for their sexual gratification. The 'Niskāsini' women - who are abandoned by their husbands are already exposed to the cruel world and on the top of that Nārada gives permission to men to enjoy such women. Womanhood of the other women than Brāhmaṇa caste should be as respectable as Brāhmaṇīs. We talk of feminine liberation and equal rights; which is like mirage, even today. Nārada's treatment towards women is certainly shocking. In regard of women the thought of justice is lacking in its total sense. When it comes to the enjoyment of men, the author is very liberal to make provisions in the law.

Levirate or Niyoga

The levirate is 'upon the death of a husband, it is duty of one of his brothers, to marry the widow, and any children born to the union are counted as the progeny of the diseased man. It is termed as levirate or Niyoga.

Sonorate also is performed in the same way. Husband of a barren woman marries her sister and at least some of the children born to the union are counted as those of the
childless wife. In the patriarchal society of India, it is always more than a need to continue father's lineage through a male issue. If it is not possible in normal condition viz., man dies childless or he is impotent to procreate progeny and such like reasons, then it becomes necessary for the family or the man himself to beget male issue on the wife. So always or most usually levirate was in practice. References to sonorate are not found. The reason is very obvious. A woman is tool to beget male issue to continue father's lineage and it is not for her benefit but for man's benefit. If she is barren, society or family has no botheration for her feelings. She becomes useless as junk. So sonorate could not have been as important as levirate.

The reasons for the practice of levirate are various. Some reasons could be such as follows:

(1) The definition of 'Putra' is 'one who saves from hell named 'Pur.' So, for the happiness in the world hereafter a son is a mean.

(2) In the patriarchal society son bears his father's name, and inherits property. If there is no son, then no continuation of lineage.

(3) It is widely practised in Hindus that son offers the funeral ball of rice to the father and it is believed that:
if son offers funeral ball of rice to the father, then he would not have to starve in the world hereafter and will have peace.

(4) If the male is in the family, the property will remain in the family. In case of a female heir, the property will go to strangers, and if no heir is there, then it would be divided among the kins. Regarding these points, a son was and still is a need in sociological and religious contexts. This need of the society has compelled the thinkers and law makers since the time unknown, to make provisions for the situations arising thereof.

'Niyoga' is the term used for levirate. When a husband dies without having a male issue or childless, his wife is appointed to beget a son from her brother-in-law. Woman is not free to decide, whether to go for levirate or not. The elders decide that the deceased man should have male progeny. They permit her or order her to do so. Her brother-in-law can have relations with her until a son is born.

Niyoga described by Narada is this - brother-in-law should go to his brother's wife without amorous desires. One should resort to Niyoga when the family threatens to become extinct. If she already has children, then there is no need of levirate. The children born without the authorization by elders are deemed illegal.
Dr. Betai has explained the concept of Niyoga according to Manu's concept. He writes, "If woman has no son, existence will be proved fruitless and she will have no one to support her after her husband. The sacred mantras do not allow the marriage of widows and a widow may not like to marry once more. What should the woman do in that case? The reply is in Niyoga. The primary purpose therefore of Niyoga is the creation of a son for the man so that his line does not end and the creation of support for the woman so that he will get his due right in inheritance." Manu discusses Niyoga, but he does not seem very much in favour of Niyoga. It is proper for man to create sons only on his wife, because sons begot an another man's wife will not be his and the effort will be in vain. A faithful wife should be faithful to the husband's bed even after his death, even if he has no son. Niyoga will definitely soil her ideal. So Manu's acceptance of Niyoga seems only reluctant.

According to Narada the cohabiting should be stopped after one son is born. Narada, like Manu does not seem very much in favour of Niyoga. There should not be amorous desire or play. If they behave so then it is considered as offence and both shall be severely punished by the king.

Manu seems to condemn Niyoga vehemently, while, Narada though not very much in favour of Niyoga, but he
legally recognized, it, may be in accordance with changing times and prevailing customs.

**Divorce and Separation**

The peculiarity of this act lies in the prohibition to lodge complaint, i.e., husband and wife must not lodge complaints against each other\(^\text{214}\). According to Julius Jolly, 'The prohibition of law suits between wife and husband may be compared to the analogous, prohibition, in the case of husband and wife, of suretyship, division of property, contracting of debts and giving evidence\(^\text{215}\).

Nārada calls it a sin if husband and wife leave each other from mutual dislike\(^\text{216}\). Further, Nārada's statement is that if wife commits adultery, then it is considered as a right on husbands part to leave her. This is not considered as an offence\(^\text{217}\). If husband and wife peacefully leave each other and go their own ways it is not proper according to Nārada, but if a woman commits adultery or a man, they must have a deep rooted mutual dislike for each other. In such circumstances if they are attracted to the other man or woman which results in extra-marital relations. It seems that extra-marital relations or adultery prevalent in the society at the time of Nārada. He disapproves this act because adultery creates many sociological problems. It may give rise to quarrels and hatred among the people. It
may lead to destruction of social order and moral fibre. It is necessary to make certain rules to check this kind of social evil. It is not possible to abolish the adultery completely by imposing law, but certain restrictions can be put to check it. So this seems to be a reason when Nārada disapproves adultery. Nārada's first stand that there should not be mutual dislike between husband and wife is understandable. But not his treatment to women. Man can drive her out of the home, if she is found committing adultery, or she is treated as a female slave and her head is shaven. What if, a man is found not faithful towards his wife? Should she drive him out or treat him like slave? Though there are punishments ordained for male adulterers, the punishments a woman get are severe and effecting all her life, whereas punishments for men - except capital punishment are mostly fines where their personal family life hardly suffers.

