

POLYGAMY AND IT'S PREVALENCE: LEGAL FRAMEWORKS AND CONTEMPORARY REALITIES

Gunjan Mishra, Amity Law School, Lucknow, India
Dr Arvind Kumar Singh, Amity law school Lucknow, India

ABSTRACT

This study delves into the diverse dimensions of polygamy, investigating its historical origins, legal structures, and contemporary expressions. Current case studies spanning various regions offer valuable insights into the contemporary challenges and debates surrounding polygamy. Commencing with polygamy's historical prevalence across different cultures, the research explores its development and ventures into an in-depth examination of global legal viewpoints, taking into account ethical considerations and cultural contexts.

KEYWORDS: Polygamy, Polygyny, Polyandry, Group Marriage, Polyamory, Religious Views On Polygamy, Buddhism, Christianity, Mormons.

INTRODUCTION

Polygamy is a marital practice in which an individual has more than one spouse simultaneously. It can take various forms, including polygyny (one man having multiple wives), polyandry (one woman having multiple husbands), or group marriages where multiple men and women form a marital arrangement.

There are many reasons that people may engage in polygamy. These reasons may be religious or societal, including stability, safety, companionship, economic resources, reproduction, or love. In some cases, people are also polyamorous, meaning they have the capability to love more than one person. In these cases, they may seek to marry their partners to show equal love to each.

Some religions state that an individual is entitled to have more than one spouse and that doing so is a way to achieve their beliefs about the afterlife. Some believe that partaking in polygamous marriages is required for their religion. In current society, many people practice polygamy worldwide for societal, cultural, religious, spiritual, or personal reasons. The acceptance and prevalence of polygamy vary widely across different cultures and regions globally. It's crucial to approach the topic with cultural sensitivity and recognize that views on polygamy can be complex and multifaceted.

LITERATURE REVIEW

Polygamous connections have profound verifiable roots across different societies and social orders. While once broadly acknowledged and rehearsed, the development of normal practices and lawful systems has prompted shifts in the impression of polygamy. Understanding the verifiable setting is critical for valuing the contemporary elements of acknowledgment and disgrace encompassing such connections.

Acknowledgment of polygamy shifts generally across societies. A few social orders have generally embraced polygamous associations as a standardizing practice, while others have censured or limited them. Social variables, including strict convictions, social practices, and orientation jobs, assume a pivotal part in molding mentalities toward polygamy. Polygamous connections frequently face defamation, with negative generalizations influencing people

included. Disgrace can appear at both relational and cultural levels, it is seen and treated to impact how polygamous families. Understanding the sources and outcomes of this disgrace is fundamental for tending to its effect on people and networks.

Legitimate structures in regards to polygamy shift universally, going from nations where it is completely acknowledged to those where it is totally denied. Analyzing the legitimate setting is crucial for understanding how cultural perspectives are arranged into regulations and guidelines, affecting the lived encounters of people in polygamous connections. Research on the mental and profound results of people in polygamous connections is assorted. While certain investigations propose potential difficulties connected with desire, rivalry, and close to home prosperity, others feature the versatility and flexibility of people inside these family structures. Investigating the nuanced encounters of people included is essential for an extensive comprehension.

The effect of polygamous connections on youngsters and relational peculiarities is a basic part of exploration. Researchers explore what the design of such families means for youngster advancement, connections between co-spouses, and in general family attachment. Inspecting the qualities and difficulties inside polygamous nuclear families adds to a nuanced comprehension of their elements.

Contemporary cultural changes, including expanded consciousness of assorted family structures and developing orientation standards, add to moving mentalities toward polygamous connections. Investigating these patterns gives bits of knowledge into the powerful idea of cultural acknowledgment and the potential for advancing standards encompassing polygamy.

OBJECTIVE OF THE STUDY

The reason for this exploration on the lawfulness of polygamy internationally could be diverse, contingent upon the objectives and the particular setting of this review. Here are a few purposes that this exploration plans to accomplish:

- To break down and think about the lawful systems with respect to polygamy in various nations to figure out the varieties in regulation and its verifiable setting.
- To investigate the role of cultural and religious factors in shaping the legal perspectives on polygamy in different regions and societies.
- To look at patterns and changes in the lawful status of polygamy after some time, considering any changes in general assessment, cultural standards, or legitimate changes.

POLYGAMY-RELATED TERMS AND DEFINITIONS

Polygamy serves as the overarching, gender-neutral umbrella term encompassing marriages involving three or more individuals (Shaiful et al., 2021). *Polygyny* specifically characterizes a marital arrangement featuring one husband and at least two wives, constituting the most prevalent and commonly accepted form of polygamy, often legally recognized. In contrast, polyandry refers to marriages where one wife is joined by at least two husbands.

