



SWISS COOPERATION OFFICE IN TAJIKISTAN



SWISS AGENCY FOR DEVELOPMENT AND COOPERATION

WOMEN'S NON-GOVERNMENTAL ORGANIZATION
«TRADITIONS AND MODERNITY»

Polygamy Research in Tajikistan

*Report on the Pilot Research Conducted in Dushanbe, Khatlon's Urban and Rural Areas
February-April 2002*

Research coordinator:

Margarita Khagai, PhD (economics)

Director of the Women's NGO «Traditions and Modernity»

June 1, 2002

Views expressed in the current report do not necessarily represent the official point
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LIST OF ABBREVIATIONS

| | |
|-------|--|
| GBAO | - Gorno-Badakshan Autonomous Oblast |
| ZAGS | - Registration Office |
| NGO | - Non-Governmental Organization |
| RTSU | - Russian-Tajik Slavonic University |
| RT | - The Republic of Tajikistan |
| FC | - Family Code |
| MM | - Mass Media |
| PC | - Penal Code |
| FG | - Focus Group |
| SDC | - Swiss Agency for Development and Cooperation of the Federal Department of Foreign Affairs, Government of Switzerland |
| CEDAW | - Convention on the Elimination of All Forms of Discrimination Against Women |

GLOSSARY

- Jamoat* - A village's Council
- Kalim* - A price for a bride
- Kozi* - Hakim in Shariat who abets the cause of justice based on religious norms.
- Mahalla* - Local community, lit.: «neighborhood» it defines cultural and administrative community of people living nearby.
- Majlisi Oli* - The Parliament
- Mullah* - A votary of the Muslim religion
- Namoz* - Fivefold pray that is one of a Muslim's obligations
- Nikoh* - A religious solemnize nuptials. In juridical literature "nikoh" defines the "marriage registration". Among the Tajik speaking population, there is an exact definition between legal and religious marriages. «ZAGS kardan» – is interpreted as «to register in ZAGS», i.e. the marriage is being registered in the registration office whereat «Nikoh kardan» - is the wedding bound by the religious rite.
- Customary law* - nuncupative code (rules) for the community members, based on local traditions and religious requirements. At the transition period many nuncupative requirements are appeared towards behavior of community members. These requirements neither historically grounded on traditions nor related to religious rites, however ignorance of them is the subject of being condemned by the society.
- Public opinion* – status of mass feeling, expressing attitude (hidden or evident) towards the public events, activities of various groups and individuals; it approves or censures different cases, regulates the conduct of individuals, social groups and institutes. In patriarchal societies it acts as a crucial regulator for social behavior of its members.
- Rubinon* - "to show the face" (lit.). The ceremony of introducing the bride to husband's relatives on the next day after marriage, that is followed by gifting the bride. Presents are the kind of "payment" that gives the right to the groom's relatives to look at the bride's face.
- Talbon* - "invitation" (lit.). Certain time after the marriage, bride's parents invite the young couple to the home. A rich feast follows this ritual.
- Talokh* - "remission" (lit.). Divorce usually desired by a husband. In the official records "talokh" is used for description of legal fact of divorce recorded in the

registration office. In a colloquial speech there is a clear definition of the word “razvod” which is understood by the Tajik speakers as a legal divorce, and the *talokh* or *se talokh* (three times to refuse from a wife when the union is considered as completely terminated), which considers an illegal termination of the marriage. Attendance or confirmation by religious persons is not necessary.

Fotikha - Engagement.

Khukumat - An executive authority, including local.

ACKNOWLEDGEMENT

This research had been successfully conducted owing to the financial support of the Swiss Agency for Development and Cooperation. This support is a valuable impact on democratization development and promotion of gender equity in the Tajik society. The Government cannot afford the qualitative study of gender problems using the cost-expensive methods due to limited funding of academic and universities science. Prompt political decisions adopted apart of detailed study of the problem are doomed to failure, and sometimes, lead to aggravation of the problem in the society. Only an accurate problem analysis may create a methodical foundation for promoting gender equity policy. Researchers express their special gratitude to employees of the Swiss Cooperation Office in Tajikistan, Ms. Mouazamma Djamalova and Ms. Dilbar Turakhanova for the consultative support and active participation in the process.

We are much thankful to the NGO "Ghamkhori", particularly, Mr. Bakhodur Toshmatov, Ms. Mavjuda Sharipova, Mr. Rakhmonali Abdurakhmonov, Ms. Hursheda Faizieva and Ms. Sanoat Solieva from the "Women-Lawyers League", and also to the judges, advocates, lawyers, leaders of women's councils and village' *jamoats* and many others being in a role of experts, spent sufficient time and attention to share knowledge and opinions on the investigated subject. Successful implementation of the research has become achievable because of responsiveness, tolerance and professionalism of interviewers, Ms. Nazira Nadjmutdinova, Ms. Zarina Dinorshoeva, Ms. Mavjuda Boirova and Mr. Roustam Bobodjanov and a lot of the interviewed men and women, schoolchildren and students, whose names will remain unknown but without their sincere stories on own lives and experiences, this research would not became possible.

Margarita Khelai,
Research Coordinator

SUMMARY OF THE KEY RESULTS OF THE RESEARCH

The current report presents statements of the polygamy research in Tajikistan carried out by the women's NGO "Traditions and Modernity" within the frame of the project "Providing Support to Women and Reduction of Violence Against Women in Tajikistan" supported by the Swiss Agency for Development and Cooperation.

The main objective of the research was to collect qualitative information for analyzing the polygamy. During the project implementation, the rights and responsibilities of spouses and their children in polygamy and monogamy marriages were studied. Special attention was paid to the issues related to ownership and property disposal¹ by spouses during the marriage and after divorce, and also problems related to marriage registration in the Registration Offices.

→ Comparative analysis conducted on the basis of this criterion did not demonstrate significant difference in opportunities to exercise women's rights in polygamy and monogamy marriages.

→ The legal status of a family is the most significant criterion for exercise of women's rights and reduction of violence against women and their children. However, even this criterion is not the determining one for improving the social status of women in the family.

→ Realizing that marriage registration in the Registration offices provides with certain rights, the women were not able independently take any decisions on exercising their own legal and economic rights. Traditionally, decisions are made either by husband and his parents or by women's parents that are motivated by a customary law, thus avoiding public condemnation and "shame".

→ Relatively rare attempts of women to apply to the law-enforcement agencies usually were not supported. Therefore, the level of trust to such authorities is rather low. A valuable assistance is given by NGOs and women's centers that provide free legal consultations and advocate services. Number of those who wish to receive such services is getting higher from day to day. Nevertheless, opportunities of these centers are limited due to their insufficient number and limited funds.

Results of such analysis will enable establishment of the informational and methodical base for searching solution to the problems of polygamy victims. Based on findings revealed during research, recommendations were given to the Government, international foundations and local NGOs without whose efforts the received outcomes would have no practical value and make it impossible to improve the status of women and children in a family.

¹ CEDAW, Article 16, 1-g

1. INTRODUCTION

1.1. Background and Goals of the Research

Number of marriages recorded in the Registration offices per 1000 of population has been reduced in 2.5 times for the period of 1991 - 2000. However it does not mean that number of newly created families was decreased. Considering that weddings became so-to-say “younger”, in other words, the average age of people getting married is decreased; therefore the number of new families has increased not only in absolute figures but also in specific weight per number of population in comparison with 1991. Consequently, more than 60% of families are established without being registered in the Registration offices. In Sughd province the total number of registered couples in 2000 was 60,2 percent in comparison with the same figure of 1991. Then, in Dushanbe – 42,7 percent, Regions of Republican Subordination – 36,2 percent, GBAO – 29,4percent and Khatlon province – 24percent, correspondingly compares to level a decennium ago. Although, the number of population at the same period increased for 13,5 percent and consisted of 6,25 million in 2000.²

According to the official statistics of 2000 female constitute 49,9 percent from the total amount of the population.³ Such demographic balance does not cause alarm from the perspectives of polygamy spread. However, the real ratio of males and females of the marriage age declines much from the official statistics. In according with evaluated data, yearly more than 700 thousand of labor migrants leave to Russia for improving their social conditions. They are mainly men of the marriage age. Considering the interval of the actual marriage age as the interval of workable age, and excluding the number of labor migrants, calculations show 3 marriageable women per 2 marriageable men in Tajikistan .⁴ These conditional calculations demonstrate that there are objective factors that cause the widespreading of polygamy in the republic.

Article 170 of the Criminal Code of the Republic of Tajikistan prohibits the polygamy. In accordance with the law on marital unions registration, Registration offices are not allowed to bond marriages with the second and next wives. In this regard, it is impossible to give a precise qualitative assessment of polygamy. It has to be taken into account, that even monogamy families do not always register their marital status in Registration offices. Such families were also covered by the current research. This research was not pretended to identify ways and methods of eliminating the polygamy. It is known that polygamy exists in many countries. In Yemen they are legally allowed, and conjugal rights and responsibilities of spouses are strictly defined, therefore one can rarely meet a polygamy family.⁵ In Iran it is allowed to contract short-term marriages.⁶ Marital rights and responsibilities are strictly

² Annual Statistic Report of the Republic of Tajikistan. – Dushanbe, 2001, p.43

³ Annual Statistic Report of the Republic of Tajikistan. – Dushanbe, 2001, p.33

⁴ Employable population as to methodic of the State Statistic Agency covered the interval from 15 till pension age. In RT the nubile age is 17. However, marriages in 13-14 years became frequent, especially in rural. Because of lack of more detailed information of population up to sex/age, and also average marital age in illegal marriages, conditional calculations were made that could not reflect real statistic situation, but allow to visualize the polygamy scale.

⁵ Observations and random interviews made by the author in Sana and Mukalla cities (Yemen) in 1991-1992.

⁶ Interview with Nouchine Yovari d’Hellencourt, UNIFEM Coordinator in Tajikistan, June 4, 2000.

regulated by the contract. In the European Union about one third of total families under 29 cohabite without official registration.⁷ Usually, such unions are based on mutual agreement, but in case of delivery of a child, women aware of ensuring own and baby's rights if a man refuses to be responsible for baby's education and financial support.

Although absence of official registration also creates certain difficulties in getting support from the State.

In Tajikistan the polygamy is the consequence and cause of the rightless status of women both in parental and in-laws homes. From one side, number of cases of giving in marriage daughters under nubile age by parents is getting up,⁸ despite the Criminal Code RT envisages responsibility for such actions. In patriarchal families children are usually married off to satisfy the desire of parents paying no attention to will of grooms and brides themselves. Whereat, parents often give in marriage their daughters as second and third wives believing thus they ensure economic safety in future. On the other side, those marital unions unregistered by the Registration offices do not guarantee any economic rights in case of divorce. Besides, absence of such guarantees can be understood as an economic slavery that establishes a ground for further unpunished violence against women.

Sitora, 25.