If a woman wastes her husband's property pretending it to be her 'strīdhana' or a woman who procures abortion (or whose children are not born and mother always has abortion before birth of a child) or a woman who hates her husband and attempts on her husband's life, all such women should be banished from the town. Here the meaning of banishing is, it is the husband who banishes her and not the king. The woman who always shows malice to her husband, or who always
speaks unkindly with him, or even eats before him should be expelled from the house. Husband should not show love to a barren woman or to one who gives birth to female children, then he should not even keep conjugal relations with her. Narada's views here are somewhat similar to those of Manu. According to Manu, a wife, who drinks spirituous liquor, is of bad conduct, diseased, mischievous, or wasteful and quarrel some should be superseded (by another wife). Moreover, a barren wife may be superseded in the eighth year, she, whose children die in tenth year and she who gives birth only to female children, in eleventh year. Other reasons except barrenness and female children and abortions can be understood, but barrenness or giving birth to female children is not wife's fault. Here again we get the proof of male chauvinistic society, where interests of men come first than the lives of women. Yajñavalkya's view is same as Manu. He also very clearly states that a liquor drinker, diseased, barren, one who destroys wealth, is not of pleasant speech and also one who bears female children should be superseded.

Yajñavalkya's view regarding unchaste women is similar to that of Narada. She should be treated as deprived of authority, without a toilet, with food barely sufficient to sustain body, humiliated, sleeping on floor. An unchaste wife should be thus compelled to dwell. Probably the source of Narada's view is Yajñavalkyasamiti. This process of humiliation is with a view to produce repentance, and not as a purification.
So far Narada has discussed about the women who are unchaste, and with other faults, which are not rather helpful to run the home smoothly. Narada discusses faults on men's part also. A man is not supposed to abandon a wife who is soft spoken, mother of male issue, skillful and virtuous. If necessary, the king shall make him mindful of his duties by inflicting punishment. Narada goes to the extent, that he prescribes a 'must' remarriage of a faultless girl who is married to a man who has blemish. Even after discovering the blemish if the girl does not seek another person, then it is the duty of her relatives to make her do so. If she has no relatives, it is no fault, if she herself joins with another man. This sounds like an marriage which is null and void in certain circumstances. Marriage is dissoluble on the discovery of the blemish in the same way as the betrothal is dissoluble. The nullification of marriage can be seen in some cases. When a bridegroom goes abroad after having espoused a maiden, the maiden should wait for three months, i.e., till her three menses pass and then choose another bridegroom. This case can be said of nullifying the marriage and marrying again.

There are cases where divorce is very clear. If a man is potent with another woman and not with his own wife, then the wife should not suffer. She should take another husband and this is law. It is clear in this case that
the husband and wife have discharged their marital duties, but after a certain period the husband is not able to do so. Hence the divorce is advised. Narada puts the reason for divorce very straightforwardly. In his opinion women are created for the sake of propagation, the wife being the field and the husband the giver of the seed. The field must be given to him who has seed. He who has no seed is unworthy to possess the field. Narada’s whole approach to the divorce and the provision of nullification of marriage can be seen in this statement. These thoughts are unique and special about Narada. So clear statements about marriage nullification and the purpose of divorce are not found in other smritis. If a maiden is abandoned by her husband immediately after marriage and still she is a virgin, then she also is advised second marriage with proper ceremony. This view rather is the same of Manu’s. Manu is more clear and explanatory regarding this statement than Narada, viz., if she still be virgin, or one who returned to her first husband after leaving him, she is worthy to perform again with her second (or deserted first) husband the nuptial ceremony. Manu also has suggested remarriage for widow. Narada has also advocated remarriage in following situation. This reference is important. The identical text is found in Parāśārasmrī and Vasiṣṭha-smrī. This paragraph is very frequently quoted by modern interpreters of smritis and advocates of the remarriage of
widows of India. Nāradā says, 'if her husband is lost or dead, when he has become a religious ascetic, when he is impotent and when he has been expelled from the caste, these are the five cases of legal necessity, in which a woman may be justified in taking another husband. These are the genuine reasons for divorce, moreover, Nārada seems to consider a woman's future, her physical and psychological needs, problem of her protection and support for livelihood while he makes afore said suggestion. In all these cases, a woman's future becomes bleak in every aspect. Another peculiarity is, in all such cases he could have suggested levirate to beget a son who would support her in her old age, but then begetting a son by levirate means, creating for the husband who has not done any justice to a woman. Best thing is, she should live her life happily and normally with another man. A person who without thinking about his wife starts leading an ascetic life or does something which makes him an out-caste, or the one who is impotent but has married and deceived the girl are the men, who do not need any justice by creating a Kṣetraja son for them.

Nārada and other smṛtikāras have discussed about the kind of divorce, which can be obtained, in the cases where husband is gone and away for years together. The law has specified the period and circumstances for the women of different castes. A Brāhmaṇa woman should wait for eight
years if she has issues, and if she has no issue then she should wait for four years, and after that period it seems that the divorce automatically takes place and she can take another man as husband. A Ksatriya woman should wait for six years and in case there is no issue then she should wait for only three years. A Vaiśya woman should wait for four years, if she has issue and two years if she has no issue. For a Sudra woman no such period is ordained.

According to Nepalese version, if a Sudra woman marries before the stipulated period, there is no justice violated in her case. The utmost limit for her is a year, especially if she has no issue. Above said periods are ordained for the women whose husbands are dead. Twice the same term is ordained when the absent husband is alive and news is received of him. This term is ordained for the woman who has issues afterwards there is no offence imputed to women if they go to live with another man. Nārada stresses this by saying that the above rules are laid down by the creator of the world.