Group marriage serves as an inclusive classification for unions involving multiple husbands and wives. *Polyamory*, on the other hand, pertains to the practice of engaging in multiple romantic relationships, with all participants fully informed and consenting. It is important to note that polyamory is not directly tied to the institution of marriage (Youenn, 2022).

It's crucial to distinguish *Polygeny*, an outdated theory positing that distinct human races evolved from separate ancestral lineages. While unrelated to polygamy, it's included here to prevent confusion with "polygyny." This clarification aims to enhance understanding and accuracy in discussions surrounding diverse relationship structures.

RELIGIOUS VIEWS ON POLYGAMY

Buddhism: Buddhists consider marriage as a secular matter rather than a sacrament, leading to diverse stances on polygamy in different Buddhist countries. For instance, Thailand officially acknowledged polygamy in 1955, while Myanmar prohibited polygyny in 2015.

Christianity: Within Christianity, the Roman Catholic Church and most Protestant denominations condemn polygamy. However, the Lutheran Church shows some acceptance of polygamists, and in 1988, the Anglican Communion deemed polygamy permissible under certain circumstances.

Mormons: The Church of Jesus Christ of Latter-day Saints, a distinctive Christian subject, historically embraced polygamy, known as "plural marriage," from 1847 to 1890. The U.S. government outlawed polygamy in 1862, partly in response to the LDS Church, prompting its discontinuation in 1890. While some splinter Mormon groups persist with polygamous practices, they lack legal recognition.

Hinduism: Hindu law permits polygamy under specific circumstances, with variations in application across Hindu countries. Traditional Hindu law allowed polygamy if the first wife couldn't bear a son. Balinese Hinduism, meanwhile, sanctions unrestricted polygamy regulated by adat or traditional customs.

Islam: Islam is the sole major religion where sacred texts arguably endorse polygamy. Surah 4 An-Nisa (Women), verse 3, allows a man to marry up to four women under specific conditions. While many Muslim countries permit polygyny, the consent of the first wife is often required, and polyandry remains strictly prohibited.

Muslim acceptance of polygyny is evident in the prevalence of polygamous marriages in the Middle East and North/Central Africa, regions with high Muslim populations. Polygamy is recognized by several countries for Muslim unions but not for practitioners of other religions.

Judaism: The Torah recounts polygamous marriages of significant Jewish figures like Abraham, David, and Jacob. However, modern Jews, like the majority of contemporary Christians, have distanced themselves from the practice, despite its historical mention in the sacred texts.

LEGALITY AND RECOGNITION OF POLYGAMY AROUND THE WORLD

Merely 2% of the global population resides in polygamous households, with the majority of countries registering a share below 0.5%. The prohibition of polygamy is widespread worldwide, and the United Nations Human Rights Committee, emphasizing its infringement on women's dignity, advocates for its unequivocal eradication wherever it persists (Radhika, 2002). Despite such global sentiment, the administration of marriages faces constraints in many regions.

Governance of marriages in numerous countries falls under the purview of religious or customary laws, placing oversight responsibilities in the hands of clerics or community leaders. This decentralized approach often introduces complexities in enforcing uniform regulations, allowing for varied interpretations and applications of marriage norms. As a

result, the challenge lies not only in advocating for the abolishment of polygamy but also in navigating the intricate interplay between legal, religious, and customary frameworks that shape marital practices globally.

PLACES WHERE POLYGAMY IS MOST WIDELY PRACTICED

As per the study conducted by Pew Research Centre, polygamous household prevalence is most pronounced in Burkina Faso (36 percent), Mali (34 percent), and Gambia (30 percent). This statistic exhibits notable variations depending on religious affiliations. For instance (Al-Krenawi, 2013), the incidence of polygamous households among Christians in Nigeria stands at eight percent, significantly lower than the substantial 40 percent observed among Muslims in the same country. This disparity underscores the influence of religious factors on the prevalence of polygamy within specific regions and communities (OECD, 2023).

CURRENT STATUS OF POLYGAMY GLOBALLY

In numerous countries, engaging in marriage while still lawfully wedded to another person is classified as bigamy, a criminal offense. However, the penalties for such actions vary among jurisdictions. Furthermore, the legal standing of second and subsequent marriages is often rendered null and void (Otoo, 2019).

In predominantly Christian nations, polygamy is generally prohibited, with a few exceptions like the Republic of the Congo, Uganda, and Zambia.

In Nigeria, all northern states governed by Islamic Sharia law recognize polygamous marriages. Additionally, the autonomous regions of Somaliland and Puntland in northern Somalia, along with the country's Transitional Federal Government, recognize polygamy due to Sharia law governance. Southern Sudan, a recently independent country, also acknowledges polygamous unions (Niall, 2020).

Few Asian countries such as India, Malaysia, Philippines and Singapore recognize Polygamy marriages for Muslims only.