“It was a love match. I was 18 and Daler was 37. He was married and had 4 children from his first marriage. He was a businessman and bought me a two-room apartment in the center of the city. I gave births to 2 children. We loved each other. He often gifted me with expensive presents. We cohabited together for 4 years. I did not work anywhere, as he was a good provider. He lived more with me rather than with his first wife. Then he was killed. After his death the mother-in-law came and took away from me all golden jewelries presented by my husband and requested me to leave the flat bought by her son. I was not registered in this apartment, so my babies and me were obliged to return to my parents. My parents and my three brothers live in a two-room apartment. My mother is cursing me every day. I have to earn money but there is nobody to take care of my children. At the beginning I occupied the post of a secretary in one governmental office. My boss promised me to pay 40 Somoni per month. He invited me to the restaurant several times but I refused him. I had been working there for 6 months, but was paid only once. One day he had lost his money and accused me. It hurts me that he had brought me to disgrace in presence of my colleagues although I did not steal his money. Furthermore, he did not pay me for 5 month and I did not know whom to complain. I was afraid to tell my parents the reason of loosing the job. I could not find a job for a long time. My neighbor advised me to sell the goods at the market which were transported by her from Iran. I am selling goods at the market for about two years, as I have no any education and profession and nobody recruits me. To share the apartment with parents is rather difficult as they are experiencing their own problems. But I could not generate money to buy my own as all my income is mainly enough for food only. I cannot even afford to buy cloths and shoes for my children. My friends advice me to apply to a court to get a flat back, but I was not registered in this place and “have no

⁷ Women and Men in Europe and North America/ Economic Commission for Europe UN. – New York and Geneva, 2000. P.78

⁸ The Family Code of RT confirms nobility at 17 both for men and women. However, sometimes the marriageability can be 1 year earlier (at discretion of local administrations) upon petitions.

ZAGS” (*i.e.*, *registration*) with the husband, therefore I think it is impossible to get the apartment back.⁹”

Sadullo, employee of the Ministry of Internal Affairs

«During the Civil War many of our officers were died. Afterwards, their widows were applying to us for financial support. We were allowed to arrange compensations and pension payments to the widows having marital records in the Registration offices with our former colleagues. But there were women coming to us frequently, not formally registered however actually being wives of the colleagues and having children from such matches. We advised these women to apply to court, as we are unable to provide them compensation without official documents that justify their marital status. ».¹⁰

The existing taboo on plural marriages set up by the Law, envisages punishment for men, but does not defend economic rights of the women in unregistered matches. Obviously, women are not interested in bringing their husbands to penalty. Women only loose, but not win in result of disputes regarding illegitimacy of marriage. Apart of legal status, there are also other factors casting tolerance to polygamy despite of all negative consequences of this phenomena.

The necessity to conduct a research is grounded with poor study of these factors, level of influence on matrimonial behavior, and opportunities for realization of marital rights both in marriage and divorce. Spreading of the polygamy causes concerns with strengthening the role of religious institutions, archaic traditions and restriction of human rights, and is a serious obstacle in democratization process of all institutions, including the family.

The goal of the current research includes a comparative analysis of the system of legal support to registered families as well as families without formal status, being bonded by a religious ceremony only entitled *nikoh*. The research covered wide range of social norms adopted in the society, including juridical, common and religious. Analysis of the ratio of such social group norms allows assessing the impact of factors from each group on matrimonial behavior of males and females; to identify motives in various types of marital behavior and forecast consequences of the existing type of behavior. Only an accurate analysis of motives and actions of the community’s members will let to develop a mechanism for regulating matrimonial behavior giving the opportunity to realize at maximum the right of each individual for sympathy, affection and understanding, establishing own family and bringing up the children. Expanding opportunities for realization of own rights must be followed by higher economic and juridical responsibilities for the self-made choice.

Researches were targeted on studying neither the legislation nor religious norms in marital relations. First of all, researchers were interested in assessments given by people in regard to significance of various social norms (juridical, common and religious) at establishment and divorce of a family, and searching for chances to fulfill own rights. Therefore, references are made to religious and juridical norms only if it is necessary to clarify motive backgrounds defining social behavior of respondents.

⁹ Interview with Sitara, the second wife, February 15, 2002.

¹⁰ Interview with Mr Sadullo, Head of Department, Ministry of Internal Affairs, March 2, 2002.

1.2. Objectives of the research

Accomplishment of the following tasks intended to achieve aims of the research:

- Analysis of the legislation of the Republic of Tajikistan that regulates rights and responsibilities of the citizens getting, in marital relations and at divorce;
- Social analysis of the marital and civil justice in the studied areas;
- Analysis of the public opinion and its influence on social behavior of men and women in a family;
- Analysis of marital motivations in plural marriages;
- Identification of factors influencing the growth of plural marriages;
- Identification of factors controlling the growth of polygamy;
- Collection of the information on degree of confidence given to different institutions (courts, the village seniors, *makhallas*, religious authorities, local executive administrations, NGOs, law-enforcement agencies, etc);
- Getting the information about the legal awareness of citizens regarding marital relations.

1.3. Research methodology

This research is the qualitative work and does not pretend to be representative, i.e. to make a quantitative assessment of spread of the phenomenon in the society at the moment of research. The necessity to receive qualitative characteristics of the polygamy is mainly grounded in necessity of collecting information about nature and mechanisms regulating this phenomenon. Qualitative analysis will allow to identify problems connected with plural marriages and also, to establish the informational base for searching the solutions.

Methodology of the current research involved various techniques of collecting and analyzing of the information:

- Analysis of the secondary information (statistic data, laws and surveys on this subject);
- Development of instruments, probation and preparation of the working draft of questionnaire for each group of respondents;
- Training for interviewers;
- Gathering the primary information (observations, in-depth interviews, focus group interviews, expert evaluations);
- Proceeding and analysis of the primary data;

- Preparation of the analytical report on conducted research;
- Discussion the report with experts, collection of comments and questions;
- Composing of the final report on conducted survey.

Results listed below are based on more than 100 individual interviews and 11 focus groups. Goal of individual interviews with members of the polygamy families included identification of factors that promote the spreading of the polygamy. Own experience and stories of life of interviewers helped to identify the range of legal issues that regulate the marital behavior in various marital unions: polygamous and monogamous, registered legally and unregistered. Researches spent a special interest on impact of different social norms (juridical, common and religious) on matrimonial behavior of men and women. The questioned men group consisted of respondents having more than one wife at the time of interview. The questioned female group included women with the following characteristics:

- Being the first wives in plural marriages at the moment of interview with/without wedding records in the Registration offices;
- Being the second or third wives having no wedding records in the Registration offices;
- Being the single wives having no wedding records in the Registration offices;
- Divorced women having no wedding records in the Registration offices.

List Of Respondents

| Status of the respondent | Quantity of interviewed persons. |
|---|----------------------------------|
| Wives in polygamy families | 65 |
| Husbands in polygamy families | 14 |
| Officers of justice administrations in districts | 3 |
| Advocates and Lawyers | 5 |
| Psychologist, consultant of the women center | 1 |
| Teachers of the secondary schools | 5 |
| Chairpersons of the village's <i>jamoats</i> | 2 |
| Leaders of women's and legal NGOs and committees of women | 4 |
| Physicians of the women consultative units (antenatal care) | 3 |
| TOTAL | 102 |

The goal of the interview in focus groups included the assessment of polygamy and marital behavior of men and women of different social and demographic groups. Participants from each focus group had similar signs, e.g., age, sex, social status, type of the rural settlement (rural or urban). The necessity to interview this number of focus groups was targeted on identification of tendencies and pace of coming transformations in perception of human rights in a family. For this purpose the groups of different gender and generations both in rural and urban were implicated in research.

Common features in each group give a chance to summarize opinions of some participants at the group level. Eleven focus groups had the following qualitative characteristics:

1. Mixed group of 11 intellectuals from urban (physicians, teachers, NGOs leaders, workers of the international organizations, scientists). Age varies from 25 to 55. Communication language - Russian.
2. 18 schoolboys (9-th form) of the city secondary school. Age varies from 14 to 15. Communication language - Tajik.
3. 16 schoolboys (10-11 forms) of the city secondary school. Age varies from 16 to 17. Communication language - Tajik.
4. 14 schoolgirls (10-11 grades) of the city secondary school. Age varies from 16 to 17. Communication languages – Tajik and Russian.
5. 18 city boys and teenagers, earning for a living at the markets. Age varies from 6 to 16. Communication language - Tajik.
6. 12 urban women of 25-45. Patients of the women antenatal care consultative units. Education – high and secondary. Communication languages – Tajik and Russian.
7. Mixed group of 10 students of the 4-th university grade. Age varies from 20 to 22. Communication language - Russian.
8. 12 city schoolgirls of 8-9-th grades. Age varies from 14 to 15. Communication language - Tajik.
9. 10 rural women of 28-40. Visitors of the women’s center. Communication language - Tajik.
10. 12 rural women of 25-40. Audience of the seminar in the women’s center. Communication language - Tajik.
11. 12 rural girls of 16-17. Audience of the seminar in the women’s center. No one of them goes to school; many never visited the school before. Communication language - Tajik.

Experts assisted in important professional interpretations and evaluation of the concrete stories by various specialists: advocates, judges, court officers, Registration offices personnel, NGO leaders and others. Totally, 23 specialists were polled as experts.

In-depth interviews were not standardized. Every interviewer was given a questionnaire for collecting obligatory information, including the objective information (gender, age, marriage duration, number of children, economic status, social status, marital status, etc.) and estimative information (awareness of rights and responsibilities, relations in the family, form and rate of violence, etc). The interviewers applied their skills to establish a climate of confidence that encourages an interviewed to tell a comprehensive story along with investigated topic, and to listen the private story or a story one faced in his/her professional practice. The interviewed were free in forthright word. Interviews took place in the women’s centers, antenatal care consultative units, working places, benches near living households. Unfortunately, nobody of the questioned men allowed interviewing their spouses in the same way. Moreover, women in the polygamy marriages also failed in requesting their

husbands to take part in the poll. Such cross interviews would create a foundation for comparative evaluation of the same events by different members of a single family.

Ethical base for this research envisaged the principles of the respective attitude towards respondents and strict confidence. Voice recorder was used only with permission of a respondent; 15% of them asked not to use the dictaphone during the talk. Mainly, they were men and officers of the governmental agencies. Other respondents agreed to be recorded only in case of full confidence. Questionings took place in Dushanbe, Kourgan-Teppa city and three villages of the Khatlon province in February-April, 2002. Names of the settlements are not given in the report. Names of people are changed. Interviews were taken either in Tajik or Russian up to respondent's preference.

Five interviewers were involved in the observation. All they have a high education; three of them keep any scientific degree. All interviewers had a previous experience of conducting opinion polls. Four interviewers were women aged 32 - 45. They were questioning girls and women. The other interviewer saw a man of 47 interviewed boys and men. All interviewers speak both languages - Tajik and Russian, and were speaking the language a respondent would like to talk.

