



Title: Customary Law of Polyandry (Common Marriage) in District Kinnaur of Himachal Pradesh

Authors: Sasha Chauhan Kanwar

Co-Authors: Isha Negi

Address: Pangtu Nikunj, Negi's Colony, Near Shamti, Solan (H.P) 173212.

ABSTRACT

Polyandry (Common Marriage) has occurred all over the world, among human societies at all levels of social hierarchy. Polyandry is extremely rare, being found in only a few societies of the World. In only a very few regions in the world is Polyandry an accepted practice. It was reported among the number of communities belonging to various regions of the world. It is a specific form of polygamy in which the wife is married to more than one husband simultaneously. There is one reference to Polyandry in Hindu Epic Mahabharata. In India it is reported from the states of Himachal Pradesh, Punjab, Uttarakhand, Jammu and Kashmir in the North, from Sikkim and Arunachal Pradesh in the North East, from Tamil Nadu and Kerala in the South. This paper aims to study the history, evolution and current position of Polyandry (Common Marriage) in India with special reference to District Kinnaur of Himachal Pradesh.

Keywords: Polyandry; Custom; Marriage; Ethics; Culture; Himachal; Family.

INTRODUCTION

Marriage is a legally recognized union of man and woman. It is found in all societies

although the pattern of marriage may differ from society to society throughout the world. Marriage involves co-habitation, co-dependency and formation of family. There are various kinds of marriage, each kind of marriage has its benefits and drawbacks

Monogamy: In monogamous marriage two individual are married to each other and they are allowed to be with each other, there is no involvement of third person in this type of marriage. The word monogamy has been originated from two Greek words "Monos" which meant "one", and "Gamy", meaning "marriage". This type of

marriage is also called heterosexual or traditional marriage. Many other kind of monogamous relationships have evolved with time, but the basic crux of monogamous marriage is same in all i.e. to be with one person at a given point of time.

Polygamy: It is a form of marriage in which a person is married to more than one person. A person who practices polygamy is known as polygamist. This type of marriage involves a man with two or more than two wives at the same time or it also refers to a woman having more than one husband. This kind of marriage was practiced by number of cultures around the world at different times throughout the history. It can be further be divided into two categories : Polygyny and Polyandry.

(a) **Polygyny:** In this kind of marriage one man is married to more than one woman at the same time. Polygyny is more popular than polyandry but not as universally accepted as monogamy. In ancient civilizations polygyny was a common practice. At present this kind of marriage is prevalent in only a few primitive tribes like Crow Indians, Baigas and Gondas of India.

(b) **Polyandry:** Polyandry is a marriage between one woman and more than one man. An example of polyandrous marriage is Tibet, where in few parts of the country woman has the freedom to marry many men, but all the husbands must be brothers (fraternal polyandry). The children of such marriage share their mother's family name instead of father's family name, while their fathers go by the last names of their respective mothers. In few other cultures, polyandry was practised when women married one brother and it was assumed that she is married to all other brothers who were not married so there would always be a husband available for child-rearing. Polyandry can again be divided into two types: Fraternal and Non-Fraternal Polyandry.

MEANING AND DEFINITION OF POLYANDRY

Polyandry is a custom that is practiced in various parts of the world, among many human societies and levels of society depending on their economic, social and political condition. It is a practice in which a woman can have two or more husbands simultaneously. A extremely rare form of Polygamy, Polyandry is practiced by only a few cultures of the world. The term Polyandry has been derived from the Greek word POLYS “many” and ANDROS “man”. In only a few regions in the world is polyandry an acceptable practice. Polyandry was reported among the number of communities belonging to different parts of the world, like few American indigenous communities, Sub Saharan African, Asian communities. It was also reported from Canadian Artic region, some regions of Mangolia, Masuo people of China, Northern parts of Nepal, Sri Lanka, Tibet, India etc. The custom of Polyandry has evolved because of different human cultures based on the economical conditions and scarcity of food and one important reason was that women were considered as a property . In certain areas of the world, women were considered scarce, and in certain areas it was monitored that societies where female infanticide was carried out polygamous marriages were prevalent in such areas and some monitored the life expectancy of the

females. The traces of the existence of custom of polyandry can be traced back to Sumerians of Mesopotamia in the year 2900 B.C.