Manu has also discussed regarding matter of waiting period. In some aspects he is very logical and practical and in some very vague. If a man is going abroad for business, learning etc., he should make provisions for the maintenance of his wife. The reason for this is very clear. Even a virtuous woman can be corrupted for the want of subsistence. If a husband goes on a journey after providing her maintenance,
she should live economically but if he has left without providing any subsistence, then she should obtain livelihood by doing blameless manual work. If he is on some sacred duty and taken up journey for that, his wife must wait for eight years. If he has gone for learning then she should wait for six years, and if he has gone on a pleasure trip, she should wait for three years. Manu does not seem to specify the period according to the caste or according the condition of wife, i.e., having issue or not having an issue, which are the vital aspects of this problem. Manu is aware of the duties of a husband and he describes these in detail so that a wife should not suffer in the need of subsistence. Manu seems to specify the general period for all the varnas, which can be considered a good point from the women's point of view. At the same time he says they (women) should wait, but what women should do after the lapse of period? Should they start earning themselves? Should they beget a Kṣetraja son? Should they go to another man? Manu keeps silent. His overall inclination does not seem to allow remarriage. Yājñavalkya does not discuss about it. Nārada very boldly states that after the lapse of the stipulated period women should take another husband. Here are some points which may clarify Nārada's views:

(1) In each of the circumstances as mentioned above Nārada's verdict is very clear. He very explicitly mentions when a woman should take another husband.
The stipulated period of waiting is the longest for Brahmāna women, little less for Kṣatriya women and even less for Vaiśya women, and no such period for Śūdra women. The reason is both sociological and individual. The Brāhmaṇas were the ideals for the society, their own or their women's conduct good or bad - would set an example for the society. Brāhmaṇas are supposed to be austere and learned, and such persons can have more self-control - control which come through intellect and learning - on the physical urges. So the longest period is stipulated for a Brāhmaṇī. Exactly opposite case is of a Śūdra woman. They are lacking in learning, similarly the Śūdras were not all wealthy not even having land and their women also had to work whole day for the livelihood. Naturally if the husband goes abroad, he cannot be in position to make arrangements for the maintenance of his wife, and the relatives are also of same economic strata where it is not possible for them also to support her for a longer time, as the relatives of Brāhmaṇī or Kṣatriya would do. Again physical urges are physical urges which they (Śūdra women) may not be able to control.

Another aspect is that a longer period is ordained for the women who are having progeny. The reason is very simple and obvious. If mother takes herself to another
man, he may not be able to take care or give the same love of the real father to her children. This will hamper the progress and development of the children. After a certain period of growth children do not need much care and can be a little independent. In case of Brāhmaṇī the period of eight years may suggest one thing; if she has a son, then within the period of eight years he may become old enough and initiated (sacred thread ceremony) and would go to Guru's abode for the learning and after that his mother may take another husband, which does justice to the child.

(3) Divorce is discussed from the view point of both husband and wife. The blemishes which would lead to separation are shown of both, not for the immediate separation, but one can try to overcome the lacunae in one's character and both should live happily and that is why Nārada does not want the dispute between husband-wife to be taken to the public court. At the same time Nārada ordains punishment for a man who abandons his blameless wife.

Song

In any society, there always exist various kinds of relations between man and woman. The sentimental and physical necessity of men and women is not always ruled by laws or restrictions. Therefore, progeny of a legal marriage is re-
cognised by law as legal. In a complicated and rigid society of India, there are other factors like caste, and varna which overrule the simple marriage and the progeny thereof and decide their place as higher or lower in social stratum.

The progeny born of 'Anuloma' marriages that is off-spring of the unions in the direct order of castes' is thought of by law or law only thinks of such progeny and law does not look favourably upon the off-spring of the unions in the inverse order of castes - i.e., pratiloma. The progeny born of a marriage union in the inverse order of the castes is said to be confusion of castes.

Narada's view is very clear regarding the legal implications of 'Varna Saṃkara' - confusion of castes. He discusses different sons (progeny) in connexion with caste and status of father and mother i.e., like 'Sahodha', 'Ksetraja' etc.

Three main categories of the sons are given, Anantara, Ekāntara and Dvāntara. Anantara is a son whose father's caste is one degree higher or lower than that of mother, e.g., a Ksatriya woman may marry Brāhmaṇa or Vaiśya. Brāhmaṇa is one degree higher to her and Vaiśya is one degree lower to her. If father is of higher order then it is Anuloma marriage and in direct order. If father is of lower caste then marriage is pratiloma and in inverse order. Ekāntara
is a son whose father's caste is two degrees higher or lower than his mother's. And Dvyantara is a son whose father's caste is three degrees higher or lower than his mother's.

In the description of different sons it is important to read Manu's views first and then Narada's. Narada has expressed Manu's views rather in a condensed form. Regarding the category of the sons Manu has gone into great details. Apart from the main three categories (Anantara, Ekāntara and Dvyantara) Manu calls those children as 'Apasada' who are born to Brāhmaṇa from three lower caste wives, who are born to Ksatriya from two lower caste wives and, who are born to Vaiśya from one lower caste wife. These six children are 'Apasada' children. The sons begotten on the wives of next lower caste by Brāhmaṇas (i.e., Ksatriya wife) are declared to be similar to their father's caste.