4. BASIC OUTCOMES

4.3. Legal norms and their impact on marital relations

Importance of the wedding recording procedure in the Registration offices according to the marriage rituals

The Constitution, Family Codex, Criminal Codex and Civil Codex regulate marital relations in the Republic of Tajikistan. According to the Family Codex, marriages are registered in the State Organs of Civil Status Records (ZAGS, *Russian*). Matrimonial rights and responsibilities are given by lawful marriages only, recorded in the Registration offices. The article 170 of the Criminal Codex RT prohibits the polygamy, which is described as follows: «cohabitation with two or more women and keeping a common housing». Violation of this article is subjected to a «punishment up to 2000 minimal wage rate, or up to 2 years staying in the reformatory, or restriction of freedom up to 5 years, or arrest from 3 to 6 months». Lawyers of the country express their concern that despite a common spread of polygamy, there are no cases brought against this article due to «failed description of the article disposition». ¹¹ This article envisages an administrative or criminal penalty of a male in case of cohabitation with two or more females, but does not specify an economic obligation of a male towards wives if a fact of such cohabitation and keeping a common housing will be proved. Therefore, wives are not encouraged to go to the law in case of

¹¹ L.A.Kabilova. Women and the Criminal Law/Collected articles «Legal aspects of the violence against women». Dushanbe, 1999, p.12

polygamy, because here the court cannot resolve the issue of an economic responsibility and obligations of sides, as such matrimonial unions are not fixed in their status.

But the problem of legal status exists not in polygamous families only. More often, especially in rural, the monogamous unions are combined without being recorded in the Registration offices. The religious procedure called *nikokh* is considered as obligatory, but men are reluctant to be officially registered even in their first marriages. Apart *nikokh*, the marriage is proved among the community by following multiple marital ceremonies that are considered by people as mandatory.

Marital procedures include a number of celebrations. Women are especially aware of such rituals because they continuously take part not in celebrating only, but organizing of such arrangements. Fulfillment of majority of listed rites is obligatory and requires significant expenses. Failure to accomplish rituals is blamed by the public opinion.

«Previously it was easier to marry off daughters. Now it is more difficult. Too many requirements are given to a bride's relatives. They have to make an engagement, wedding party, *nikokh*, ZAGS (*legal registration*). When we give daughters in marriage, we try to buy all what is needed. If not, then the in-laws will upbraid for coming to a husband's home poor.»¹²

«When a girl gets married, they have to arrange a *fotiha*, girls-part, *nikokh*, ZAGS. But these are new tendencies. Prior to the Soviet period, our forefathers made a *nikokh* only. Currently, next day after marriage they celebrate *rubinon*... A groom's parents prepare a feast for relatives... The next stage is *talbon*... For *talbon*, a bride's parents must bring a sheep to a son-in-law's home and to cook food for guests... Then, we celebrate 40 days since the marriage...»¹³

Number of marital rituals has increased at the Soviet time, when the well-being of the population became much better. After the collapse of the USSR, the Civil War and rapid decrease of the economic status of citizens, number of multiple ceremonies did not get down, but even became the obligatory requirement for the traditional part of society. Ms M.Tohtahodjaeva believes that the local elite merchants motivated to sell own goods quickly, affect greatly the formation of verbal norms that define accomplishment of multiple rituals requiring purchase of various goods. They dictate a fashion on fabrics, clothes, furniture, etc., that sometimes must be renewed several times per year. They demonstrate grotesque weddings and other rituals that later serve as examples to imitate. They create a negative public opinion towards those people who do not want or cannot afford spending significant money on such activities.¹⁴ Sometimes, parents have to start collecting wedding money since the date of a baby's birth to the detriment of a child's sufficient nutrition or good education. While spending great money on wedding ceremonies, respondents answered that they could not afford cost-expensive recording a wedding in the Registration offices.

Hereby, respondents complained that the wedding record in Registration offices and issuing a birth certificate require money the respondents do not have.

«In our village only 7% of weddings are getting registered in ZAGS. The registration costs 20 Somoni (about 7 USD up to current exchange rate). The

¹² Focus Group of April 3, 2002. Rural women aged 25-40.

¹³ Focus Group of March 29, 2002. University students.

¹⁴ Ms M.Tohtahodjaeva. Tired of the Past. Re-Islamization of the society and woman's status in Uzbekistan - Tashkent, 2001

certificate costs 3 Somoni. It is rather expensive. If a married couple were given a first-marriage compensation in ZAGS as it was in the Soviet time, then the weddings would be registered in ZAGS»¹⁵

«I am the first wife. I am married for about 7 years. We have one child. He will go to the school soon, but as we had not been registered in ZAGS, I could not obtain a birth certificate for my son. We can not afford registration in the *jamoat*, at it needs money we do not have»¹⁶

In the Soviet time, the money compensation served as a motivating factor for wedding registration in the Registration offices (ZAGS). Money compensation was also available at obtaining a birth certificate. Currently, all the compensations are canceled. But at obtaining a marriage registration and birth certificate it is necessary to pay a state fee. Actually, obtaining a birth certificate during the first month since the date of a baby's birth costs 20 dirams (about 0,06 USD on the date of questioning). A certificate may be gotten at *jamoat* at the place of live. If a baby registration was not made in time, then parents are subjected to a penalty equal to 6 somoni (about 2 USD); but to receive a wedding certificate one have to go to a district center because there is no ZAGS division in every village. So, despite that respondents have mentioned high state fees as the main reason of evasion the registration in the ZAGS, in practice these fees are not the real reason for population to avoid these procedures. Size of such fees is extremely small to compare with those expenses applicable to wedding and other ceremonies related to receiving guests, feast, gifts, etc.

Rural respondents did not observe any economic benefit from newborn registration. Although, they all spoke about juridical rights on registration, however, for them rights do carry a rhetorical character, as women were not aware of the procedure how to achieve these rights or, rate of confidence to a justice is extremely low. Experts consider that financial compensation may stimulate registration of marriages and newborns in the Registration offices. ZAGS personnel told that in the periods of humanitarian aid distribution, «people are standing in queue in order to get a birth certificate. Often, we issue birth certificates to children of 5-6 years old».¹⁷ However, understanding of legal rights and responsibilities may not be encouraged by single financial stimulation. It distracts the attention of women from resolving the problem of juridical rights realization that give better opportunities for realization own economic rights rather than single humanitarian aid.

2.1.2. Awareness of law related polygamy and assessment given by respondents

Polygamist who agreed to give an interview, did not know about taboo and punishment for plural marriages. Usually they answered that they were not known exactly but «it seems, nothing is written in the Law» or «it seems, it is allowed».¹⁸ Only once, a respondent replied he was aware that the Law «prohibits the polygamy. But there are many polygamists around. What is this Law for, if it does not work?».¹⁹ These respondents were of high educational levels - secondary, secondary-technical and high. All they were running their own businesses with profits vary from 50 somoni to 300 USD per month. Nobody of

¹⁵ Interview of April 6, 2002. Chairperson of the village *jamoat*.

¹⁶ Focus Group of April 2, 2002. Rural women aged 28-40.

¹⁷ Interview with the Registration office' personnel, May 14, 2002.

¹⁸ Interview with Mr Odil, February 14, 2002.

¹⁹ Interview with Mr Abdurakhmon, March 9, 2002.

them was working for a governmental office. Men employed in the governmental organizations and known of getting high wages were refusing from giving an interview, although it is clear enough that they have two or three wives and some of them even stated this fact proudly. Respondents of this particular category were aware of prohibition and punishment over polygamy.

Among interviewed women, the majority never heard of the Law on polygamy. One fourth of women knew of prohibition on polygamy but «never read the Law». Only one female respondent knew exactly that «the polygamy is prohibited. In case of prohibition the Law on polygamy a man has to pay small sum that is not a trifling matter for rich men».²⁰

The cases of applying to the law regarding affiliation, division of property or getting maintenance for a child by the women unregistered in their marriage and being a single wife are not so frequent. Completely all respondents knew that a Law guarantees their rights on property and receiving maintenance for a child if a marriage is registered. But majority of unregistered wives considered that «it depends on conscience of a man. If a man wants, he can buy a flat and help to bring up children. But if a marriage is not registered in ZAGS, women loose these rights.»²¹

With the purpose to study legal procedures regarding polygamy, personnel of two district courts were interviewed as well. None of interviewed workers faced the case of polygamy. Women, unrecorded in the Registration offices may bring a suit on affiliation, issues regarding property and maintenance for a child in case of death of a husband or divorce. In this case, legal procedures do not make many differences between single wives, the first or second. However, the research has demonstrated that women usually believe that if a marriage is not registered in ZAGS, their children have no economic rights.

2.1.3. Women's rights on property in unregistered marriages and opportunities for these rights realization

The below story of Shakhlo is the rare example when a woman succeeded in realization of own juridical rights; she was not aware of these rights for a long time and has been experiencing abuses from the husband having no chance to leave him. However, the story of Shakhlo's life is rather demonstrative for summarizing women's rights and men's responsibilities in unregistered marriages.

Shakhlo, 33.

«First time I was married when I was 20. I have one child from this match. The husband disappeared during the Civil War. I was waiting for him for a long time, but parents forced me into other marriage. Then, I was introduced to Jurabek. He had 2 children from the first marriage. When we got acquainted, he was not employed anywhere. He promised to find a job after our marriage. We concluded a *nikokh*. I asked him several times to make wedding registration in ZAGS. He answered, he would register our marriage in the ZAGS when I give a birth to his child. We lived together for 9 years. He failed to get a job anyway. It was a difficult period of my life as I worked as a nurse one shift per two day. While I came back tired from the hospital, he lied drunk on the sofa. I cleaned the house, cooked the food and provided

²⁰ Interview with Ms Safarmo, 2-nd wife, February 6, 2002.

²¹ Interview with Ms Faizigul, 2-nd wife, February 15, 2002.

the family. I had been sewing the whole days and nights in order to earn money for the family. I married him when I was 24 and he was – 40 years old. He was married already twice at the moment of our marriage. His first wife was poisoned by gas and dead. Then, he divorced with his second wife, but he does not help her. When he meets his daughter he averts his face like he never saw her before. His first and second marriages were registered in ZAGS. We reside in the flat that is registered on his son's name from the other marriage. My husband has a land in *kishlak*. He built the house there on my money, but registered it on his relative's name.

My parents persuaded me to be patient towards him. I tolerated him but saw no improvements. When I gave a birth to the first baby I had asked him to go to ZAGS. When I gave a birth to the second child I asked him again to go to ZAGS. But he even did not want to obtain birth certificates for children. He kept telling me that I am not a wife to him, but a lodger and I must work the payment for living in the flat. He emphasized several times that I had no rights for this flat, as we were not registered in ZAGS. He told me that I was old enough and he would send me back to my mother and then get married the young girl. He does not respect me. I even scare to talk to him. We are always swearing at each other. He had beaten me. He cannot speak quietly even with children, if something wrong he beats them. I bore all this for a long time hoping that things would become better. When I have said him I would go to the law to force him give me the flat and not to leave my children homeless, he replied they are not his children thus they have no rights. He has mentioned, he would refuse from children and not give the flat to me. I was thinking to apply to *kozi* to get advice about my rights, but husband threatened that he would not go to the mosque afterwards and read *namoz*. I have decided not to go to the mosque so that he could read *namoz* at least.

