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SECTION 32. Jurisprudence. Law.

BRIDEWEALTH AS AN ELEMENT OF PROPERTY MATRIMONIAL RELATIONS IN COMMON LAW OF KYRGYZ PEOPLE

Abstract: *In this article bride wealth institute on common law of Kyrgyz shall analyzed.*

Key words: *bride wealth, repayment, bride, family, adat, custom, marriage.*

Language: *English*

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Introduction

Bridewealth – ancient pre-wedding custom. Bridewealth, or kalyn (Turkic) — payment; repayment paid originally to a kind, later — to parents or bride's relatives; kind of a bridewealth — labor repayment for bride. According to obsolete conceptualization of evolutionists of the 19th century, the bridewealth has arisen during decomposition of maternal kind and change of matrilineal marriage by patrilineal marriage. The bridewealth was compensation to the bride's family for loss of female worker and property, which she carried away to the husband's family. On modern conceptualization, bride wealth on an equal basis with a dowry was a contribution of two kinds to formation of common property of future family. It was widespread among many tribes and people of the world, now in civilized countries it remains only in the form of a ritualized performance. Communistic ideologists criticized a bride wealth, pointing that big size of a bridewealth complicated marriage to male poor people. In Russia in the past, bridewealth existed at some people of Central Asia, Kazakhstan, Siberia and Caucasus.

Materials and Methods

Bride wealth (Kalyn) as the phenomenon, widespread at many people, is often perceived as "huge public evil" putting the woman in one row with other types of private property, which can be bought and sold [1].

Meanwhile existence of a bride wealth today as one of indispensable conditions of marriage, gives much for thought its purpose and essence. The nature

of a bridewealth hasn't been studied up to the end. Some people believe that a bride wealth is a reimbursement on girl's upbringing. According to others, the bridewealth serves as an objective criterion of merits of the bride. It is necessary to remember the provision of F.Engels that under kalym marriage not only woman receives assessment, but also the man - not on personal qualities, but on his property [2, page 639].

The bridewealth was separate institute of property common law of Kyrgyz people as Erezhe's norms, materials of research works, practice of national biys testify about it. So, Kislyakov N.L. considered a bridewealth as institute of property law: "bridewealth represents purchase of bride and corresponds to an era of decomposition of primitive-communal system, namely stage of domination of patriarchal (big) family" [3, page 206]. G. Zagryazhskynoted that "the marrier is obliged to pay to bride's relatives a bridewealth" [4, page 27-28].

The adat established that "not only the groom's father, but also members of his family and related group had to participate in payment of a bride wealth, as well as the received bride wealth in considerable part arrived to members of family and related group of the bride " [5, page 20]. "The groom's relatives repeatedly gather for definition of their financial support in payment of a bridewealth" [6, page 233]. "By custom his relatives have to help the groom with payment of a bridewealth and if he is so high-income that could pay a bridewealth himself, he anyway asks for help because earlier he helped relatives and knows that he will help later, and



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therefore takes an opportunity of marriage to return that he has spent for the help" [7, page 7].

The point of view of S. Polyakov concerning existence of such phenomenon as a bridewealth which completely criticizes views of many scientists, including wrong consideration of a bridewealth as an element of the feudal and patriarchal relations is very interesting [8, page 54-57]. He writes in his work: "genesis of this phenomenon, in essence, is the same, as well as at a slave trade. Without going into analysis of scientific discussions of researchers concerning a bridewealth of the 18th century, I would like to note that none of them can explain why this phenomenon still proceeds. It is wrong to define a bride wealth as a remnant of early social relations as many Soviet sources do. The bridewealth develops, and his sizes grow. The bridewealth can be considered as dangerous national tradition, it has no national borders. In fact, this is a social phenomenon" [8, page 54]. Then S. Polyakov notes, that "as well as other such remnants, a bridewealth have made a sacred tradition. The press, and very small number of scientific and popular works which in this or that form mention maintaining tradition of a bridewealth (and none of them were received serious criticism) still are not able to open the main issue which has much in common with economic practicability. At best, there are some kind of senseless opinions on how it is difficult for groom's family to save up a bridewealth. Payment of a bride wealth at the beginning of existence of new family creates a number of extremely negative phenomena and serves not only for stabilization of traditionalism, but even for its strengthening. The bridewealth degrades society in general" [8, page 57]. However, in our opinion, such views on bride wealth institute are disputable and in point of fact, we agree with S. Polyakov's opinion, considering payment of bridewealth as an indispensable condition of marriage and extremely difficult for poor segments of population, hired shepherds and poor people. Quite often poor people have been doomed because of it to be without a family. Poor people, without having an opportunity to pay a bridewealth, could hardly marry once, and at elderly age. They had to work for a long time, experiencing considerable deprivations to marry. Marrying had to be equal to each other on a property state, origin and rank. The age and the state of health when determining such equality have not been taken into consideration. The man from poor family whatever personal qualities he had, couldn't marry rich bride [9, page 50].

