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Polygamy in India

Published On: 10-02-2024

Why is in news? Polygamy in India: What the data shows

The Uttarakhand Legislative Assembly passed the Uniform Civil Code (UCC) Bill, 2024 after a two-day discussion. The Bill brings uniformity in personal laws, governing things such as marriage, divorce, and inheritance, across communities in the state (**excluding tribals**).

Among other things, it extends the **rule of monogamy** to the Muslim community. One of the conditions for solemnising a marriage is that “neither party has a spouse living at the time of the marriage”. This clause already existed in the Hind Marriage Act of 1955, but Muslim personal law hitherto allowed men to have upto four wives.

About Polygamy:

Polygamy is the practice of **having more than one married spouse** (wife or husband).

Traditionally, polygamy - mainly the situation of a man having more than one wife - was practised widely in India.

Status of polygamy in India:

The **NFHS-5** showed the prevalence of polygamy (the percentage of women who reported their husbands had other wives) was **highest among Christians** (2.1%), followed by Muslims (1.9%), and Hindus (1.3%), looking at religion. Overall, Scheduled Tribes reported the highest incidence at 2.4%.

A June 2022 study by the **International Institute of Population Sciences (IIPS)** titled **Polygyny in India: Levels and Differentials** analysed data from the NFHS-3 (2005-06), NFHS-4 (2015-16) and NFHS-5 (2019-21). It showed that polygynous marriages (one man married to more than one woman at a time) has **decreased from 1.9% in 2005-06 to 1.4% in 2019-21**, among the whole population.

Buddhists, who reported 3.8% incidence of polygyny in 2005-06, saw the sharpest dip of 65.79% to 1.3% in 2019-21. The incidence of polygyny in the total population fell by 26.31%.

According to the **census of 2011**, there are 28.65 crore married men in India, compared to 29.3 crore married women.

The difference between the two numbers — 65.71 lakh — can be explained either by the incidence of polygamy or men gone abroad. The **highest discrepancy in the population** of married men and women can be found among Hindus (who make up the largest number of Indians), followed by Muslims, Sikhs, Christians, Sikhs, and Buddhists.

A **crucial exception to the bigamy law for Hindus is Goa**, which follows its own code for personal laws.

A Hindman in the state has the right to bigamy under specific circumstances mentioned in the Codes of Usages and Customs of Gentile Hindus of Goa.