One of my female-neighbor advised me to apply to the women's center for a help of an advocate. Advocate has prepared all the papers and applied to the court. The court justified his fatherhood and decided he must sell his house in *kishlak* and buy me a two-room flat. My husband did not expect such a court's decision. Just in the court he began to ask me not to divorce. He was promising that everything would be fine, we would go to ZAGS and he would find a job. But I don't want to live with him any longer. If I would have my own flat, I can maintain my family myself. And I don't want to bear abuses and afraid for the future of my children».²²

Until Jurabek was sure that Shakhlo has no rights because the marriage was not registered, and he was believing she has no place to go, he felt that she is his slave and any his abuses would not be punished. Whereat, he knows quite well the laws that will protect his property from division. His apartment and house in a village he has registered on third persons. In this case the division of the property is really impossible because, legally it is not a property of any of the spouses. Property registered on third persons (children from other marriages, parents or relatives of the husband) gives no right to divide a property even in the case of the legally recorded marriage. Jurabek knew that very well. He was also able to evade the law in regard to his previous wives although in registered marriages. He did not help to his first daughter being aware of own impunity. He knew that he must cover maintenance only if he had an income. Therefore, he was sure in this case he is not answerable to the law as he is working nowhere thus gaining no profit. However, when the apartment has been adjudged to Shakhlo and he lost the blackmailing levers over his wife, because he was losing the flat, unconditioned power on wife, economic support and

²² Interview with Ms Shakhlo, April 9, 2002.

housekeeping services. So, he was obliged to search for other means to manipulate the spouse. Just during the court process he start asking Shakhlo not to get divorced, asking her forgiveness and promising her what she has been begging for many years. Until he has had an uncontrolled power over wife he never tried to influence in this manner. When Shakhlo applied for the first time to the advocate, she did not believe in her ownership rights. But when the court has justified the fatherhood and obliged Jurabek to purchase an apartment for the spouse, she did not desire even to discuss further mutual cohabitation. At the time of survey Shakhlo was living in the husband's apartment waiting for the new two-room apartment to be bought for her as to the court's decision. Jurabek currently lives in his village's house. Shakhlo is self-confident and knows that she must not leave his flat until the other one will be bought for her.

All questioned respondents realized that women unregistered in the Registration offices have no rights on property. Unfortunately, none of them knew that children of these women obtain such rights. The property rights for Shakhlo's children were established by the following way. The first claim was brought to the court regarding fatherhood that was decided positively in favor of Shakhlo's and Jurabek's children. The second claim protected the property rights of the children. Advocate has succeeded to justify that the documents on Jurabek's second house were signed over firstly, already at the time of mutual cohabitation of spouses; secondly, papers recorded on front man are not valid.

This story, until Shakhlo applied to an advocate, is typical for the majority of questioned women. The prevalent majority of interviewed women told that wedding registration sets a right on severance of a jointure and alimony. But women applied to the court or advocate very rarely even if their marriage is recorded in the Registration office. Because of the fact they were living in the house of in-laws, they did not believe in the partition of this property, or an apartment, car or other property were signed over on other relatives' names. Interviewed women were sure if a match is not registered, wives stay beyond of legal support. Awareness of the legislation on this level assures men in their impunity for irresponsible marital behavior and aggravates dependency of women on men.

No one mentioned the right on the property purchased at the time of mutual cohabitation of spouses, even if this property is registered on third person, e.g. husband's relative. In case of such manipulations with documents on property, women usually consider, juridically they beyond all hope. But legal centers that provide free consultations and advocating services become popular among population, including the rural. Mainly women ask for consultations. Most of them arrive from remote villages for consultations and free advocate's services. Unfortunately, some delayed cases cannot be resolved positively in favor of women-victims. However, consultants have mentioned many cases got positive results on fatherhood justification and the partition of property to women unregistered in ZAGS. Advocate staff of legal centers believe if a woman has common children in either registered or unregistered match, the law can defend rights of these children on estate.^{23 24}

The activity of the Women's Center affiliated to the NGO "Gamhory" (Kourgan-Teppa city) can serve as an example. The Center's personnel travel to village sites and read lectures on women's rights. After lectures women come up asking whether they really have rights on part of estate or a house. Since several cases have been decided in women's favor,

²³ Interview with the advocate from the legal center, April 2, 2002.

²⁴ Interview with the advocate from the legal center, May 14, 2002

the talk about the Center's work went further not in the city only, but in remote areas too. Women believed that they could defend legally themselves and their children from unfair attitude, i.e. ownership debarment, threats, failure to provide children with alimony, estate manipulations and etc. Employees of the center told that women come from remote areas to get a consultation or free advocate's assistance. Yet, there is only one advocate working for the center who is overloaded because he obliges not to give consultancies only, but to collect papers, attend the sessions in a role of advocate, etc. Readiness of women to go to the law can be explained by the work of NGO "Women-Layers League" in Dushanbe. In the League a woman may get a free consultation, and also a free advocate's services if necessary. The League is involving more female clients according to the last month. Nowadays, not only women from the capital go to the League, but from other cities and districts of the country, such as Tursun-Zade, Leninsky, and others.

Because of corrupted justice and state law-enforcement systems, poor population devoid of opportunities to defend social rights. Experience of the certain legal organizations in Dushanbe, such as "The Rights and Welfare", RTSU's legal clinic and others, dealing with but not limited to legal protection of women, demonstrates that women are mostly needed in free services of advocates.

2.1.4. Fatherhood justification and children's rights on alimony

No one of the interviewed has mentioned the right of a child on fatherhood justification by the court. All groups of respondents mentioned the necessity of documentary fixed fatherhood for a child. Everybody was aware that the fatherhood is fixed automatically, since the registration of marriage in the Registration office. In case of unregistered marriages, affiliation is upon agreement of the father. If father does not agree, the column in a child's birth certificate remains empty. Advocates of both women's and legal centers see no difficulties in justification of the fatherhood upon the affiliation claim, even if the father disagrees. Two attesters have to state that spouses were living together during a certain time and run the common housing. Moreover, the DNA paternity test can be made. Children have a right to come into heritage. In case the match is not registered, not a wife, but children may inherit a part of property. Without children, a woman cannot come into heritage if marriage is not recorded legally. A child is entitled to alimony. A child may inherit property owned by father only after father's death. No partition of property may take place during the father's being alive.²⁵

Besides, to settle alimony is not a complicated matter for justice procedures. Here also no difference whether the mother was in legal marriage or not. The most complicated matter is to enforce alimony. Some men do not receive salaries for months; the others have income counted nowhere therefore no alimony is charged from them. Then, the rest men leave to other places or countries for a long period. This case leaves no chances to identify the size of man revenue in order to calculate alimony.²⁶ Justice officers believe that owing amount can be collected from these labor migrants upon their return back to the country.²⁷

According to the current legislation, the alimony agreement can be concluded in the court. The mother and father of a child are called to the court. The father is requested how much he can pay for alimony. Then, the maintenance order gets written, which obliges the

²⁵ Interview with the advocate from the legal center, May 14, 2002

²⁶ Interview with the advocate from the legal center, April 2, 2002.

²⁷ Interview with the justice officer, May 20, 2002.

father to pay this amount every month. If he does not work, alimony starts accumulating; when he returns to work he has to pay-off the amount. If a man gets increases in salary, this alimony agreement may be revised.²⁸ In most cases, advocates employed in the women and legal centers can help women in matters related to property and maintenance even if women see things in dark perspectives.

2.1.5. Legal awareness of the population and the practice of rights realization

The Advocates of the women's and legal centers (non-governmental) told about two categories of women frequently applying to such institutions. The first group consists of women having no idea on how to go to the law, whether they have any rights for property or not. The other group includes the women that already have gotten a certain experience in law-process, however they failed in a suit. Some respondents told that they "have felt the judge took a jaundiced view"²⁹ or «hinted at 400USD to evict the flat from the husband».³⁰ Women do not have money to give a bribe or recruit a paid advocate.

In the Soviet time, many rights of women in marriage and divorce were fixing up automatically. Firstly, the specific rate of marriages was rather high. Secondly, administrative and public levers for regulating the marital behavior were used widely: local, women's, party, worker's associations, rural councils, etc. Nowadays, everyone has to strive for realization own rights independently. The process of learning the personal rights in the context of democratic transformations in the society is going slowly first of all, it happens because of lack of relevant knowledge, and also high expenses needed for protecting rights in the court. This income is not considered as legal but consequent of low salary rate among the judges. For example, the official salary of the district judge is equal to 10 USD.³¹ As a rule, women face difficulties in realization their legal rights due to restricted social communications and economic dependency on their husbands.

So, almost all respondents were aware that the law guarantees economic rights for women and children in the marriage recorded in the Registration offices. However, women could not fulfill their rights due to following reasons:

- Do not know how to apply to the law and other law-enforcement offices;
- Defending own rights in the court requires expenses, whereat women usually depend economically on their husbands and other relatives;
- Law-enforcement offices take a jaundiced view of women having lower social status and too restricted range of social communications in comparison with men.

Personnel of jamoats told that women frequently complain on their husbands, however jamoats are not authorized to consider many questions related to claims on property put by women affected by the illegal divorce or illegal marriage. In the Soviet time, local committees, party committees or worker's associations up to place of work usually resolved the family disputes. Husbands-affronters were subjected to administrative and public penalty. Obviously, women used to refer to public and administrative facilities for assistance. And, nowadays, non-governmental organizations, women's committees and jamoats are popular. However, there are few NGOs operating in rural. Women committees and other public organizations have no such authorities as they had in the Soviet time. Nevertheless, the legal

²⁸ Interview with advocate of the legal center, May 14, 2002.

²⁹ Interview with Malohat, February 12, 2002.

³⁰ Interview with Nigina, April 17, 2002.

³¹ Interview with Firuza, the Judge of a district, April 25, 2002.

culture was not developed since those times. Rural residents went to the court and law in extremely rare cases. The research demonstrated that women knew about disputes of registered marriage could be solved by the court, but no one knew how to do so. Nobody knew about how to write up a claim and other documents for applying to the courts. It is necessary to establish special structures within the law-enforcement authorities with focus on women's rights protection. Personnel of such divisions should pass through special trainings and work in a close collaboration with local public organizations. The principal difference between them and NGOs expects the governmental legal authorities to represent these divisions and acculturate defending of own rights based on juridical norms adopted in the country. Moreover, the level of confidence among women to governmental legal institutions must increase.

Awareness of the complete spectrum of rights by both men and women would awe men into more careful behavior in marriage as they understand the risk of being subjected to the economic and criminal responsibility by women's initiative.