Manu has described nine sons born through Anuloma and Pratiloma marriages. As follows: (1) Ambastha is the son born through the union of Brāhmaṇa father and Vaiśya mother, (2) Niśada is the son of Brāhmaṇa father and Śūdra mother, (3) Son begotten at Ksatriya father and Śūdra mother is called 'Ugra', (4) 'Sūta' is the son of Brāhmaṇa mother and Ksatriya father, (5) Son of Ksatriya mother and Vaiśya father is Māgadhā, (6) Brāhmaṇa mother and Vaiśya father begets the son named Vaidehaka, (7) Śūdra father and Vaiśya mother's son is 'Ayogava', (8) Ksattri is the name of
the son of Śūdra father and Kṣatriya mother, and (9) The basest of the sons declared by Smrtikaśas is Candala\(^{269}\) - son of Brāhmaṇa mother and Śūdra father.

The Brāhmaṇa father and Śūdra mother's son Nisāda is also called Parasava by Manu. The meaning of Parasava given by Manu is, 'The son whom a Brāhmaṇa begets through lust on a Śūdra female, is, though alive (Parayan) a corpse (Sava) - a living corpse. So it is Parasava\(^{270}\). Narada thinks that the 'Parasava' the second name is added in order to distinguish this Nisāda from other Nisādas\(^{271}\). Manu as stated before in the great details of subcastes created by confusion of main castes, viz., if a Brāhmaṇa creates a son on daughter of Ugra is Āvrita\(^{272}\) or a son of Nisāda by a Śūdra female becomes Pukkāsa\(^{273}\) by caste.

There are two points worth noticing in Manu's discussion of sons: (1) Manu only speaks of Vaiśya mother with intercaste father once only\(^{274}\), and he does not mention the combination of Vaiśya mother with other castes, (2) though Brāhmaṇa father and Kṣatriya mother is an intercaste marriage, he considers the son of such union to be of almost equal caste to his father\(^{275}\), thus he does not name the separate caste for this type of son. For this rule Manu specifies only Brāhmaṇa father and Kṣatriya mother, but he does not speak about other castes. Whether the son of next lower caste mother does become similar to father or not.
Yajñavalkya's version of sons is similar to Manu's except at a few places. Manu does not consider Brāhmaṇa father and Kṣatriya mother's son as constituting different caste, but Yajñavalkya considers it different caste and calls it Mūrdhāvasikta. The son begotten by a Vaiśya upon a Śūdra woman as Karana and the son begotten by a Kṣatriya upon a Vaiśya is Māhiśya. So Yajñavalkya gives three sons of Vaiśya woman begotten by anuloma and pratiloma marriages, whereas Manu mentions one only.

Nārada's version is exactly the same as that of Manu. Nārada also does not give the two other sons of Vaiśya woman. Julius Jolly has quoted Nepalese Ms. of Nāradasmṛti wherein all three sons of a Vaiśya woman are given, viz., Brāhmaṇa father and Vaiśya mother's son is Ambaṣṭha, Kṣatriya father and Vaiśya mother's son is Yavana and Śūdra father and Vaiśya mother's son is Ayogava. Son of Kṣatriya mother and Brāhmaṇa father is Ambaṣṭha.

Apart from the above mentioned category of the there is another category which is discussed in connexion with inheritance by the Smṛtikāras. The category mentioned above is of the sons who are born of inter-caste marriages. Another category consists of the sons who may not be physical sons of their legal father. Manu has given nine sons of this category as follows:

(1) Ksetraja - one begotten according to the law of Niyoga on the appointed wife of a dead man, of a eunuch, or of one diseased is called Ksetraja - one begotten on Kṣetra-wife.
(2) Datrima - The boy of equal caste whom his mother or father give to another man in distress (having no progeny) with libation of water is considered as adopted son. 

(3) Krtrima - Whom a man makes his son, who is equal by caste.

(4) Gudhotpanna - If a child is born in a man's house and his father is not known, he belongs to the husband of his mother.

(5) Apaviddha - One whom a man receives as his son after he has been deserted by his parents or one of them, is called a son cast off.

(6) Kanina - A son born to a damsel, while she is in her father's house. This son belongs to him whom she weds.

(7) Sahodha - When one marries, either knowingly or unknowingly a pregnant bride, the child of hers belongs to him who marries her.

(8) Krtaka - When a man buys a body, equal or unequal in qualities from his father, and mother for the sake of having a son, he is called a son bought.
(9) Paunarbhava - if a woman abandoned by her husband or widow, if she marries again and begets the son, he is called a son of remarried woman.

Of all the nine sons given by Manu, Narada mentions only five in connection with inheritance. They are Kṣetraja, Kanina, Sahodha, and Cudhotpanna and Dattaka son. The definitions are the same as given above by Manu. Narada does not go in so much of the detail to give definitions of each son. He refers them only to elaborate the points in the law of inheritance.

Yajñavalkya describes all nine sons in the same way as Manu. All these sons described above are different from the 'Aurasa' son. Aurasa son is one who is begotten on the wife of the same caste is called the 'son of the body'. This is the first rank son, all other sons are inferior to him in certain degrees. Yajñavalkya has declared that the son of an appointed daughter is equal to the 'Aurasa' son. The son born of a daughter, as Vasishtha says, "This damsel, who has no brother, I will give her to you, decked with ornaments, the son who may be born of her shall be my son".

Narada seems to mention 'Datrima' or 'Dattaka' an adopted son. 'The son of two fathers' may suggest one father - who is physical father and one legal father who has adopted the son. It may also mean the son procreated by
Niyoga on the wife of one impotent. That way all the sons except the 'Aurasa' one have two fathers i.e., physical one and adopted one or mother's husband. Today what we understand by 'Dattaka' son, Nārada does seem to speak in same term, whereas Manu is very clear about 'Dattaka' son. He even mentions the ritual - i.e., libation of water and giving son (as a gift) to a man of equal caste\textsuperscript{301}. Even today alongwith the legal procedure to adopt a son a religious ritual also is performed\textsuperscript{302}.