In connection with the existing earlier tribal community at Kyrgyz people, it is necessary to specify that the bridewealth was paid not only earlier to bride's family, but to all king to which she belonged, and only later, in connection with change of patriarchal and feudal relations, to the family of girl, and then only to her parents. Not enough

attention is paid to this matter, though it's studying gives an opportunity to understand the essence and genesis of a bridewealth. "The custom of bride wealth collecting by group of groom's relatives has been used by shaped tribal, and then feudal grand people as a form of collecting of tribute from dependent population for its presentation as a rich wedding gift to notable relatives of the bride", - S. Abramzon noted [10, page 233]. For example, "The Great Charter" also contains regulations on the obligation of grand people in relation to the monarch to bring extraordinary taxes in case of marriage of the princess [11, page 179].

The sizes of a bridewealth were various, it depended on prosperity of families of the groom and the bride. The bridewealth to a certain extent was compensated by dowry (sep) which contained at rich families also the yurta for newly married; usually it consisted of clothes, jewelry, house furniture and utensils. "For definition of bride wealth importance in life of the Kyrgyz society it is necessary to get acquainted with sizes and structure of a bride wealth. The data on exact size of a bridewealth which have remained in ethnographic literature are quite contradictory. Mainly the cattle was a part of a bridewealth at Kyrgyz people. At rich cattle-farmers it was estimated often in nine (toguz). Concerning bridewealth sizes at Kyrgyz people data are so contradictory that it is difficult to lead it to some certain sizes", - S.M. Abramzon specified [10, page 235].

At Kyrgyz of an average financial condition and especially not belonging to blue blood, i.e. manap, and carrying name "bukara", from 50 to 100 pieces of the different cattle are paid, less wealthy pay from 30 to 50 heads, poor from 5 to 10 pieces" - Tokmok district chief A. Talyzin wrote in the official report in 1891.

Conclusion

However, and today at marriage bride wealth institute is widely put into practice though the fact of payment of a bridewealth isn't regulated by standards of the legislation. Among the Kyrgyz population payment of a bridewealth by the groom to bride's parents is kind of an obligatory gift to the bride's parents for her upbringing, and for maintenance of friendly communications with bride's relatives [12]. If the groom doesn't present a bride wealth, usually, the bride's party doesn't prepare a dowry - sep for bride, however, such cases, after all, remain in minority as absence of bride wealth presentation is criticized by public opinion. Now the bride wealth is estimated in money equivalent, which, depending on the region of Kyrgyzstan, is various.

Therefore, bride wealth institute already in the changed look, exists and today, but not in the form of legal rule, but in the form of custom or ritual.

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References:

1. Sooronkulova K.S. (2009) "Obyichnoe pravo i sovremennaya pravovaya sistema Kyrgyzskoy Respubliki"- avtoreferat disser., na soiskanie uch.,stepeni kand.,nauk- 2009.
2. Marks K. (1986) Izbrannyye proizvedeniya. [Tekst] / K. Marks, F.Engels. - V 3-h t. T. 3. — M.: Politizdat, 1986, — 639 p.
3. Kislyakov, N. A. (1959) Semya i brak u tadjikov (po materialam kontsa XIX — nachala XX veka) [Tekst] / N.A. Kislyakov. - L., 1959. — 601 p.
4. Zagryazhskiy, G. (1876) Yuridicheskiy obyichay kirgiz [Tekst] / G. Zagryazhskiy // Materialyi dlya statistiki Turkestanskogo kraya, 1876. - vyip. IV. — p.27-34.
5. Anichkov, I. (1895) K voprosu o kalyime [Tekst] / I. Anichkov. // Ocherkinarodnoy zhizni Severnogo Turkestana. - Tashkent, 1895. — 20 p.
6. Staryinkevich, I. D. (1930) Formyy zaklyucheniya braka u turetskih plemen Sibiri i u kochevnikov Sredney Azii [Tekst] / I. D. Staryinkevich. - Sb.MAE. T. IX. - L., 1930. - p. 215-235.
7. (2018) TsGA Respubliki Kazahstan [Tekst] / F. 64, ot. 1. D. 5089. razd. V.Semya,# 7.1.1.
8. Polyakov, S.P. (1992) Everyday Islam: Religion and Tradition in Rural Central Asia [Tekst] / S.P. Polyakov. — N.Y., 1992. — 170 p.
9. Saypidinov B.R. (2015) Brachno-semeynyie otnosheniya po obyichnomu pravu kyrgyzovv HIH v.[Tekst] / B.R. Saypidinov. - Vestnik KRSU. 2015. Tom 15. # 1 -p. 50.
10. Abramzon, S.M. (1990) Kirgizyi i ih etnogeneticheskie i istoriko-kulturnyye svyazi [Tekst] / S.M. Abramzon. — Bishkek, 1990. — 480 p.
11. Petrushevskiy, D. M. (1918) Velikaya Hartiya Volnostey i konstitutsionnaya borba v angliyskom obschestve vo vtoroy polovine XIII veka [Tekst] / D. M. Petrushevskiy. - M.: Izdatelstvo Sabashnikovyyh, 1918. — 179 p.
12. Tegizbekova Zh.Ch. (2011) Kalyim i pridannoe po normam obyichnogo prava kyrgyzov. [Tekst] / Zh.Ch. Tegizbekova. - Vestnik KaZnu 2011.