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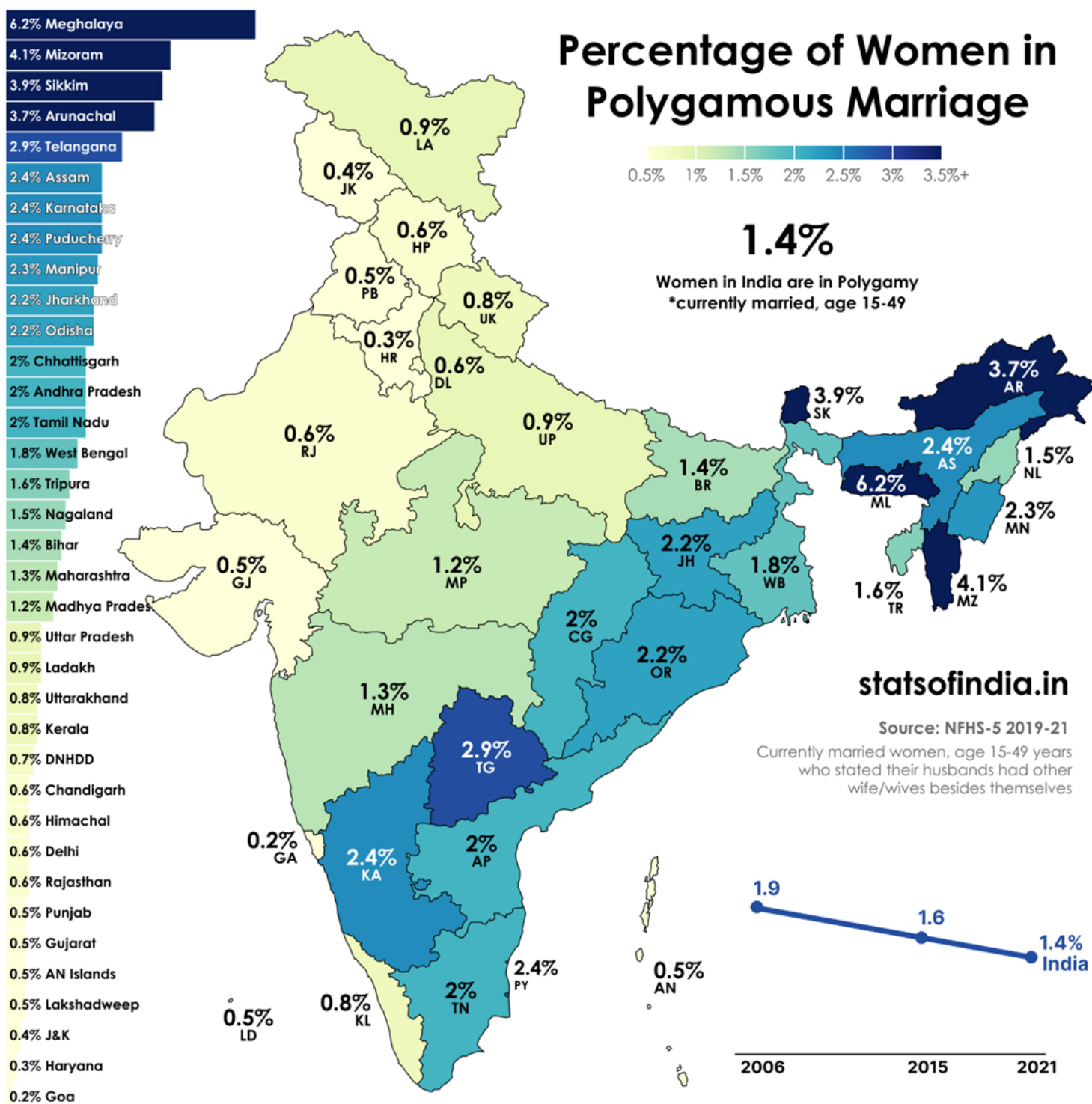
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These specific circumstances include a case where the wife fails to conceive by the age of 25 or if she fails to deliver a male child by the age of 30.

IPC Section 494 penalizing polygamy doesn't apply in case of **desertion by the spouse** that is who has been continuously absent for 7 years.

Tribal population are governed and protected by special laws and the prevalence of polygamy is high among them.



Provisions related to ban polygamy:

Polygamy is governed both by **personal laws** and the **Indian Penal Code (IPC)**.

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The **Parsi Marriage and Divorce Act 1936** - Prohibited polygamy in the Parsi community. The law regulates the marriage and divorce among Parsis.

Shariat Act 1937 - Governs the marriage in Islam. The act allows Muslim man to have 4 wives.

The Supreme Court in **Sarla Mudgal v Union of India** held that religious conversion for the sole purpose of committing bigamy is unconstitutional.

The Supreme Court in **Lily Thomas v Union of India case** reiterated the judgment of Sarla Mudgal v Union of India.

The **Special Marriage Act 1954** - A radical legislation that proposed the requirement of monogamy. **Section 4** of the act states that “at the time of marriage neither party should have a spouse living”.

The **Hind Marriage Act 1955** - Outlawed the concept of having more than one spouse. Buddhists, Jains, and Sikhs are also included under the Hind Marriage act 1955. **Section 17** of the act states that bigamy is an offence.

IPC Section 494 - Penalizes bigamy or polygamy. A person wife or husband in any case engages in second marriage should be imprisoned for a period of 7 years and liable to fine. This provision does not apply to a marriage which has been declared void by a court

Section 495 of the IPC - Protects the rights of the second wife in case of a bigamous marriage.

Article 44 - States that the State shall endeavour to secure for all the citizens a Uniform Civil Code.

Polygamy is **permissible and legal exclusively for Muslims** in nations such as **India, Singapore, as well as Malaysia**.

Polygamy is **still recognised and practiced in nations** such as Algeria, Egypt, and Cameroon. These are the only areas in the world where polygamy is still legal.

Conclusion:

It is true that polygamy has long existed in Indian civilization, and although it is currently forbidden, some regions still permit it.

Polygamy is a practise that is not exclusive to any one religion or culture, and it has historically been justified for a number of reasons.

But because of how society has changed, polygamy should no longer be practised because its arguments are outdated.