Analysis

Law makers have given a very subtle thought for the place of children in the social and family set up. It could mentally difficult for any man to accept a pregnant bride or he may abandon her after knowing the fact. Another case like 'Gūḍhotpanna' son, if there were not any law to protect and place the child, then he would live as an orphan. All such children are not disowned. Even when a woman is not authorised for Niyoga, and still begets a son, he is allowed to stay and looked after well like other children. The only drawback in this case is, he is not allowed to inherit his mother's, husband's property\textsuperscript{303}. In the cases of Kṣetraja, and Datrima sons it is necessary to beget and adopt. Apaviddha son is made son just out of pity and compassion. A maiden's son is also looked after in her father's house and law has made him the child's father who marries the maiden.
Ancient law thus seems to have made place and corrections for some of the human failures. It was necessary, since an individual's practice may not make any difference to the society, but when many or majority of them commit certain mistakes, it naturally would affect the society. So law and the leaders of the society have to tackle it that way.

Nārada has stated at one place that if a woman who is purchased by a man then her issues belongs to her legitimate husband, but if nothing has been paid by him then her progeny belongs to the man who purchases her. This rule of Nārada reveals that the practice of purchase and sale of women must have been in existence in Nārada's time. According to Nārada, a woman who is not purchased, her progeny belongs to her legitimate husband. This remark shows that it was husband's pleasure if he wishes to keep his wife or give away, if he does not want her. Though there is no obvious reference to such practice in Nārada, certain questions arise, i.e., if wife is not sold then for what purpose she has been given a way? Julius Jolly also has expressed his opinion, i.e., this rule shows that the purchase and sale of women must have been a very common proceeding in the times of Nārada. The statement of sale and purchase sounds something like a slave who is pledged to draw a loan.

Another important point is that male progeny must have been as important in the direct measure of the unimportance
of female progeny. It was not much important as to whose seed the woman was carrying. Only thing mattered was that she delivers male progeny. Those issues belong to him who is her owner. Narada compares woman to a field. If the seed is strewn without the knowledge of the owner, then the fruit belongs to the owner of the field and not to the owner of the seed. A woman is no more than a means to create male progeny. A very mean simile is used, i.e., when a full grown bull begets calves with the cows of another man, while roaming in his cowpen, the calves belong to him, who owns the cows, in vain has the bull spent its energy.

The position of women seems to have touched the bottom of humiliation and Narada's statement throws more light, i.e., "when the seed is sown in the field of another with the consent of the owner of that field, the offspring is considered as common property of the giver of the seed and the owner of the soil." Here Narada does not consider the feelings of women and what concerns most is overall wish of male dominating society. Virtually man is considered as owner of the woman. At one place Narada puts them - mother and father - on the same level. He says that the field is equally important as the seed, because if seed is there, but without soil it cannot be produced, so the offspring belongs to both mother and father. This seems to be a reference to the legally wedded couples, as in Niyoga.
there is no wish of mother is considered nor the ownership of the giver of the seed. Again there is no reference that the female progeny is given importance or the mother is given equal rights in everything like father. This statement sounds more of theory than practice. This sudden change in Narada's attitude is no miracle, as he has followed the views of Manu regarding woman and a seed giver. Narada's view seems to be only one where he considers mother and father on equal level. Narada has quoted Manu's views like 'it is through independence that women go to ruin, though born in Noble family. Therefore, the lord of creatures has assigned them a dependent role. And another famous verse of Manu cited by male chauvinistic people is, father protects her in childhood, husband in her youth and son in her oldage, a woman is unfit to enjoy independence. Manu's such rigid views are mirrored in Narada's treatise, which does not go in tune with Narada's free and liberal thinking because, ideas, such as, expressed below by Narada are more liberal and modern regarding women. Choice of maiden for bridegroom is given first preference by Narada against Manu's elaborate stress on bridegroom's choice of his bride. Narada allows remarriage and widow marriage in the five cases, i.e., when husband is lost, dead, entered in religious order, impotent and out-caste. Manu allows remarriage only in one case. Narada proclaims first four forms of marriage as legal forms of marriage, by which he protected
dignity of women in the male dominating society. In the following chapter it can be seen that even daughter is bestowed with the right of inheritance and it is very clearly expressed that a daughter is equal to son in continuing lineage of father. Moreover, even mother is allowed to give away the daughter in marriage, in default of father and son.

All such statements show that Nārada not only treated women equally but bestowed dignity on them.
- Notes -