2.2. Religious norms and their influence the family's relations

2.2.1. Religious norms in polygamy and religion manipulations in matrimonial relations

Polygamy in Islam is known not because of its prevalence, but possibility for such matches to exist. This phenomenon may be occurred in the Muslim world not more than in 3 per cent cases. Since the educational level among women is getting higher, percent of plural marriages among Muslim nations gets down.³²

There are many prejudices concerning the polygamy idea in Islam. In fact, Islam allows limitary polygamy nowise encourages it. «And if you apprehend that you will not be able to deal justly with the orphan-girls, then marry of other women such as please you, by two, or three, or four, but if you apprehend that you shall not be able to act equitably, then marry only one of them, or what your right hands own. That will be more fit that you may not swerve».³³ Referring to the Koran, the majority of respondents recognize that polygamy must be equitable towards a woman and act as mean of support of social and economic status. Usually, the respondents named the following basic conditions that serve as ground for polygamy from the vision of religious morale; 1) economic support to be provided to every wife; 2) the sterility of the first wife; 3) impartial attitude towards all wives and equitable rights for the property.

Questioned respondents mentioned only two cases when husbands married the secondly because of the sterility of the first ones. In the first case, it happened 8 years later the marriage when relatives found the second wife under the condition that he would not get divorced with their sister and wives would live together.³⁴ In the other case, a man lived with his spouse 9 years but she could not give a birth to a child. During the interview, the respondent complained on wife's brothers, as they have not advised him to marry for the second time. He was convinced that they would think about his necessity of having children. And, considering that absence of children is their sister's fault, the idea of marrying the

³² Абдел Рахим Оман. Планирование семьи в толковании Ислама. – Душанбе, 1999, с. 9

³³ Коран, сура 4:3

³⁴ Interview with Mr Sherali, March 11, 2002

second wife must come from the wife's brothers firstly. For a long time he was waiting for any initiative from them until he decided to put this issue under discussion. Spouse's brothers have agreed.³⁵ Majority of observed cases showed that women did not participate in making a decision on establishing a polygamy family. In many other cases second weddings remain a secret for the first wives. This may explain why men did refuse from cross-examination with their wives. Interviewed first wives usually got informed about second wives occasionally, sometimes many years later, when the husband had already common children in the second marriage. Speaking about economic support, both the first and the second wives were complaining about husbands unable to provide one family even. Additionally, in the families of questioned respondents (men and women), husbands occasionally give money to wives directly in hands. Usually, the financial support is provided in form of purchasing food and clothes. Men believed in this significant indicator of their ability to maintain the family. Despite the theoretical knowledge of respondents regarding conditions favorable to polygamy, we failed to face any case where a husband fulfills all religious obligations entitled to the polygamy family.

2.2.2. Polygamy assessment and the system of responsibility of various socio-demographic groups

All interviewed women regardless age stated that the wife must be single. Men having experience in polygamy marriages also considered its better to have one wife because of difficulties of providing two families and, wives getting quarrel continuously... But male-adolescences expressed a pragmatic opinion about plural marriages. They said: «it is better to have several wives. One is giving births to children and caring of them. The other keeps the house. With the youngest wife one may travel to resorts. And all families will be closer each other. And children will be friendly and help each other in future».³⁶ Contrarily to the elder generation, these teenagers having no idea about religious, juridical and moral responsibilities concerning polygamy, express the public opinion which will regulate gender roles in the family where the woman is represented as an object intended to satisfy husband's will, but not a human being with own feelings, desires and plans for realization of personal rights. Children perceived females as machines that must bend to spouse's will, being unsuspecting that each of them may be distracted if his wife have own vision of family life, ambitions, desire to fulfill own capabilities, etc. Men already having family experience understood that conflicts in a family are unavoidable especially in the polygamous family, although did not recognize the major source of conflict that is underestimation of human ambitions natural to women and men as well. In their vision, *he* only has human ambitions, therefore free to take decisions of own and his wife who must follow husband's will.

Existing background for public opinion is already characterized by erratic knowledge of juridical and religious norms that promote irresponsible male marital behavior and female rightless status leading to further oppression of women. It is important to underline that all respondents regardless age and sex are well informed about the complete list of women's duties; these lists are more or less similar and include: to bring up children, to care of children's health, to clean the house, etc. Failure to accomplish these duties is punishable

³⁵ Interview with Mr Mansur, February 16, 2002

³⁶ Focus Group of March 6. Urban teenagers aged 6-16 earning a living at the bazaars.

rather cruelly, sometimes varies from physical punishment by husband and his relatives to public censure at the community level. Majority of respondents expressed the most popular and, sometimes the only men's duty – gaining money. Nevertheless, failure to fulfill this obligation is not subjected to physical punishment (differently to women) and does not cause a community's protest. Public opinion can be referred to the general macroeconomic difficulties in the country, such as total unemployment. This guess is not evident but explains men living in dependence.

2.2.3. Influence of religious, general and juridical norms on different stages of marital relations

All respondents regardless age and social status mentioned the religious procedure entitled *nikokh* (tiring of the marriage bonds with religious ceremony) as the most important at wedding

«Without *nikokh*, the God does not bless the marriage. In the Soviet time, the communists rejected *nikokh* or concluded it in secrecy as it was subjected to exclusion from the party or dismissal from the job. But if *nikokh* is not accomplished, the Muslim law stains it with *kharom* (disgrace, stigma)»³⁷

«The Muslim *nikokh* is the most important. *Nikokh* is obligatory even if registration in ZAGS exists. If the *mullah* concluded a *nikokh*, then the registration is not necessary, up to husband's decision».³⁸

Schoolchildren (8-9 grades) from different communities considered the ZAGS registration as an obligatory one.

«I think that ZAGS must be done because the marriage registration is stamped into the passport; without registration, if a girls gets divorced, no partition of property takes place. She gets nothing and returns back to her mother to live».³⁹

«Sometimes, people consider *nikokh* as priority. *Nikokh* is obligatory even if the marriage is registered in ZAGS. And vice versa, if the *mullah* made a *nikokh*, registration in the ZAGS is obligatory».⁴⁰

All respondents gave priority place to *nikokh* in a process of family creation. But when we were talking about rights of the second wife at divorce, the majority of them referred to the legislation only. All of them realized that the second wife having no wedding registration is deprived of rights on property and alimony. Some female respondents being the second wives (but not most of them) mentioned about equal rights must be provided to both wives on property and financial support. In these situations, they stressed wishes through the word “must”, but no clear statements about actual rights of the second wife were made. Nobody considered that it is necessary to apply to *kozi* or to the law on order to make a claim on fatherhood justification, partition of property or alimony for the children.

³⁷ Focus Group of March 29, 2002. Students of the University.

³⁸ Focus Group of March 6, 2002. City schoolboys of 10-11th grades.

³⁹ Focus Group of April 2, 2002r. City schoolgirls of 8-9th grades.

⁴⁰ Focus Group of March 5, 2002. City schoolboys of 8-9th grades.

So, the youngest respondents (schoolchildren, grades 8-9) gave a positive assessment to legalization of marriage. The eldest respondents, including schoolchildren of 10-11th grades, students, adult men and women – either considered the wedding registration unnecessary, or failed to give any assessment to this procedure. The secondary schools teach subjects concerning basics of rights. These disciplines are available in the school curriculum since the Soviet time. However, only the youngest respondents expressed the confidence to juridical justification of the marriage.

«The secondary schools offer subject entitled “The State and the Law” to the students of 8-9th grades based on the textbook published in Tajikistan in mid of nineties. Four academic hours are scheduled for the “Family Law” topic. Students of the 10-11th grades study the subject «The Human Being and the Society». This lesson was introduced to the curriculum in 2000/01 school year; it has replaced the previous one «Introduction into Society» that was the integrated part of the school program since the Soviet period. For the first time, the textbook «The Human Being and the Society» was published in 2000 in Tajik. The text is very hard to understand. Sometimes, I myself do not understand what is written there. This paper does not envisage learning of the juridical norms and procedures ensuring human rights. Only one hour is shared to the theme “Legal Culture” taught in the senior classes.

In the post-war period, the quality of school education has decreased as result of well-known reasons. The discipline both among teachers and students has deteriorated too. But since 1998, school administrations and the Ministry of Education has been setting higher requirements to teachers and students. Especially, since 2000, the school disciplines have improved significantly».⁴¹

Since this moment some significant improvements became visible in legal perception of matrimonial relations among questioned schoolchildren. The youngest ones give a priority to the law, however the religious marriage procedures are still powerful.

The Degree of the President of the RT “On legal policy and legal education of the citizens of the Republic of Tajikistan” was issued on April 9, 1997. It focused on promoting higher level of legal awareness of population and interpretation of law’s contents, including the Family Codex of Tajikistan. Degrees made by the first person of the country achieve certain public resonance. Even if there is no the more-or-less systematized mechanism for implementation of such degrees, an administrative boom is raising up aiming at realization of these degrees; often no financial expenses are required.

Religious regulations based on gender asymmetry, affected greatly the marital conduct. All Islam statements and its interpretations define separate roles for the wife and the husband.

«Who obey his wife in her desires will be pushed face down the Fire... \He has prohibited\ soother her in disobedience the parents \of husband\ in tearing his allies ...»⁴²

Especially this statement on subordination and wife’s dependency on husband acts as a main factor in marital behavior.

⁴¹ Interview from April 12, 2002r. Teacher of the subject entitled «The State and The Law» and «The Human Being and The Society» in the secondary school.

⁴² Islam Chrestomathy / translated from Arabic. – M., 1994, p 93

« We know many stories about husbands having several wives. The first wife must be a senior forever. But, the husband usually leaves to the youngest wife. However, he prefers not to divorce the eldest wife neither via Registration office nor *talokh*.⁴³ We all know that the women living with husband under ZAGS registration have more rights. But in reality, more rights have the wife with whom the husband lives currently. But if they get divorced, this wife receives only what the husband decided to give her.»⁴⁴

As women do not know mechanism of realization of own rights, men being assure of own impunity, regulate marital relations as they want to, according to own sympathy, manipulating with economic dependency of women. When the man has to undertake serious actions, such as divorce, he refers to the law, which is more convenient to him in this matter (sometimes – civil law, sometimes - religious), i.e. does not entitle to penalty or responsibility. If the marriage with a wife is legally recorded, the husband may just say «*se talokh*» without attestors or religious men who can justify the fact, and leave to the second wife. If a marriage is not registered, the husband may simply go away, being sure that the second wife cannot announce proprietorship and alimony rights. Such manipulations can become possible with those wives who do not know about own rights. Despite the fact that many women talked about equal rights, few women only succeeded to explain what they mean under “equality”. Some women and girls stated that women must get education, profession, right to work, but not limited to serving a husband, whereat the main female characteristic includes obedience to husband, in-laws, and then, her parents only.