In a polyandrous marriage, the husbands are usually brothers or cousins, the said institution is known as fraternal or adelphic polyandry. This kind of polyandrous marriage is more commonly practiced in society as this is considered more stable.

In 1957, Goerge Peter Murdock, an American Anthropologist and Professor, in his work World Ethnographic Sample defined Polyandry as follows “ *Unions of one woman with two or more husbands where these (types of a union) are culturally favored and involved residential as well as sexual cohabitation.*” Murdock by giving such a strict and confined definition accurately defined polyandry as extremely rare; not every culture of the world follows polyandry as a dominant form of family life. Cassidy and Lee (1989) in their research article titled “The Study of Polyandry: A Critique and Synthesis. Journal of Comparative Family Studies” defined polyandry as a simultaneous marriage of a single woman to two or more men. Though a great deal of discussion has risen about what exactly establishes marriage in a polyandrous society, the typical definition of polyandry has remained more or less the same over time, as stated by Cassidy and Lee.

Types of Polyandry:

Polyandry can be categorized into two kinds:

- (i) Fraternal Polyandry, and
- (ii) Non-Fraternal Polyandry.

(i) Fraternal Polyandry:

A form of marriage where two or more than two brothers have same wife, such practice is known as Adelphic or Fraternal Polyandry. The said practice of being partners, actual or potential, to one brother to another is called “levirate”. It is commonly practiced among Todas community of India.

(ii) Non-Fraternal Polyandry:

In this form of marriage, the husbands of a woman need not be in a close relative or brothers before the happening of marriage. The potential wife spends quality time with each and every husband. During the time when the wife is with one husband, the other cannot claim any right on the wife. Tibetans do practice this type of marriage. In layman’s term, this can be termed as “Wife-sharing” or “Wife-Lending”, though this practice is temporary.

POLYANDRY IN WORLD

The practice of Common marriage was in existence since the dawn of human civilisation and across the world: throughout the Indian sub-continent, in parts of Africa and areas such as the Canadian Arctic and China and the America and pockets of India, Bhutan, Nepal and Tibet, Guanches, the very first known inhabitants of Canary

Islands, practiced common marriage until their disappearance. This custom continued until recently, particularly amongst many minority communities of the various region of the world.

POLYANDRY IN INDIA

Polyandry is not a common practice in the world, but it is still practiced in some parts of Himalayan region. In India, the Polyandry seems to be dying a natural death. In India Polyandry is reported from the state of Himachal Pradesh, Uttarakhand, and Jammu and Kashmir from the Northern part; from Arunachal Pradesh and Sikkim in the North-Eastern part; from Kerala (Nairs, Todas) and Tamil Nadu in the South. D.N. Majumdar (1962) in his book “Himalayan Polyandry” describes the polyandrous family of Jaunsar Bawar Parganas district of Uttarakhand and shown that the reason for the existence of polyandrous joint family is the geo-economic cause. It is also shown that Polyandry is more prevalent among the landowners.

Y.S Parmar in his study “Polyandry in the Himalayas” describes that fraternal Common marriage is in practice in some areas (Sirmaur district) of Himachal Pradesh and its adjoining hill areas and this is not confined to particular caste or tribe. It is pointed out that the biological and economic factor is responsible for Polyandry. In practice, all the members of the fraternal husbands in an inseparable group and controlled by the eldest brother. As practice, the eldest brother of the family is the one who has all the control and has the most important position among each other. In India, there are several reasons which lead to Polyandry and its origin. In the start, this kind of marriage developed in various human societies due to certain difficulties which were prevailing in the society due to the environment, social and economic reasons. Gradually with time other reasons also helped developing Polyandry.