1. Betai, R. S., 'A Reconstruction.... p. 85
4. पिता ब्याप्त कन्या क्षेत्र वातावरण पितु। पितामहो मातुलगर तक्षण बान्धवस्त्वात्रा।
   - Nr. XII, 20.
5. विवाहमिलाविधिः कन्या क्षेत्र पुष्प घर कस्ती। कन्या सायुज्य स्वातंत्र्यस्वभावमधृकतये।
   - Nr. XII, 1.
7. कन्या सम्बन्ध वरण पुष्प विथियते। वरणाद गुह्य वरण: तत्कारोक्ष दिनिकय:।
   - Nr. XII, 2.
8. Nr. XII, 2.
10. Yajur I, 55.
11. नासुकघु दूषेषपति कन्या नासुकघु दूषेषपति॥
    दूषेषपति तत्त केण: त्वादन्योन्य त्वादन्योन्य:।
    - Nr. XII, 31.
12. तयोय मिहित पुरात वरण दोष दिलीत॥
    पांचसाहित्संपादिन नियम दार्शनिकाय॥
    - Nr. XII, 3.
13. Nr. XII 3.
15. कन्या क्षेत्र पुष्प ज्यायस्वेदित आहैतु॥
    धार्मिकसाहित्संपादित्वा वाणी तत्तानुसार भैतु॥
    - Nr. XII, 30.
16. Nr. XII, 3.
17. Nr. XII, 3.
18. Manu, IX 47
19. न्रैंि प्रिणतति संहृत कन्या पुदीये।
   संहृतद ददानीति श्रीणेतानि सत: संहृत।
   - Nr. XII, 28. This verse is exactly identical with Manu, IX, 47.
21. ब्राह्मणालयकाया पूजाणां च परिपूर्णे।
   सजा: भैयते महाय: सजातिच पति: स्त्रिया।
   - Nr. XII 4.
22. Manu III, 12.
23. "सतेन गृहसुधाक: तव: स्रोतियो वर:।
   "Yāj. I, 55.
24. Nr. XII, 4.
25. ब्राह्मणालयालोभेन स्त्रियोऽन्यालिन्त्र यथ. तु।
   पूजाया: पुत्रिलोभेन तथान्यं पति: पति:।
   - Nr. XII, 5.
26. Manu, III, 13
27. Manu, III, 15
28. Manu, III, 16
29. Manu, III, 17
30. Manu, III, 18
33. Yāj. I, 57
34. Nr. XII, 5 and 6.
35. देवि भारप्रक्ष्यतरः धैर्यत्वेका पुज्यति।
   धैर्योऽया द्वै पति धैर्यत्वेकोऽन्य क्रत्रियापति।
   - Nr. XII, 6.
36. Nr. XII, 6.
37. Anuloma Vivaha - men of higher order marrying women of lower order.
38. Pratiloma Vivaha - women of higher order marrying men of lower order.

39. अनुपत्तापिति-चामाला वन्य: पितृमातृत: ।
   अववाहिः-समीता: रथुः समानवररत्त्वः ॥
   - Nr. XII, 7.
40. Manu, III, 5.
41. Yaj. I, 53

42. परीक्षा: पुरुष: पुरस्ते निषेधाक्षःक्षणः ।
   पुरास्थितदिवकपेन स कर्यां लष्टुमयीति ॥
   - Nr. XII, 8.

43. सुन्द्धकुस्मान्वित्व: सुन्द्धार्शशिरोस्त: ।
   स्नांहास्तसुनस्यस्यश्चब्युष्टितपरः ॥
   रैतोस्योपत्तिवते नाप्नु ग्नादिद सूचि च फेनिकसुः ।
   पुमानुः स्यालिक्ष्ये तिष्ठितपरितित्तु अज्जय: ॥
   - Nr. XII, 9, 10

44. Nr. XII, 10.
45. यथित्रतु दारेः स्ताक्ककीबादिनां कर्यम् ।
   लेभाः उत्तमन्त्वानामपति दायमयीति ॥
   - Manu. IX, 203

46. Laws of Manu, by Bühler, p. 373 foot-note.
47. निर्माणहि दार्शितच पापभावस्तुः ।
   अभिप्रायपादः मुनो रोगाद्वृक्षायात्त्वः ॥
   - Nr. XII, 12.
48. ईर्ष्यमृत्यु पैदाक वातारता सुखानः।
 आश्वीर्द्धो मोक्षित्रेषु शालीस्थिनोंन्यायपरितः।
 - नृ. XII, 13.

49. अपत्यः भिन्नः। सूचना: रस्त्री केवल बोधिते नरः।
 केवल बीजवेद देयं नाप्रवृत्ती केश्मर्म हरि।
 - नृ. XII, 19.

50. नृ. XII, 12.

51. तत्ताधारणंतीसः पश्चात्यो मातमाचरेत।
 अनुदान्तो वस्तुतथा कालः। वातसल्यः रस्मः।
 - नृ. XII, 14.

52. नृ. XII, 14.

53. नृ. XII, 12.

54. नृ. XII, 14.

55. नृ. XII, 13.

56. ईर्ष्यमृत्युपदायं कुर्ममेवत्वारः! सुधाहुता:।
 रुचिकृपात्सति प्रतिलोकः क्षायेऽन्यः अपि भिन्नः।
 - नृ. XII, 15.

57. नृ. XII, 15.

58. आश्वीर्द्धो मोक्षित्रेषु कृततपम परितित्वः।
 परितित्वः त्वमात्य नाथाः वर्णोर्थैै प्रतितित्वः॥
 - नृ. XII, 16.

59. नृ. XII, 13.

60. शालीन्यापिकुट्टरितेर्योगो ध्वजाः।
 तां हीनेन्द्रस्यप्रकृत्योगोर्वात्माभिपरेषेत्।
 - नृ. XII, 17.

61. नृ. XII, 13.