The other obstacle to the realization of the human rights is that sphere where a woman makes decisions is limited to housekeeping. On other wheels of life, usually neither women’s decision is taken into consideration, including when she is given into marriage, during the family life and at divorce. Therefore, even random theoretical knowledge on own rights cannot be fulfilled without approval of relatives. In their turn, relatives are usually driven by the moral support of community, *makhalla*. Usually relatives prefer to sacrifice woman’s rights, «to wash one's dirty linen at home», to avoid stigmatization of own family by the community.

2.2.4. Other aspects of religious institutions

Some respondents mentioned the women in polygamy marriages that consume the services of *mullahs* with the purpose «to return a husband, to embitter other wife’s life conjure». ⁴⁵ Such practice incurs disfavor.

«Many women go to *mullah* for exorcism. The Law must punish this». ⁴⁶

⁴³ Religious ritual envisages *se talokh* (to repeat “divorce” three times) to be pronounced and the divorce is considered as accomplished. No presence of a religious man is required to justify the dissolution of a marriage.

⁴⁴ Focus Group of March 5, 2002. City schoolboys of 9th grade.

⁴⁵ Focus Group of April 2, 2002. City schoolgirls of 8-9th grades

⁴⁶ Interview with Ms Zebo of February 15, 2002.

Obviously, the Law here means the legislation or civil administrative power, but not religious dogmas. The practice is supported usually by general or religious law, but assessed by some individuals as negative and makes to call to answer. Again, female respondents knew that existing legislation does not punish this. It states that they have certain knowledge of civil law. On the other hand, despite realization of juridical rights passes through barriers, level of confidence of individuals to governmental legal institutions are much higher than to religious or traditional. Respondents see the legislation as the only way to control and limit negative practice of religious and traditional institutions.

None of respondents mentioned ways of realization of religious or customary laws. Women having no wedding records in the Registration office and experiencing difficulties because their husbands stopped to fulfill duties of the «provider», were asked the question: «Why did not you apply to mullah who tied your marriage bonds?». None of them saw any sense of doing so. They replied: «Does he remember whom he *made a nikokh?*»⁴⁷ or «What can he do?»⁴⁸

The existing situation in the country is so, that religion serves to men for protecting their manipulations over women, but no mechanisms exist in the country to control on how men do carry out their duties fixed by the religion and mechanisms of calling to answer (wife's duties are under control of her husband and in-laws). Instinctively all respondents felt so. That is why, when they were talking about calling to answer, all referred to the civil law exclusively.

4.4. General (oral) norms and their influence on marital relations

2.3.1. Assessment of nuptial contract by respondents

New Family Codex of the Republic of Tajikistan adopted on November 13, 1998 envisages regulation of proprietorship within legislation and nuptial contract as well.⁴⁹ Legal relations concerning common property of spouses can be applicable to a legally registered marriage only. No legal basis for proprietorship exists in case of absence of wedding registration, but existence of actual marital relations (man and woman live together regardless duration). In this situation, the Civil Codex of the Republic of Tajikistan regulates disputes on proprietorship.⁵⁰ Although there are cases of concluding nuptial contracts but this practice is not common in the country. Only one Focus Group have mentioned a nuptial contract and commented negatively this procedure.

«Some couples sign up a nuptial contract. But they are mainly people who do not rely on each other».⁵¹

«Psychologically we are not ready yet to conduct nuptial contracts, because this contract oversees a divorce whenever. Whereat, when anybody gets marry, it seems forever».⁵²

⁴⁷ Interview with Ms Munira of March 2, 2002.

⁴⁸ Interview with Ms Dilbar of February, 2002.

⁴⁹ The Family Codex of the Republic of Tajikistan. Chapters.7, 8.

⁵⁰ The Civil Codex of the Republic of Tajikistan. Chapter.17, part 1.

⁵¹ Focus Group of March 29, 2002. University students

⁵² Focus Group of March 29, 2002. University students.

«The regional specific must be taken into consideration. Here it sounds unnatural to disbelief at getting married. For our people moral-ethical aspects are more important rather than financial ».⁵³

Traditionally, the property is registered on husband's name. Nobody thought that such attitude towards common property could be interpreted as commerciality of men. At the same time, women thought it is shame to demonstrate commerciality at marriage and passively agreed on man to be a legal owner of all common real and personal estate. Gender norms in the Tajik society are being regulated by the public opinion based on «honor-stigma system». Ms Colette Harris studied these relations in Khatlon oblast through case-study method.⁵⁴ Nuptial contracts are not popular as they limit rights and duties of both sides, the same does the wedding registration. Existing division of gender roles in the society defines limited range of rights for women. Referring to below information, the public opinion supports such relations by manipulating religious doctrines and restricting assess of women to legal rights. Especially by decreasing possibilities for realization of legal rights to women, men do achieve an absolute power on women.

Frequently, parents and relatives of a groom and bride conclude a nuptial contract that does not have a legal power but violates the law. Such nuptial contract obliges «women under marriageable age to get married regardless their will». And, although, the article 168 of the Criminal Codex RT fixes responsibility for contraction in regard to person under nudity or, in case of such marriage, the person are called to account «years later the marriage when the family has children already and wife achieved a nudity».⁵⁵ Hereby, punishment of guilty person deepens an economic and social status of the family and threatens the wife's position.

2.3.2. The “*Kalim*” and dowry

Management of both aspects related to financial expenses is discussed between relatives of groom and bride without false shame. For example, *kalim* paid for a bride is a rather popular phenomenon. *Kalim's* size depends on «fine manners» of the bride and the rest women in the family. *Kalim* – it is a “donary” defined by bride's relatives and parents like the price for her dignity, fertility, ability to serve in-laws, “professionalism” in housekeeping. So, a girl is a profitable product for parents, which they try to sell as expensive as possible, depriving her of normal childhood.⁵⁶

«In the Northern region of Tajikistan *kalim* is not taken, but in the Southern part the *kalim* is demanded... It was a love match. My husband and me were working together, fell in love and decided to get married. Our parents affianced us. The husband's relatives have brought *kalim*. But expenses on wedding our parents apportioned between themselves».⁵⁷

⁵³ Focus Group of March 29, 2002. University students.

⁵⁴ Colette Harris. Control and Subversion/ Gender and Socialism in Tajikistan. – Manchester, UK, 2000, p. 93-118

⁵⁵ same, p.12

⁵⁶ M.Sharipova. Preliminary analysis of the qualitative data of the survey «Impact of violence on women's health»/ NGO «Open Asia» and the Swiss Cooperation Office. – Dushanbe, 2000, p.8-9

⁵⁷ Focus Group of March 25, 2002. Urban women aged 25-45.

«I married off my daughter. I received 1 cow, 2 sheeps, rice, flour and sweet candy. I married her off to my relative. We agreed to celebrate a wedding party on joint expenses. But they rubbed along very unhappily. They have divorced in three months. Daughter returned home with nothing. All I gave her as dowry stayed in husband's house. She was 14, when she has gotten married for the first time. Later, I gave her to marriage for the second time. She has been living with her husband for 3 years. She has two children. But we did not registered the marriage in ZAGS as the registration requires money we have no ». ⁵⁸

This interview demonstrates that *kalim* could not guarantee the married off daughter to be in eternal custody of her husband. Although, this is the main hope of parents when they ignore registration in ZAGS referring to it's high cost. Even have been experienced high financial losses at marrying off the daughter for the first time; they again saved money on registration of the second wedding. If *kalim* has been paid for the bride, obviously bride's parents hand out their daughter to whip-hand of husband and his family and disavow responsibility on own daughter and other proprietorships. It has to be mentioned that such attitude towards the married daughter exists in cases even when *kalim* was not mentioned.

2.3.3. Customary rights and gender roles in the marriage

Almost all respondents identified the status of a woman in marriage as a complete subordination to husband, in-laws and then her parents only.

«A woman prior must listen to her husband, then his relatives **whom he will note** (*Highlighted by me - M.H.*), his parents. Now she belongs to her husband. After him, she must listen to her parents. Mother must bring up the children. Husband is the head of the family; he must provide a wife and children with food and clothes. He must respect his parents. If the wife does not fulfill her duties, he should beat her slightly. If again she does not obey him, he must turn her out of home. It is not necessary to divorce her, but just to say *se talokh*. But if a husband does not carry out his duties, a wife may kick up a row but at home and not to complain to any one. But generally, the wife must bear it as husband is her master». ⁵⁹

«Husband must be the head of a family. He has to be respected. Nothing can be initiated without his permission. A wife must respect his parents, to help them. She must ensure that children follow his requirements and listen to him. She must also respect her parents. If they have married off the daughter, it means they are right and it is the proper decision». ⁶⁰

“A woman has to stay at home, clean the house, wash the clothes, give births to children, respects in-laws and own parents. A man must provide food, earn money and maintain the family. He also must respect his parents and his in-laws. If a wife does not carry out her duties, a husband swearing at her, beats her and turns her out of

⁵⁸ Focus Group of April 2, 2002. Rural women aged 28-40.

⁵⁹ Focus Group of March 17, 2002. Urban teenagers earning a living in bazaars.

⁶⁰ Focus Group of April 2, 2002. Women aged 28-40.

home. But if a husband does not fulfill his duties, a wife stands him all her life. A wife has to work in order to provide the family».⁶¹

«A husband must work, bring money to home, provide the family. If he fails to fulfill these obligations, we oblige to be patient and search for income sources ourselves. But nobody could not turn him out of house, otherwise he will either beat down or kill such a wife».⁶²

Respondents can define the position of a woman as a complete subordination to a husband, called as “master”. Wife’s range of responsibilities defining her marital behavior includes respect to the husband (first of all), in-laws, and then all other his relatives and own parents. Almost nobody mentioned the respect to wife by her spouse and in-laws. Only schoolgirls and female-students have underlined «Husband must respect his wife. She/wife/has also a right to work».^{63 64 65} Within gender roles characterized by customary laws, women suffer abuses from husbands («he swears at», «he beats», «can turn out of home», «can beat down» or «kill»), however the husband does not get punishment. If a man does not carry out his duties of a «provider», then a wife «stands it», «goes to work».

When men do not follow gender roles prescribed by the customary law, they enforce their powerful position through violence, including the physical. Society is quite tolerant to such kind of marital behavior. But the society blames the woman if she undertakes efforts to apply to the law or other governmental or public organizations to get protection from violence.

«We met each other and got married while studying in the institute. We have been living together for 15 years. We have 2 daughters. Frequently, after coming home he beat me. Sometimes he lost control and beat children too. Once he has beaten me so hard and fractured my arm. It was before the New Year Eve. I hardly managed to run away from home, right in a home dress to my brother’s house. My brother and me applied to the nearest police office and wrote a statement. Next day I received a forensic certificate on severe injuries. We have prepared all papers to apply the court. Firstly, the husband has been arrested for 2 weeks. He was beaten unmercifully there. Then, the public prosecutor called for me. He was the relative of my female-friend. He advised to take a statement back, as my husband could be imprisoned. He explained, I would have no fair chances to marry off my daughters to good families, as everybody would speak about their mother who has imprisoned her husband. I took the statement back. The case was closed. Then we lived together for next 5 years. For this period he never beat me. Then, I suddenly learnt that he has the second wife found by his mother. My mother-in-law never loved me. I suffered much when we lived in her house. Now she found him an uneducated woman. Certainly, when I learnt all this, I wished not to live with him any longer».⁶⁶

⁶¹ Focus Group of April 3, 2002. Rural girls aged 16-17. Now, they are not enrolled into schooling. Most of them never went to school.

