Marriage is an important social institution. It evolved and developed with the socio-economic progress of the mankind and outgrew the basic need of satisfying physical hunger. With the passage of time definite rules developed which governed the marital relations in the Hindu society. Latest development in this direction is the Hindu Marriage Act, 1955. The Hindu marriage is not merely an arrangement for a man and a woman to live together, a kind of a social contract, it is a sacrament, no matter this sacramental aspect of a Hindu marriage has been diminished under the Act of 1955 to some extent in theory than in practice. With the marriage a man enters on a particular stage of life. Marriage bestows on the parties certain status and also a set of legal obligations moulding and influencing their personal, family and social lives.

Leaving aside the socio-legal aspect of the marriage, it is an occasion for social celebration, where two families come to join in a close relationship alongwith the relatives and friends on both sides who
assemble to participate in the event and facilitate the young couple. Against this backdrop, it is quite easy to imagine, therefore, that a number of ceremonies must have entered the core ritual of marriage as a concession to popular practices which did not have any connection with the original ritual. This aspect of marriage ceremonies is of great importance among the tribal communities where the religion is mixed with superstitions. Among the tribal communities, where marriage is a tool for the propagation of the society, religion does not play dominant role. Marriage for them is an occasion for social festivity, though legal aspect of marriage remains unchanged. Mutual rights and duties of the parties to the marriage including the inheritance of propriety rights depends upon the nature of marriage which in turn depends upon the customs prevailing in the tribal community concerned.

Hindu personal law relating to marriage and divorce has been codified in 1955 by the Indian Parliament. Section 2 of the Hindu Marriage Act, 1955 sets out the categories of persons to whom the
provisions of the Act apply. It provides that the Act shall be applicable to a person who is Hindu by religion or by birth. However, section 2(2) specifically excludes certain scheduled tribes which though are Hindu, from the operation of the Act. Such scheduled tribes are to be governed by old Hindu law and the customs prevailing in such tribes regarding their personal matters particularly in marriage and divorce. Here lies the importance of the present work which seeks to study the law and customs of marriage and divorce amongst such tribes in Himachal Pradesh. No matter some sociological studies have been made of these tribes in Himachal Pradesh. However, no study has yet been undertaken from the socio-legal point of view. Therefore, the present study will be a pioneering work in the field.

In Himachal Pradesh there are certain communities¹

¹. These communities are the Kinnaurs, Lahulas, Pangwals, Gaddis, Swanglas, Gujjars, Jad, Lamba, Khampa and Bhot.
which have been declared as scheduled tribes. However, the Hindu Marriage Act, 1955, does not apply to such tribes. Because of their geo-physical setting in the remote areas of the Pradesh, they have been isolated from the mainstream of the socio-legal development of the country for centuries together. These tribes have their own way of life as a result of which certain customs have developed in such communities which govern their socio-legal behaviour.

Scheduled tribes of Himachal Pradesh inhabit the remote areas of the region. Their geo-physical setting, their economic conditions and their social set-up are not identical. Therefore, different customs of marriage and divorce are prevailing in different communities. Some tribes are polyandrous while others are monogamous. Polygamy is also practised in certain communities. A study of these customs, therefore, is necessary for the socio-legal and economic development of these tribal people. Moreover, such a study while bringing out the interesting features of the cultural heritage of Himachal Pradesh, would
throw light on the dark spots where law and customs require improvement so that these tribals could be adjusted in the socio-legal structure of the whole country without destroying their distinctive culture and mode of life.

Institution of marriage is essential for the development of a society. In the absence of codified law pertaining to marriage and divorce, a study of customary law relating to matrimonial matters in the tribal communities will help for the socio-legal and economic development of these tribal people. Custom is one of the primary sources of law. Purpose of law is to serve the society. With the change in the society customs followed by the society also change. This implies that the law must take into consideration the existing customs in a particular community.

Very little work has been done on the subject so far. Whatever work is there that, too, is in the sociological context. The present work will be a step to add to the existing literature of the tribal people of Himachal Pradesh in relation to the legal position
of their marriage customs. As very little literature is available on the culture of tribal people of Himachal Pradesh, the need of a field study like this could not be over emphasised.

This study is based on experimental method of research for which questionnaire has been used as a research tool. A detailed questionnaire was prepared with an idea of eliciting all the relevant information regarding law and customs prevalent amongst the various tribes of Himachal Pradesh. The questionnaire was then validated on the basis of response received from the limited random sample target. After validation, the questionnaire was administered to the whole target area. Due to vague and self-contradicted replies in most of the cases, actual use of the data could not be made use of. However, the facts were got verified on the spot, during successive visits to the tribal areas, and the conclusions are drawn accordingly.

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(Shimla)