The overwhelming majority of sovereign states with Muslim-majority populations acknowledge polygamous marriages, constituting a geographic expanse from West Africa to Southeast Asia (Aneesha, 2023). However, notable exceptions to this trend include Israel, Turkey, and Tunisia. In the Palestinian territories, encompassing the West Bank and Gaza Strip, polygamous unions are permitted for Muslim citizens, underscoring the nuanced legal and cultural considerations in specific regions with Muslim majorities.

Impact of Polygamy on women

Evidence suggests that women in polygamous relationships may experience higher rates of mental illness. One 2013 study found that women in polygamous relationships had less satisfaction with their lives and marriages and more symptoms of mental illness. Other harmful practices, such as sexual assault and domestic violence, have also been linked to polygamy (Mayer, 1978).

Critics argue that polygamy inherently subjugates women, reducing them to a status akin to property. Critics such as women's rights activist Zakia Soman say that today there's no war in India and polygamy - a "misogynistic and patriarchal" practice - must be banned.

Founder of the Mumbai-based Bharatiya Muslim Mahila Andolan (BMMA - Indian Muslim Women's Movement), Ms Soman says polygamy is "abhorrent - morally, socially and legally" and the fact that "it's legally allowed makes it problematic".

"How can you say that one man can have more than one wife? The community must move ahead with the times (Sarah, 2019). In today's day and age, it's a gross violation of a woman's dignity and human rights."

On the other hand, some women in polygamous relationships claim they feel empowered by their choice.

The feminist perspective on polygamy is far from monolithic and varies depending on cultural, religious, and individual viewpoints (Fenske, 2015). A study was conducted on Bedouin women living in Israel, it was found that a majority of women had severe emotional and physiological responses to their husbands' marriage to another woman. For most, particularly those who married young, living in a polygamous family adversely affected their marital satisfaction.

OBJECTIVE OF THE STUDY

The reason for this exploration on the lawfulness of polygamy internationally could be diverse, contingent upon the objectives and the particular setting of this review. Here are a few purposes that this exploration plans to accomplish:

- To break down and think about the lawful systems with respect to polygamy in various nations to figure out the varieties in regulation and its verifiable setting.
- To investigate the role of cultural and religious factors in shaping the legal perspectives on polygamy in different regions and societies.
- To look at patterns and changes in the lawful status of polygamy after some time, considering any changes in general assessment, cultural standards, or legitimate changes.

POLYGAMY – STATUS ACROSS CONTINENTS

1) ASIA

Asia comprises of 48 countries. Out of 48 countries, 25 countries have legally recognised Polygamy whereas the remaining 23 countries have prohibited it by law

2) EUROPE

As per the data provided by UN, Europe currently comprises of 44 countries. Out of all 44 countries, not a single country has legalised and recognised Polygamy.

3) AFRICA

An area known as the "polygamy belt" spans from Senegal to Tanzania in Africa, where it is not unusual for one-third of married women to have multiple spouses (Jacoby 1995). Currently, this pattern is mostly unique to Africa. According to all Demographic and Health Survey (DHS) datasets, monogamy is reported by at least 92% of married women, with exceptions noted in Haiti and sub-Saharan Africa (Magdalena, 2017).

Among the 54 countries in the African continent, Polygamy is prohibited in only 18, while the remaining 36 continue to engage in the practice to varying extents.

4) NORTH AMERICA

Polygamy, a practice not commonly associated with early America, was surprisingly prevalent among various groups of early Americans in 17th and 18th-century North America. Contrary to conventional perceptions, the historical landscape reveals a widespread adoption of polygamous relationships during this period.

Currently, Polygamy is forbidden in all 23 countries within North America.

5) SOUTH AMERICA

Among the twelve countries comprising South America, none have officially recognized polygamy. Consequently, at present, the prevalence of polygamous relationships in this region is notably rare.

6) AUSTRALIA

Among the twelve countries that constitute Australia, none have legalized polygamy, indicating that it is not a prevalent cultural practice in this region.

Survey Reveals on Ground Prevalence of Polygamy in India by International Institute for Population Sciences (IIPS) (2022)

A review distributed by the International Institute for Population Sciences (IIPS) in 2022 which depends on information from the National Family Health Survey (NFHS), showed that polygynous marriage is more pervasive among Muslims (1.9%), trailed by other strict networks (1.6%), and least common among Hindus (1.3%). Among Hindus, polygyny is more normal in Telangana, Odisha, and Tamil Nadu, while it is less common in Jammu and Kashmir, Haryana, and Punjab, according to NFHS. Among Muslims, polygynous marriage is more predominant in Odisha, Assam, and West Bengal, and less common in Jammu and Kashmir, Maharashtra, and Haryana. The information likewise distinguished locale with a higher commonness of polygyny. These regions were principally situated in the territories of Meghalaya, Arunachal Pradesh, and Odisha. In these locale, East Jantia Slopes (20%), Kra Daadi (16.4%), West Jaintia Slopes (14.5%), and West Khasi Slopes (10.9%) have especially high paces of polygynous relationships. Furthermore, over 10% of relationships in five locale are polygynous, while in another 16 regions, 5%-7% of relationships fall into this classification. Notably, these districts have a substantial population of scheduled tribes. The data also showed that there is a decline in polygynous marriages due to increased awareness and education.