⁶² Focus Group of April 3, 2002. Rural women aged 25-40.

⁶³ Focus Group of March 5, 2002. Urban schoolgirls of 9-11th grades.

⁶⁴ Focus Group of March 29, 2002. Students of the University.

⁶⁵ Focus Group of April 2, 2002. Urban schoolgirls of 9-11th grades.

⁶⁶ Interview with Ms Fatima, April 11, 2002

«My husband has disregarded me two years ago and left to the young wife. We did not get an official divorce. We have three children. He even does not help us with a living, although he owns a shop. We lived in a mother-in-law's house. I had no place to live when he had turned me out of house. I felt shame to return to my parents home because three my brothers with their families reside there. I work in a kindergarten. My boss succeeded to arrange a room in a dormitory for me. I live there with my children now. I am ashamed to suggest a divorce and demand for alimony, because my husband is my cousin. Our clan will expose to shame if I apply to the law. My parents did explain me so».⁶⁷

In above stories the family's honor and well-being of children in future is supported by a woman's self-sacrifice. The customary law blames a female if she brings family conflicts out of own home. If she is without a twinge of conscience and puts family conflicts into discussion to the legal authorities, then they put forward manipulations and blackmail about children. Law officers also represent the members of this category and understand clearly what indignity will such women suffer. Therefore, even feeling sorry for such women, many of them advice not to interfere official legal authorities into family affairs for their «good». In this regards, customary law restrains women's initiatives to fulfill their juridical rights.

2.4. Cause of polygamy: myths and reality

There are many myths about polygamy's causes. The myths majority believes that such an outspread of polygamy is women's fault. As to opinion of respondents, women do not perform prescribed obligations and thus, enforce men to look for the second wives satisfying better the requirements fixed by the customary law to wives.

- The first wives do not satisfy men: they give frequent births and do not care of own beauty.
- The first wife gets sickness or aged earlier. Or she is angry and quarrels often. She listens much to her relatives and does not respect in-laws.
- There are wives that give births to girls only, but husbands do dream of boys. That is the reason why husbands marry to the second wives with hope for a son.
- A husband must be cared, pleased, met at and seen to the door, because husbands like children. But if a wife does nothing, then she is mistaken thinking that a husband is needed for a night and making babies only. Just an intimate life and children are helpless to keep a husband. His love and respect to the wife is important. If so, he will never get married for the second time.
- If a wife does not satisfy her man at lovemaking, it causes bigamy. My sister is 45. She is ill. Therefore, we have arranged the second marriage for the brother-in-law, as my sister is unable to share a nuptial bed with him.

⁶⁷ Interview with Ms Adolat, February 1, 2002

- Often, a wife cannot sleep with her husband for 40 days after giving a birth to a baby. And he finds a female aside. Then he gets used to this woman and she becomes his second wife.
- Usually, husbands get the second and third wives if the first wife is sterile.

The second group of myths makes also women responsible for polygamy outspread, emphasizing that women themselves agree to become the second wives just to gain a family status. The proverb «*Shu dori – obru dori*» (If you have a husband, you are respected in the society) reflects woman's status in the society. If a woman unmarried (single, widow, divorced), she is despicable. Therefore, the myth exists that a woman will agree on any conditions but to gain a family status, i.e. respect from community.

- Women agree to become the second or third wives but not old maids any longer. It is stigma.
- Number of men is less than women; if a woman want to have a baby she agrees to become the second wife.
- More «approachable» girls became available.
- Frequently, the poverty forces a woman to become the second wife, in case her husband dead or divorced and she has 2-3 children and is not able to provide them. She agrees to become the second wife at least as the husband will support her.

The separate group combines myths demonstrating parental role in polygamy. All opinions regarding parents are negative. All respondents assessed parental behavior as compulsion.

- There are men enforced to marriage by parents' will; when they fall in love, they got married for the second and third times.
- Sometimes mother-in-laws puts their sons against wives.
- Some parents marry their sons on uneducated women, to make her stay at home and keep the house. Let the wife be foolish. But these silly girls drive their husbands to despair making them to marry for the second time.
- Parents marry off their daughters at 14-15. They divorce 1-2 years later. Then, they are passing from one man to other becoming the second wives to each of them. Some of them - because of money, the others - just to have husband.
- Usually, the parents put their daughter in marriage as the second of third wife, because they want to see her married as soon as possible and decline all responsibility over her and her children.
- Commonly, men get married the young girls aged 13-14. They are put in marriage, so that parents may say she is already married.

- Especially, at the time of military contradictions, parents put daughters in marriage quickly to avoid any dishonor. In this connection, girls were intended to become the second or third wives but just be married.
- In nineties, there were cases when parents gave off their daughters as the second or third wives in exchange of a 50-kg bag of wheat flour. Parents were starving themselves and thought they would sacrifice one daughter but feed the other children.

Myths on men's role in polygamy carry out an excusing character. Group of similar myths explains and tries to excuse a man's behavior referring either to female's guile or objective difficulties making him to act so.

- Men get married for the second time foolishnessly. Firstly, a man starts visiting a woman, supports her, then she takes him in her hands and he announces her as the second wife.
- For a man it is better to have a single wife. But sometimes, the second one is also necessary. If the first wife is far from husband, of course he needs someone to wash his clothes, clean the house and cook food. The second wife manages all of these duties.
- Men come to the city for earning money. They have no place to live. They get acquaintance with single women. Because of apartments these men live with women and call them the second wives.
- Frequently, the cause of polygamy includes immorality of men and frivolous attitude towards the family. My neighbor has a wife and 4 children. But he behaves himself non-seriously. Firstly, he enjoyed a woman of easy virtue, and she obliged him to marry her as his second wife. He agreed. Currently, he lives mainly with the second wife. He is visiting his first wife once-twice per month. There are so many frivolous men and women in the world, caring nothing about future.

There is also the other group of myths referring polygamy to fashion, inevitable tendency.

- There is plenty of money, therefore men afford having 2-3 wives.
- It became popular to go to Hadj. According to Sheriat, a man may have 7 wives.

Customary law is the most acting regulator of the marital behavior. Customary law is flowing out of the following conditions: 1) complete dependency of women on men; 2) female heiress are given no share in family's inheritance; 3) education of a girl that makes her valuable as a bride. In connection with such conditions, the rapid competition among brides has increased within existing demographic asymmetry and lack of economic opportunities. Groom's relatives consider young brides as the best choice, because in early age there are lack of possibilities to commit «sinful actions», including not only the sexual experience, but education, keenness on reading, aspiration for broader range of interests, willingness to choose and wear fashionable clothes, desire to be liked or love someone.⁶⁸

⁶⁸ M.Sharipova. Preliminary analysis of the qualified research data «Impact of violence on women's health»/ NGO «Open Asia» and the Swiss Cooperation Office. – Dushanbe, 2000, p.8

«In our kishlaks girls do not go to school. If any girl goes to school, people say she is deprived and no one will marry her».⁶⁹

An uneducated wife is more obedient, comes easier to upbringing, i.e. corresponding better to the gender role convenient to men for unpunished manipulations with all types of rights.

The striving of parents to marry off their daughters is enrooted at fear of fortunes of their daughters, as they are not entitled to family inheritance up to customary law. An economic base, at least enough for physical survival can be obtained only by flowing into a husband's family.

«When I was 20 years old, I was hijacked by armed people and enforced into marriage with their brother. He was retarded. It was so humiliating. After one week I run away. When I came back to parental house, my mother scold me because armed soldiers had been already searching for me. Mother was afraid they would never leave our family in peace. I left to live at my aunt's house in kishlak. I resided there for a time, and then came back since the situation have calmed down. Currently, I am living together with mother, brothers and sister, whose husband was a drugster therefore her both sons suffer from congenital backwardness. My sister sells green vegetables at the bazaar; I look after her children, clean the house and take care of cow. My mother swears at me like mother-in-law. She says if I were good, I would be married already. She blames me for not working but eating out of house. Just to escape from blames, I wake up at 5 o'clock in the morning and do all the homework. I wish I had a land to build a house and live separately. I wish my sister with children lived with me too. But mother force me into marriage, although nobody except for aged men over 60 asks in marriage. But I wish to marry a young man and live happily. Why do I need an old man?! Soon he will die and I will bring up children alone. Yesterday mother have started again forcing me to marry this old man. He is not wealthy. Nevertheless, mother considers I need a husband, because when my brothers will get married they kick me out of house, despite I do all the housework. She concerns I will stay with nothing after her death».⁷⁰

Despite of humiliating attempts to force Matlyuba into marriage, her mother, first of all worries about her future. Having own life experience, mother knows how difficult to build a house without husband's support. She may not stay to live in the parental house as to customary law it owned to sons. But Matlyuba has taken an independent decision to marry for love but not because of house. She has applied to the women's center to ask for the advocate's consultation to know how it makes possible to retake the land, that is legally owned by the former husband of her sister.

More than 70% of population lives in rural that defines the patriarchy in marital behavior. Hard conditions of housekeeping (no or irregular electricity- water-, gas-supply), possession of many children and elements of patriarchal life require much efforts and time to ensure survival for all family members. This has differentiated gender roles within the family: someone must be devoted to providing conditions for family survival, and the other - to earn money. Uncompleted family has lack chances to survive in such conditions.

⁶⁹ Focus Group of April 3, 2002. Rural girls aged 16-17. None of them went to school.

⁷⁰ Interview with Matlyuba, April 9, 2002.

Therefore, existence of two adult persons in the family is the necessity. However, the public awareness transfers it to the symbol of well-being and prestige. Because of existing demographic asymmetry which demonstrates deficit of men, single women are perceived as defective, because they are exposed to higher risk in achieving an economic prosperity in a family, upbringing healthy heirs, etc. If the asymmetry were turned to deficit of women, the single men would consider as defective. So it happens in China, where the Government controls the birth rate through repressive demographic measures.⁷¹ As boys in China were considered as legacies, they represented great value to parents. Availability of early diagnostics of future baby's sex on the fetus stage caused female fetuses exposed to medical abortions more often than male-fetuses. As a result, nowadays China is experiencing demographic asymmetry towards deficit of women. In this connection, competition among grooms has risen; and men feel psychological problems such as uncertainty, low self-appraisal, and problems with sexual potency.

Interviewed second wives can be divided into two groups. The first group is numerous, mainly consisting of poor-educated rural and urban women having no personal income, divorced with the first husband or widowed, sometimes having children from the first marriage. Their parents forced them to become the second wives so that husbands could ensure accommodation and provide them and children. It seems, some women feel convenient to this, believing that the second wives are entitled to more benefits.