62. अन्यपित्यः यो मनोयः। स्वामनृत्यः रूप्योपजित।
 लक्ष्य साधनं भास्म्येवत्कार्येन प्रजापते॥
 - नृ. XII, 18.
63. Manu, V, 151; Yājñavalkya I, 63.
64. Nr. XII, 20.
65. J.J.'s note on Nr. XII, 20, 21, p. 169.
66. Nr. XII, 20.
67. माता त्वमाये तवें भृजूतै यदि वति।
तत्प्रमुक्तिस्या दण्डः कन्या सनाभयः॥
    - Nr. XII, 21.
68. Yājñavalkya I, 64.
69. यदा तु नैव कोटिचत्त्याभक्त्य राजान्यमार्गेः।
अनुपेयोऽत्यथा यस् पुत्रीति वर्षेतत्स्वयम्॥
    - Nr. XII, 22.
70. J.J.'s note, p. 169.
71. Manu, IX, 94.
72. Manu, IX, 92.
73. Yājñavalkya I, 64.
74. Yājñavalkya I, 64.
75. अतः प्रृज्ज्वले रजस्ति कन्या दयापितता सकृतः।
    महौदेन: स्त्रृष्टेनमन्यथेऽविधः सलायः॥
    - Nr. XII, 27.
76. कन्या नूर्युमयेत बन्धोऽवधेऽविदेशेऽ॥
    ते चेन्य दयुस्ताः भवेऽते स्त्रुष्टेनमाः सलायः॥
    - Nr. XII, 25.
77. यादन्तस्य स्वर्त्ततया: समातीय: परि विना।
    तावद्योऽप्रृज्ज्वलया: स्त्रुष्टतय: यो न ददारी तामः॥
    - Nr. XII, 26.
78. Nr. XII, 22.
79. Manu, IX, 93; Yājñavalkya I, 64; Baudhāyana IV, I, 13.
80. Manu, IX, 18.
81. Nr. XII, 30.
82. Nr. XII, 31.
83. यस्तू दोषकर्तां कन्यामनांवयाय पृष्टिवति ।
     तत्स्य वृम्खलको दण्डः पूर्ववाहस्यो विदितम् ॥
     - Nr. XII, 33.
84. पृतिष्ठूस्य तु य: कन्यामवृत्तमृत्तिभेंजनरः ।
     स् विनेत्रवस्त्रास्मृतिपि कन्या ताम्रिय चौदेवनु ॥
     - Nr. XII, 35.
85. Nr. XII, 35.
86. Manu, VIII, 225.
87. Manu, IX, 72.
88. Manu, IX, 73.
89. Yājñī I, 66.
90. Yājñī I, 66.
91. Nr. XII, 31.
92. Nr. XII, 30.
93. दश्यम्यायेन यः कन्या वराय न ददाति साम् ।
     अद्यपदेश्यं राज्यं स दण्ड्यत्तत्र चौरवत् ॥
     - Nr. XII, 32.
94. Nr. XII, 32.
95. Nr. XII, 35.
96. झक्कन्यैति तु यः कन्या भ्रात्यग्नेन मानवः ।
     स र्यात्म प्राप्तं स्तादुधेषिण तत्स्य दाय्कश्चित्यन् ॥
     - Nr. XII, 34.
97. Nr. XII, 32.
98. दीर्घकृतिसातिरात्रिक प्रकृति सैस्तरेत्नपुरुष ।
खुलौतेयताबाया च कन्यादोषा: पुष्करितिता: ॥
- Nr. XII, 36.


100. उन्मत्त: परितः कृतिवे दुर्भाष्यस्यकारान्यः ।
कन्यादेशी च यो युवती यथा दोषगणो वरे ॥
- Nr. XII, 37


106. अभी विवाहा वर्णनाक्ष तैस्काराय चुकितिता: ॥
ब्रह्मस्थु प्रकाशोऽप्राजापत्यस्याय: ॥

107. सत्तृप्त्याहुप कन्याः तु दयाकालोऽस्मि त्वपूर्वसाम् ।
सह एवं च एवं मुक्तवा प्राजापत्यो विधिः स्मृत: ॥
- Nr. XII, 40.

108. Nr. XII, 40.

109. वस्त्रणाविवश्यांतः तु विवाहविश्वार्य उच्चयते ।
अन्तयांतः तु वेदः स्याधुतचिक्र कर्मः कृति: ॥
- Nr. XII, 41.

110. Nr. XII, 41.

111. इक्ष्नातीतिमिष्टः पुष्करण्यां नाम वर्णकमस् ।
विवाहविश्वार्यो वेदः पुस्सलम्बयहारत: ॥
- Nr. XII, 42.

112. Nr. XII, 42.
113. पुत्रं द्वारा दत्तवऽ विवाहो राशिस्वत्याः

- Nr. XII, 43.

114. Nr. XII, 43.

115. Betai, R. S., 'A Reconstruction...p. 129.


117. Manu, III, 23.


119. Betai, R. S., 'A Reconstruction...p. 135.

120. Manu, VII, 418.


122. Nr. XII, 44; and XIII 9.

123. एणि तु धम्मारिचत्वारो द्रष्टाः: समुदाहतः |
    साधारण: स्याद गान्यारिचत्वारो धम्मारिचतः: परे  ||

- Nr. XII, 44.


125. Betai, R. S., 'A Reconstruction...p. 130.

126. Nr. XII, 54-44.


128. गांधारिनिवासनु विधि:वाकिः: स्मृतः: "Devala.

129. "व वासुदेवविवाहाः चतुर्वादिचत्वारीणाभावातः परितत्वभावार्थः -
    योत्तुतपतितारित्यानुवृत्तिनीयम् || तसापि सवीकारानन्तरमेव सत्त्वारिष्टियानातु ||

- Madanaparijāta.

