

Cultural Sociology of Divorce: Bhutan

Bhutan is a small Buddhist majority country in the eastern Himalayan region of Asia with a largely mountainous terrain, significant forest cover (constitutionally mandatory to have at least 60% of total land area under forest cover), and a mostly rural and agrarian population (total population in 2010 was approximately 725, 940) with the largest urban concentrations (34% in 2009) in the capital city of Thimphu and the border town of Phuentshuoling. Divorce in Bhutan was traditionally very common, inexpensive, easy to obtain, and not associated with any stigma. Both polyandry and polygamy were practiced. Children were (and continue to be) born within and out of wedlock. The attitude to sex is generally casual and non-prescriptive. Marriages, whether arranged or due to love, are often lacking ceremony and come about as a result of consensual cohabitation (in rural areas this can be either at the household of the bride or the groom depending on economic circumstances and the need for labour). As the modern laws on divorce are reformed, updated and clarified, the interests of any children involved and the rights of both partners (especially women) have come to assume greater importance, though there continues to be no stigma attached to the status of being divorced.

Unlike other countries in the South Asian region, Bhutan (with a strong, uninterrupted, and fairly strong Buddhist tradition), was never formally part of the British empire, and therefore it was immune to the socio-legal prescriptions of a normative colonial modernity. Instead of the standardised legally enforceable customs of marriage and divorce, fluid familial, sexual and cohabitational patterns including polygamy, polyandry, night-hunting (traditional custom of boys prowling for girls at night in rural Bhutan which includes entering into their homes and having sexual relations by mutual consent and without any legal obligations) and transhumance, were prevalent; this continues to some extent in rural areas. While there is a nonchalant attitude to sexual relations between men and women which may or may not culminate in a marriage and traditional common law marriages were not marked by ceremony, a modernisation of such practices (necessitated in part by now mandatory regulatory regimes of certificates, rights, and claims) takes various forms, including a banning of polyandry (a woman may still have multiple partners but can only be legally married to one husband) and restrictions on polygamy (consent of the first wife is required and there's a limit on marriages ending in repeated divorces due to own misconduct).

Negotiating traditions and modernities in its own way, Bhutan defies the conventional narrative that associates divorce with a breakdown of traditional values of marriage. The traditional ease of having multiple spouses, serial marriages, and separations can be linked to the requirements of isolated mountainous rural communities in bygone times where structures of kinship evolved to suit functional needs. As Bhutan transforms into a state with an overarching rule of law and the society experiences rapid modernisation (including a peaceful political transition to constitutional monarchy with a parliamentary democracy in 2008, and a proliferation of print, visual and online media after the entry of TV and internet into the country in 1999), individual expectations and social pressures relating to partnership and separation are changing. A formalisation of marriage in urban areas is also resulting in a formalisation of separation in the form of divorce.

In comparison to neighbouring countries, gender norms in Bhutan (which ratified the Convention on the Elimination of all forms of Discrimination Against Women, CEDAW, in 1981) allow for greater degrees of freedom to women in the conduct of their social and sexual lives. The Marriage Act of 1980, sections of which were subsequently amended in 1999, 2006, and recently, is the main legal instrument governing family relations including separation, adultery, divorce and child custody. The most recent amendments to the

Marriage Act have taken an explicitly equitable and gender neutral stance on many issues of punishments (to bring them in line with wider penal laws) and monetary compensation, and have also reformed the child custody rules to make them more flexible in application by the courts of law (mothers are no longer compulsorily awarded the custody of children under 9 years, paternity laws require 20% income payment for the child until it reaches the age of 18 years) and the courts can set up a framework to allow the child to meet the other parent.

It is reported that matrimony cases from all strata of society are amongst the most common ones dealt with by the court system, notwithstanding the fact that most divorces take place within the community without involving the court. Out of 141 marriage related cases before the district court in the country's capital Thimphu, 97 resulted in divorce in 2006. While there are no detailed scholarly studies looking at the causes of divorce, the policy makers see this as a social problem related to the stresses of urbanisation and failures in individual behaviour. Infidelity, promiscuity, extramarital affairs, domestic violence, alcoholism, parental interference, gambling and a mismatch of expectations are all blamed for this by the news media commentators.

A combination of social factors, as reported in the national media - alcoholism (there is 1 bar for every 250 people, 30% of all deaths in hospital wards in 2005 were due to alcoholism), domestic violence (767 cases were reported in Thimphu of which 85 were charge-sheeted), drug abuse, youth unemployment (12.9% in 2009), urban crime (82% cases of the 418 drug related arrests in 2008 involved youth under the age of 24) - have made the issue of divorce a central part of debates about the direction Bhutanese society is taking, something increasingly reflected in the public policy domain. This is because many of the disaffected youths who are involved in street-fights, gang culture, stabbings, substance abuse and petty crime are the offspring of divorced parents (or seen to be from 'broken homes'). This demographic - the young, alienated, urban, unemployed - is seen to be both the consequence and cause of divorces; they have grown up in households affected by divorce (alcoholism and adultery are the main reasons for divorce) and are themselves much more likely to be in unstable relationships with their peers (often at a young age) which result in divorces. For instance, a United Nations report of 2004 estimates 27 per cent of girls in the country between 15 and 19 years of age to already be married, divorced or widowed.

In the modernising milieu, the socio-cultural attitude to divorce is undergoing subtle transformations in many ways: the urban middle-class nuclear families with working parents see divorces as hurting the psychological needs and well-being of children, many conservatives within the modern urban environment also see rising divorces as a result of incompatibility arising from too many women opting for financial independence, while the historical defence of polygamous relationships seems ever harder to sustain (at least on a progressive legal footing), women's organisations draw attention to the link of divorces with domestic abuse and alcoholism or detrimental effects upon women (links to prostitution or poverty) and children of impoverished economic background, especially if they do not have the kind of extended family support traditional in the rural areas.

If one focuses on the limited official statistics, which mention the increasing divorce rates, it would seem that divorce is a new phenomenon. For instance, in 2001 only 3 divorce cases were reported while a total of 627 divorce cases were reported from 2001 to 2008 (of which 241 were reported in 2008 alone). This is misleading for until recently the cultural acceptance of plurality of forms of cohabitation and separation, something still common in rural and remote areas, combined with the limited interference of the state in social affairs

of the population, meant that the matters of marriage and divorce remained mostly out of the purview of law and statistics. However, as Bhutan witnesses a rapid transformation, divorce becomes an issue for the state as well as the civil society.

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Further Reading:

Bhutan Government “Marriage Act of Bhutan 1980”, <http://oag.gov.bt/wp-content/uploads/2010/05/Marriage-Act-of-Bhutan-1980English-version.pdf>

National Council of Bhutan, “Resolutions (Translation) of the 4th Session of the National Council of Bhutan (November 23 2009)” http://www.nationalcouncil.bt/wp-content/uploads/2011/02/4th_Session_Res_eng.pdf pp. 8-12 (accessed November 2011).

Kaul, Nitasha “Bhutan”, *Encyclopedia of Women in Today’s World*. London: Sage Publications, 2011.