«I was married off by my parents by force because of war. We were starving. Our family consisted of 10 members. My husband was providing my family plentifully and still continues to do so, although my brothers are working now and maintaining somehow parents and sisters. Firstly I was not in love with him, but loved later because he treated me very well: made presents, gave money. However, he is very jealous. Because of jealousy he can slap me (but never run amok), later he regrets about. I could not thwart with him, I do agree with him at every point. His word is law. He loves children very much. At the beginning I wished him to divorce his wife, if he had married me. But this is overly, mother explained me so. There is nothing to divide between us. The husband provides us equally. His first wife, additionally, cares of his parents, but I am free. Therefore, that's cool with me».⁷²

In rural areas, the second and third wives know each other, sometimes friendly and obliged to bear each other because they are afraid of husband. Even if a husband does not support them adequately, they are obliged to earn money independently; they do not think even to divorce a husband, because it is shame for a woman to be single. There are cases of overt exploitation of women in households.

«One my neighbor has three wives: the first lives in Gharm, the second- in Dushanbe, and the third one – in Moscow. In wintertime he lives in Moscow with the third wife. In spring – with the first one in Gharm, and in summer – in Dushanbe with the second wife, who cares of his mother. But his mother does not want to live with her. She is always getting quarrel and demanding her son to divorce the second wife and, together with the Gharm wife to go to Moscow for economic opportunities. And poor second wife has no education, no job and has 7 children. And her husband plans to leave her alone».⁷³

⁷¹ Gender and Culture/ Textbook for students. – Dushanbe, 1999, p.57

⁷² Interview with Zaitunna, April 6, 2002. The second wife.

⁷³ Focus Group of March 5, 2002. City schoolgirls of the 9th grade.

Many respondents told that men for the first time get married by force of parents, but not for love. Then, the first wives take care of in-laws. Later, men meet the “inamorata” and live happily with the second wife, visiting occasionally the first wife.

The other group of the second wives includes urban women with high education, divorced, widowed or never been married. Usually, they become the second wives with the purpose to realize their maternity right, desire for love and sympathy of a man already married the other woman. Commonly, they are not acquainted to the first wives. Normally, such marital unions are established upon mutual agreement and harmony. This mutual understanding acts as a guarantee in their relations. Frequently, such relations are hidden from relatives and protected from interventions. Sometimes, such relations live long life.

«I was married once and have a child. Therefore, I cannot think of marrying the single man. When he have asked me to become his second wife, I agreed dreaming to establish a family, have children... After the first unhappy marriage where I have been suffering a lot from husband and in-laws, I wished not the same match for the second time. I feel comfortable of having a husband one day per week; I am not dependent on him much as my brothers support me financially. Such doublethink: on one hand I attached to husband, on the other – I am free. No special pretensions he makes in regards with food, washing, cleaning as he does to the first wife maybe, because I have an education and job. I do not demand much from him too. Why do I need him to divorce with the first wife? Let him make his ambitions satisfied at the first wife’s house. One day per week is quite enough for me».⁷⁴

«I did not want to marry him at all. We never even discussed that. I understood he would never divorce his first wife. He has three adult children. I just wanted to give a birth to a baby. That time I was 32. We concluded the *nikokh* as I wished a baby to be adopted and given his surname. I live in my own apartments and have a job. Before him, I had two admirers but they were adventurers. They stole my housewares, tape recorder, and other things. They were wondering why I needed so many things while they have had families and no money to purchase these things. Then I was afraid of making new acquaintances. But this husband brings almost nothing, but at least, does not take things off home. He likes the daughter very much and agrees to coddle her sometimes».⁷⁵

Relations demonstrate different shapes, the level of responsibility differs, but such unions are establishing based on mutual understanding. Punishment for creation of these unions, based on conscious and mutual agreement would be violation of rights and freedom of citizens on making own choice.

4. SUMMARY

Research outcomes came out broader than it was initially expected while composing the research program. Research has covered not polygamy families only, but monogamous too.

⁷⁴ Interview with Munira of April 7, 2002.

⁷⁵ Interview with Safarmo, March 6, 2002.

→ Research has faced the hypothesis that women and children in polygamy marriages experience specific problems in realization of own rights in comparison with women from monogamous families. With the purpose to revise this hypothesis, the control group of women from polygamous families was questioned. Comparison of questioning's results demonstrated no significant differences in realization of female's rights both in monogamous and polygamous families.

→ Frequently, among respondents there were women from monogamous families having no wedding records in the Registration office. Comparing status of women with and without registration has brought more significant differences rather than comparison of questioning's outcomes in polygamous and monogamous families.

→ The Family Codex and the Civil Codex of the Republic of Tajikistan allow women to fulfill their rights on fatherhood justification, right on property, alimentary for children and at divorce in case if the marriage was recorded in the Registration office. All respondents were aware of the fact, although not near all of them understood how to realize rights in practice.

→ If the marriage was not registered in the Registration office, women do not have the right on property. All respondents also were aware of this fact.

→ If the marriage was not registered in the Registration office, the man has a right to adopt children at his discretion. If he rejects an adoption of children, a woman may go to the law to justify the fatherhood. An advocacy practice shows that such cases are normally resolved positively. Fatherhood justification (voluntarily or via the court) entitles children to alimony and other proprietorship. Almost none of women have been known about this.

→ Legal ignorance of the population leads to manipulations over women, promotes the growth of violence against them. In remote rural areas girls are not enrolled to schooling at all. The customary law encourages it. An intensive changes in stereotypes of gender roles are going on towards traditionalism. Considering poor economic levers for increasing the prestige of education, it is necessary to adopt economic mechanisms for realization of citizens' right for overall secondary education.

→ Poverty served as a major excuse of violation of many rights: no money to pay for a wedding's registration, too expensive fee for birth certificate, no money to purchase books or school uniform for children, no money to hire an advocate, etc. In practice, respondents saw no benefit from the wedding registration. It is necessary to demonstrate widely justice cases succeeded in favor of women. It makes possible to raise the prestige and level of confidence to the legislation. Additionally, the humanitarian aid can be distributed not directly to families, but by means of free lunches and breakfasts in schools. Especially, such campaigns are important in rural, where the prestige of education is extremely low, and girls have no even the eliminatory education.

→ The legal education must be expanded in the secondary schools; methods of teaching of the legal science must be revised in favor of interactive methods and case study. It requires training of trainers with focus on new teaching methods applicable to the subject entitled «Human Rights».

→ In regard with upgrading mechanisms for rights realization, respondents expressed the hope and credit to local governmental authorities, *jamoats*, *makhallas*. Purposeful activity run in cooperation with local communities will help to format the new concept of customary law, where the woman is given all rights. Such understanding of rights by all members of community – both men and women – allows increasing the responsibility of men in marital relations. Men act irresponsibly, believing that women unregistered in the Registration office hold no rights. Women bear any violence and give in to any blackmail because they also do not know their rights and cannot achieve independently their rights to lodging, estate and alimony. Men and women must be aware that the law can defend their interests in case they themselves concern about legitimacy of marital relations. Particularly, leaders of the local communities will play an important role in formation of the public opinion based on juridical law, but not general or religious laws that offer much to men whereas lack protection to women.

→ Formation of such concept for the customary law based on legislation, will help to reduce polygamy's outspread in the country; a man will understand that each his marriage (both official and unofficial) requires great responsibility, including the economic one.

→ Those respondents had heard of women's and legal centers or had consumed an advocate's services, additionally to *makhallas* and *jamoats* named also women's centers that would be helpful in fulfillment of their rights. Talks on effective legal assistance disseminate rapidly among women. Women targeting on fulfillment of juridical rights are increasing. However, such centers are limited in their number. Women's and legal NGOs should provide legal trainings for leaders of *makhallas*, *jamoats*, households' committees, because women prefer to apply to the mentioned offices when they suffer pressures at home and relatives are helpless to interfere.

→ Legal culture was not developed in the Soviet period. Those time family disputes were managed by the public organizations – local committees, worker's associations, party committees. That is why women till now refer to public organizations no more authorized to resolve family conflict like in the Soviet time. It is necessary to implement legal admiss culture through raise of confidence to law authorities.

5. RECOMENDATIONS

4.1 Governmental authorities

- The Ministry of Education should expand the subject «Human Rights» within the faculties entitled «The State and The Law» and «Human Being and the Law» for the secondary schools. To strengthen practical sessions on this subject through interactive methods including education on sue procedures, case study of any proceeding at court regarding divorce, fatherhood justification, and partition of property and alimony disputes.
- To increase the responsibility of local administrative authorities (district *khukumats*, village *jamoats*, *makhallas*) for overall secondary education. A special attention to be paid to education of rural girls and girls-teenagers.

- The Ministry of Education should develop the monitoring system to identify the children enrolled into schooling, especially in rural areas.
- The Government should appeal to the international humanitarian organizations regarding reallocation of the humanitarian food aid to rural schools with the purpose to provide schoolchildren with free two-times food, thus to encourage pupils to go to school.
- In order to increase the confidence in legal methods controlling the marital behavior, Mass Media must be motivated in reflecting the role of law in the family affairs (formal and informal) and examples of juridical resolution of conflicts in favor of victims.
- To establish separate divisions in places; these divisions to be affiliated to the legal authorities and aimed at women's rights protection.

4.2. Swiss Cooperation Office

- To support the next research stage focused on identification of the content and methods of legal education in the secondary school and also activities in *makhallas*.
- To appeal to the Government of Tajikistan and international organizations to debate on the outcomes of the current research; collaboratively to develop measures on better legal awareness of the population regarding marital relations' control and increase of confidence in law.

4.3. International organizations

- To support initiatives of local researching agencies in their efforts to develop textbooks on human rights in marital relations intended for the secondary schools and juridical consultations.
- To support initiatives of the local NGOs on conducting trainings and juridical consultations for teenagers (enrolled and not-enrolled into the secondary education) and other vulnerable groups regarding legal support to marital relations.
- To support initiatives of the local NGOs in their cooperation with *makhallas* on creation of the positive public opinion towards legal registration of the marriage in the Registration offices.
- To support initiatives of the local NGOs in conducting on-site trainings on defending women's rights collaboratively with legal authorities.

4.4. Local NGOs

- To develop the training module “Human Rights” for teachers of the secondary schools. In cooperation with the Ministry of Education, to conduct such trainings for teachers of the secondary schools on the subjects: “The State and The Law”, “The Human-being and The Law” and “Human Rights”.
- To offer free juridical consultations regarding legal proceedings of marital relations, especially in rural areas.
- To cooperate with *makhallas*, *jamoats* and *khukumats* with the purpose to establish positive public opinion on juridical norms regarding nobility, wedding registration, property and alimony disputes, obligatory secondary education for children. Collaboration may be achieved through round tables, trainings, and bulletins’ dissemination, lectures.
- To develop modules for on-site trainings in defense of women’s rights for legal authorities.
- To conduct trainings in defense of women’s rights for legal authorities.

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