130. पर्यस्तः: सित्यारिचत्वाः: सप्त प्रियता यथाकः ||
    युनास्त्रिवधा तासां स्वैरिणी तु चतुरिधा ||

- Nr. XII, 45.
144. Nr. XII, 46.
145. Manu IX, 176.
146. Manu, IX, 175.
147. Nr. XII, 48.
148. J. J.'s note on Nr. XII, 48.
149. Nr. XII, 48.
150. Yājñ I, 67.
151. Nr. XII, 50.
152. J. J.'s note on Nr. XII, 50.
154. नायापुर्वः परस्यैः तापुर्वलस्य स्त्रियासहि।
एक्षेत्रं तृणायणार्याः स्वयं सूक्ते।
- Nr. XII, 60.
156. सूत्रिण्यवाद्युण्यक कार्यार दासी निजकार्कातनी जय या।
गम्याः स्तुरारुपेयन स्त्रियो न प्रतिलोमत।
- Nr. XII, 78.
157. Vivādacintāmanī.
158. Nr. XII, Nepalese Ms.
159. परिवर्त्या तहाकालादेशो वा भक्तोमिथः।
स्थानाकालभणधार्याः सूरवकृष्णः।
- Nr. XII, 62.
160. Nr. XII, 62.
161. नरामां कलमी तिरिक्क्वारामेव वेस्यु च।
स्त्रीपुत्रसौ पत्स्मीयार्याः तत्वं च सूर्याय रूपतम।
- Nr. XII, 63.
162. Manu, VIII, 354.
163. **٠١٠٨.* **

164. **١٠٢٤.**

165. **١٠٣٥.**

166. **١٠٤٧.**

167. **١٠٥٩.**

168. **١٠٧١.**

169. **١٠٨٣.**

170. **١٠٩٥.* **

171. **١١٠٧.**

172. **١١١٩.**

173. **١١٣١.**

174. **١١٤٣.**

175. **١١٥٥.**

176. **١١٦٧.**

177. **١١٨٩.**
180. Manu. VIII, 378; Yāj. II, 286; Nr. XII, 70.
181. Yāj. II, 286; Nr. XII, 70; Manu, VIII, 374.
182. व्यविभागे तित्त्रया मौण्डयमः शयनमेव व |
कदन्ने दा कृपास्वयं कर्म घापस्तरों ज्ञानम् |
- Nr. XII, 91.
183. अन्योऽर्थ त्यज्योऽर्थान प्रादृश्यावलिकायोऽधिक: |
श्रीरूपोऽर्थावलिका व्यविभागातः प्रतिरूपः |
- Nr. XII, 90.
184. कन्यायामुन्यकामायः हुष्मुन्यः यात्रानम् |
उत्तमायः वधाप्तवस्तुं सर्गमुक्तवत्ता |
- Nr. XII, 71.
185. Manu. VIII, 367.
186. Manu. VIII, 367.
188. लक्षायां तु कन्यायां लेभे नास्त्यधिक: |
कित्वज्जर्ण्य तप्तवत्ता त स्वेनां समुदेतन् |
- Nr. XII, 72.
190. Manu. VIII, 365.
191. चण्डालो जायेत श्रुद्धांद्रांवर्गी यत मुद्धवति |
तत्माधारा रितिमेव रितियो रक्षयस्तु तैलराजः |
- Nr. XII, 113.
192. आसाम्यताम् गत्वा गुप्तलवण उच्छये |
शिखरायोप्ताति तत्य नान्यो दण्डो विधियो |
- Nr. XII, 75.
193. अगग्यागामामन्त्रातित दण्डो राजा-पृवर्दित:।
पुपामार्गाधार्यानु तु पापाणां स्वादः किंवौधनमः।।
- Nr. XII, 77.


195. Nr. XII, 78.

196. आर्थिकः तु मुर्ज्ज्यातु दोषः स्थानः परदारवलः।
गम्या अरुः हि नोचेया यत्ता: पर्यर्विन्द्रः।।
- Nr. XII, 79.


199. Yāj. II, 290.

200. Nr. XII, 79.

201. Nr. XII, 78.


204. "पुरुषः नरेनान्तर तिनं हि प्रत्:।

205. अवस्थान-पुज्ज्याकारः पर्यः प्रेमादिर् रूपायः।
नियमाना गुरुभर्जिकेदेवार पुज्ज्याया।।
- Nr. XII, 80.

206. "त च तति प्रवत्तिप्रेत तडः पुज्ज्यवानः।
तुषार तासे निवर्ति स्वर्णो तपायो।नयः।।
- Nr. XII, 81.

207. "प्रेमानं मात्रा गाजाणि तेनाविवकृते।
सूक्ष्म-न्यूह परिश्रितः गाजाण्यार्याण्यानुपूर्वः।।
- Nr. XII, 82.

208. भार्तार्तमकिर्ं तमाहुर्द्धविधिन:।
तथानियोक्तो यो भास्य यही।र्यायस्तो वेजः।।
- Nr. XII, 85.
211. Manu, IX 143.
212. 'पूर्वोक्तम् विधानेन सम्बन्धा' पुस्तके पृष्ठि
लक्षित गर्भागनादा कृते गर्भे तदैव ला ॥
- Nr. XII, 87.
213. अलौकिक्यम् वर्तमानं पुमानं स्त्रीं यथापि कामतः ॥
विनेयं सुभृतम् राजा विनिलयं स्वादलोकः ॥
- Nr. XII, 88.
214. ईद्यासुयसामर्गेऽ तु सम्बन्धे रागेकरे ॥
दमति विवदीयः न शालिङ्गे न रजः ॥
- Nr. XII, 89.
215. J. J.'s note on Nr. XII, 89.
216. Nr. XII, 90.
217. Nr. XII, 90.
218. Nr. XII, 90.
219. Nr. XII, 91.
220. Nr. XII, 70.
221. स्त्रीधर्मचक्रबद्धाः गर्भविशेषाकिनीं तथा ॥
भूषयं वस्त्रमिच्छन्ताः नरश्रयं निवर्त्येतु गुरातु ॥
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