POLYANDRY IN RELIGION

Most religions of the world don't support polyandrous marriage but this practice is accepted in only few societies of the world. There is one reference of Polyandry in the Hindu epic Mahabharata. It shows us one of the earliest cases of Common marriage. Draupadi daughter of the king of Panchala, marries the Pandava (five) brothers. Islam bans polyandry completely, however, polygyny for man permits a marriage to a maximum of four wives but the condition of taking equal care and love equally to each other. Judaism and Christianity are the religions which completely prohibits Common marriage, also known as “plural marriage”.

POLYANDRY IN NORTH HIMALAYAN STATES OF INDIA

The ethnic group practicing Polyandry in northern state Himachal Pradesh were Siraj and Kanet of Kullu, Pangwala of Pangi valley, Kinnaura of Kinnaur, Lahaulas of Lahaul, Spitiens of Spiti and inhabitants of district Sirmaur.

This type of marriage has also been found in the inhabitants of the several districts of the lower ranges of Himalayas and some regions of Jaunsar Bawar region of Uttarakhand. This region is inhabited by Jaunsari tribe who claim that they are the descendants of the Pandavas of the Mahabharata. The Pandavas were married to one

wife (Draupadi). Keeping that tradition alive in the community, fraternal Polyandry, where all brothers have one common wife, is a accepted form of marriage in this region of Uttarakhand.

In most polyandrous marriages, polyandrous alliances takes place when a woman performs marital ceremony with the eldest brother. The eldest brother represents all the other single brothers and all the brothers becomes the woman's husband. Other brothers can marry subsequently but with the permission of the common wife. There is no exclusivity of sexual right or reproductive right over the wife. To keep the Peace and fairness amongst all the brothers Sexual encounters are evenly scheduled in shifts. The children in such marriages are all raise together without any discrimination, because biological ascernity of child cannot be ascertained. Common marriage does appear to be the preferred marriage but not the exclusive one. Monogamy, polygyny (i.e. having more than one wife) and fraternal Polyandry all are equally prevalent in Jausar Bawar region.

The major reason for the same being economic resources was the primary reason for a large number of wives by fraternal husbands in Sirmour, Shimla and Kullu District of Himachal Pradesh. Whereas in the region of Kinnaur and Lahaul, the major reason for the system is to conserve family wealth and tradition which is not the major reason in the lower Himalayan where it is the financial reason. There was also a preference for having one wife for all the brothers, the reason for the same was to limit the inheritors.

HISTORY OF KINNAUR DISTRICT OF HIMACHAL PRADESH

Kinnaur is a rough and isolated district which is located nearly 200 km (10 hours drive) away from Shimla, the capital city of Himachal Pradesh, it is situated in the western region of Himachal Pradesh. It is situated at the altitude of 2,300 meters and 6500 meters. Kinnaur district came into existence as a separate district on 1st May 1960. Before it, Kinnaur was part of the Mahasu district of Himachal Pradesh and in the pre-independence period, it was the part of erstwhile Bushahar state. Kinnaur, though treated schedule tribe area, yet it is a place of co-existence of Hinduism and Buddhism. The existence of Devi and Devtas (Gods and Goddesses) in all the villages is an inseparable and important part of kinner social and religious life. As per 2011 census population of kinnaur district is 84,298 and 13 inhabitants per square kilometer.

In Mythology kinnars are considered as a distinct race between Human beings and Gods. Kinnars have been variously described by various authors of Indian Art, Mythology, History as fabulous beings half human, half bird

SOCIAL LIFE AND POLYANDRY IN KINNAUR

In general joint family system prevailed among the people of kinnaur. Kinnaur presently is one of the few societies which are still having examples of Common marriage and still practice polyandrous marital arrangement, which is currently on the verge of extinction. The traditional polyandrous family presented unique features of the Kinnaur. Fraternal Common marriage was a social norm in the past and still is in practice.