According to NFHS data, polygynous marriage is highest among Scheduled Tribe women but has declined over time (3.1% in NFHS-III compared to 2.4% in NFHS-V). Scheduled Caste women also exhibit a decline in the practice, with 2.2% in NFHS-III compared to 1.5% in NFHS-V. In NFHS-III, polygyny was more common among Buddhists (3.8%) and Muslims (2.6%), whereas in NFHS-V, it was higher among individuals from other religions (2.5%), followed by Christians (2.1%) and Muslims (1.9%).

METHODOLOGY

The global stigma surrounding polygamy has witnessed a notable rise, with India experiencing a pronounced increase. This surge, notably evident in Lucknow, a city renowned for its cultural diversity and serving as the capital of Uttar Pradesh (Kramer, 2020), is exacerbated by heightened judicial scrutiny and the criminalization of triple talaq. This study, conducted in Lucknow, involved a comprehensive sample of 40 individuals, shedding light on the evolving dynamics of polygamy in this culturally rich context.

1. Gender: Out of 40, 20 participants are men and 20 are women.
2. Moral acceptance of polygamy: 6 participants believe in the acceptability of Polygamy whereas the remaining 34 do not resonate with the concept.
3. Legal recognition of polygamy: 33 participants do not support the legality of Polygamy whereas 7 participants want Polygamy to be legalised.
4. Social stigma: 36 participants believe that people who are engaged in polygamous relationships should be looked down upon where 4 participants reacted negatively to this idea.
5. Personal opinion: 33 participants would not consider a polygamous relationship whereas 7 participants might consider it.
6. Safety measures for children in polygamous households: 18 participants believe that there should be legal provisions ensuring the welfare of children in polygamous households whereas 22 participants do not entertain this idea.
7. Acceptance of polyandry: 12 participants do not wish to give the same status to women as given to men in Polygamy whereas 28 participants believe in equality for both men and women.

CONCLUSION

This study explores polygamy's historical origins, legal structures, and contemporary expressions. Through case studies from various regions, it provides insights into current challenges and debates. Beginning with its historical prevalence across cultures, the research delves into its evolution and examines global legal perspectives, considering ethical issues and cultural contexts.

REFERENCES

- Al-Krenawi, A. (2013). Mental health and polygamy: The Syrian case. *World journal of psychiatry*, 3(1), 1.
- Aneesha Mathur (2023). Polygamy in India: Insights and debates surrounding Uniform Civil Code.
- Fenske, J. (2015). African polygamy: Past and present. *Journal of Development Economics*, 117, 58-73.
- Kramer, S. (2020). Polygamy is rare around the world and mostly confined to a few regions.
- Magdalena Brzezińska (2017). Love across state borders: transcontinental polygamy as seen in the Gambia and Guinea-Bissau.
- Mayer, A. (1978). Developments in the Law of Marriage and Divorce in Libya since the 1969 Revolution. *Journal of African Law*, 22(1), 30-49.
- Niall McCarthy (2020). Where Polygamy Is Most Widely Practiced. Statista.
- OECD (2023). Sahel and West Africa Club.
- Otoo, F. (2019). Property Rights of Spouses in Marital Relationships in Ghana-Is There the Need for Additional Legislative Intervention?. Available at SSRN 3504800.
- Radhika Coomaraswamy (2002). A report of trends, legal developments, and best practices. *Violence against women in the United States*.
- Sarah Pearsall (2019). Polygamy: An Early American History. Yale University Press.
- Shaiful Bahari, I., Norhayati, M. N., Nik Hazlina, N. H., Mohamad Shahirul Aiman, C. A. A., & Nik Muhammad Arif, N. A. (2021). Psychological impact of polygamous marriage on women and children: a systematic review and meta-analysis. *BMC Pregnancy and Childbirth*, 21, 1-10.
- Youenn Gourlay (2022). Côte d'Ivoire bill to legalize polygamy is causing controversy.

<p>Received: 07-Jun-2024, Manuscript No. JLERI-24-14682; Editor assigned: 08-Jun-2024, Pre QC No. JLERI-24-14682(PQ); Reviewed: 22-Jun-2024, QC No. JLERI-24-14682; Revised: 27-Jun-2024, Manuscript No. JLERI-24-14682(R); Published: 02-Jul-2024</p>