In kinnaur In this type of polyandrous marriage, it is the eldest son who performs each and every marriage ritual with the bride to marry her, and the remaining ones become her husband through a ritual named, "Turban-tying" ceremony. In this ceremony each and every bridegroom sit in a row with the bride before them. During the ceremony, the maternal uncle (known as Bhistu) of the husbands ties a turban (Pagri) on the heads of the brothers together, which is a indication that the bride has been married to all the brothers. With the passing time and with the massive improvement in the financial position there is a constant change in the system of Common marriage which is known as, "Jon'tar", which restricts the number of husbands from many to two only. In simple terms now only two brothers are allowed to marry a single girl. In Kinnaur district, the eldest male of the family is called the social father of all the children born from a polyandrous union, sharing the responsibilities lies on all the brothers as a common practice including the upbringing and maintenance of the children.

SOCIAL IMPLICATIONS OF CUSTOM OF POLYANDRY IN KINNAUR

The custom of Polyandry comes with its own pros and cons. The most common implication in a polyandrous marriage in kinnaur is the problem of determining the biological paternity of the children. The society in the primitive time had its own way of determining the fatherhood of the child. This fatherhood is known as "sociological fatherhood". The reason why Polyandry is still prevalent and successful in these areas as there is a very good understanding between the partners may it be wife and husbands or brothers among themselves. As calculated by Raha and Commar in the late 1960s, 26.38 % of the marriages in Kinnaur were polyandrous marriage. When checked among other castes the percentage changed as for Rajputs was as high as 47. There are several villages in Kinnaur having a low caste called Kolis who practiced Polyandrous marriages. It is also taken into account that Common marriage is not the common practice in those communities where it is permitted. As education level in society has changed the practice of Common marriage has reduced rapidly.

INHERITANCE AND PARTITION OF FAMILY PROPERTY IN KINNAUR

To start the basics of a polyandrous family, the wives and the children from the polyandrous marriage are a joint responsibility of the brothers combined. It was always a point of discussion that the sons of the family get a right over the property right from the birth, it has also remained a point of discussion that whether this remains confined till the lifetime of the fathers or even after their death. It is the choice of the sons whether they all want to stay together after the death of the fathers or not. They can also be on the polyandrous relationship if they want to do the same. In Kinnaur district of Himachal Pradesh Polyandrous families are patriarchal and the right to inherit the ancestral property of the family is restricted only to sons. Even though, the eldest brother is regarded as the father of the children, but the partition of the family property would change the situation. At times the women have the right to name the father of the children. But more followed method is where the brothers had one common wife- the eldest brother is considered to the father of the first-born son, the second brother is regarded as the father of the second son and the process goes on like this with all the brothers. If partition takes place, the custom was that the property was to be shared equally between the sons irrespective of the number of mothers. In

Jaunsar-Bawar region of uttarakhand, custom was that the eldest and youngest brothers were entitled to a little extra of the family property .

POSITION OF WOMAN IN A POLYANDROUS MARRIAGE

The position of women in a polyandrous marriage is different in different societies. The most adverse effect of the polyandrous arrangement is that a number of the female population is left unmarried. The polyandrous marriage in kinnaur region is an accepted custom, it is more of religion and a way of life. The women who are into such marriages in the tribal areas of Kinnaur have accepted it with grace. They have the right to say no to such marriages if they don't want to get into a polyandrous marriage. Their consent is a big part of such marriage. Women in polyandrous marriage hold a higher position in the family system. Although the polyandrous families are clearly patriarchal. It didn't eliminate the certain well-recognized claim of the women of the family. Women are treated with the utmost respect.

CONCLUSION

The present importance of Polyandry cannot be read back as the original reason for its emergence. In the past Polyandry was a common practice but until today it continues to a lesser extent. All the brothers in a family marrying the same girl allows the family land to remain intact and undivided. Polyandry exists not only among peasant class but also among the elite class. It prevails in most of the kinnaur but is rapidly losing its ground. It is still defended by the older generations who practice it and prefer it over monogamy but the practice of Polyandry requires a good understanding between the wife and the husbands on the one hand and among the husbands themselves. Polyandry is not the common practice even among the communities where it is permitted, but slowly with time, it is disappearing. With changing times monogamy has made inroads into the society and fast becoming the only accepted form of marriage.

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