

**Evidence shows that polygamy<sup>1</sup> can be harmful to husbands, wives, and children who are involved in such relationships (see, for example, CEDAW Committee, 1994; Al-Krenawi et al., 2011; Campbell, et al., 2005). It strains individuals, families, and households. It can contribute to violence within the home and in society.**

Polygamy is not an 'Islamic' institution—it existed before Islam and has taken place in many societies, cultures, and religious communities around the world. The Qur'an sets limitations on polygamy, including the requirement to marry only one wife if husbands are unable to uphold equality in a polygamous marriage (*Surah an-Nisa'* 4:3). The Qur'an also notes that it is basically impossible to treat all wives equally (*Surah an-Nisa'* 4:129). The Qur'an establishes monogamy as the norm in creation by teaching that God created humankind from a single pair (*Surah an-Nisa'* 4:1). Polygamy is an exception, allowed only under certain conditions.

The Prophet Muhammad's (pbuh) first and longest marriage to Khadija was monogamous. He married multiple times after her death for political and tribal reasons. But he recognized the harm that could be caused by polygamy and refused to allow his son-in-law to marry a second wife in order to protect his daughter from this harm (*Sahih al-Bukhari* 5230; *Sahih Muslim* 2449 a).

In March 2018 the Grand Imam of Al-Azhar, Sheikh Ahmed El Tayeb, spoke of the harm caused by polygamy to women and children. Polygamy, in fact, has been restricted in the majority of Muslim and non-Muslim countries throughout the world because of a recognition of such harm.

In today's context, where the damage caused by polygamy is so clear, the Qur'an's trajectory should be carried forward and governments should take steps to severely restrict polygamy and eventually ban the practice altogether.



**The Qur'an advocates for monogamy, which supports the well-being of spouses, children, and families.**

<sup>1</sup> 'Polygamy' is a generic term that encompasses 'polygyny' (a man married to more than one wife at the same time) and 'polyandry' (a woman married to more than one husband at the same time), although polygyny is much more common and the only form sanctioned in Muslim family laws.

## WHY IT MATTERS

# Monogamy is the preferred form of marriage because:



### **POLYGAMY IS HARMFUL TO WIVES:**

First and subsequent wives can suffer mental, emotional, and physical harm in polygamous relationships (see Al-Krenawi, 2016; McDermott and Cowden, 2015). Husbands can hold the threat of polygamy over their wives' head, making wives anxious and subservient. Once married to multiple wives, husbands have total control over distribution of resources, time, and affection. Wives can be treated unequally in terms of seniority, power, or favour by the husband. A review of research on the mental health effects of polygamy found that studies 'generally suggest a more significant prevalence of mental-health issues in polygynous women compared to monogamous women,' including depression, anxiety, hostility, reduced life and marital satisfaction, problematic family functioning, and low self-esteem (Shepard, 2013).

### **POLYGAMY BURDENS HUSBANDS:**



Polygamous husbands can face stress providing for and trying to equalize time, care, and resources among their wives and children. A 2015 study by a Saudi Arabian cardiologist indicated that polygamy increases the risk of heart disease by more than four-fold, with the risk and severity of heart disease increasing with the number of wives (Caba, 2015).



### **POLYGAMY STRAINS MARRIAGES AND FAMILIES:**

Polygamy can strain families financially and emotionally, as multiple wives and their children must share (and sometimes compete for) limited and finite amounts of the husband/father's resources, attention, and time. A 2001 study in Saudi Arabia found that polygamy contributed to 55 percent of divorces during the study period (Arab News, 2001). In lower class urban contexts, husbands are often absent or not providing for wives and children, and polygamous marriages can mask problems like women's lack of adequate social welfare and physical safety (Al-Sharmani, 2017).

### **POLYGAMY IS UNFAIR TO CHILDREN FROM ALL MARRIAGES:**



A review of studies conducted with children of polygamous families found that these children had 'more mental health problems, social problems and lower academic achievement' than children of monogamous families (Al-Sharfi, et al., 2016). A paper reviewing studies on polygynous and monogamous marriage systems noted that that children in polygynous families in various countries in sub-Saharan and West Africa were found to have a greater risk of dying and poorer nutrition than children in monogamous households (Henrich, et al., 2012).



### **POLYGAMY CAN NEGATIVELY IMPACT NATIONAL SECURITY AND DEVELOPMENT:**

Polygamy has been linked to increased societal conflict and issues relating to national and international security and development (see, for example, Hudson and McDermott, 2015; Guest, 2018; Tertilt, 2005). The 20 most unstable countries in the world all have substantial rates of polygamy (Guest, 2018). A study on polygamy and development in sub-Saharan Africa, where incidence is high, found that 'enforcing monogamy reduces fertility by 40 percent, increases savings by 70 percent, and raises output per person by 170 percent' (Tertilt, 2005, pp. 1365).

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## WHY THE LAWS CAN BE CHANGED

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Today's Muslim family laws are based on human efforts to interpret the sacred texts centuries ago, in vastly different contexts. Many teachings in Muslim legal tradition support reforming these laws and ending polygamy:

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### Monogamy is the norm for marriage in the Qur'an.

The first couple created by God were in a monogamous marriage. God uses the word *zawj* to indicate a marriage partner (*Surah an-Nisa'* 4:1), which in Arabic means one of a pair. This again underlines that monogamy is the Qur'anic norm for marriage.

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### The Qur'an counsels husbands against polygamy.

While *Surah an-Nisa'* 4:3 states that men can marry two, three, or four women, it then goes on to say: 'however, if you fear that you will not uphold equality, marry one woman or what your right hands possess. This will bring you closer to not committing grave injustice'. Moreover, *Surah an-Nisa'* 4:129 says, 'You are never able to be fair and just as between women, even if it is your ardent desire ...'.

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### Polygamy is the exception in marriage in the Qur'an.

For every rule in the Qur'an (for example, fasting, praying, pilgrimage (*Surah al-Baqarah*)), there are exceptions that are always subject to certain conditions and ethical principles. *Surah an-Nisa'* 4:3 points to two conditions for polygamy, which is the exception in marriage. These conditions are: (1) fear of being unable to care for widows and orphans<sup>2</sup> in a manner that accords them justice in society; and (2) the free agreement<sup>3</sup> of all of the women (and the man) in a polygamous union. When these two conditions are not present, God directs men to marry only one wife, so as to avoid grave injustice.

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### Prophetic example does not support polygamy.

Those who champion polygamy often refer to the *Sunnah* (practice) of the Prophet Muhammad (pbuh). However, he was monogamous for more than 25 years while married to his first wife Khadija. His marriages after her death were to widowed or divorced women for political and tribal reasons, except for Aisha. Furthermore, an authentic Tradition states that the Prophet forbade his son-in-law, Ali ibn Abi Talib, from marrying another woman unless Ali first divorced the Prophet's daughter, Fatima.

Narrated Al-Miswar bin Makhrama:

*I heard Allah's Messenger (ﷺ) who was on the pulpit, saying, "Banu Hisham bin Al-Mughira have requested me to allow them to marry their daughter to `Ali bin Abu Talib, but I don't give permission, and will not give permission unless `Ali bin Abi Talib divorces my daughter in order to marry their daughter, because Fatima is a part of my body, and I hate what she hates to see, and what hurts her, hurts me." Sahih al-Bukhari 5230*

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<sup>2</sup> The Arabic word *yatama* is most often translated as 'orphans' in English; however, this is not an exact translation. This word refers to children who have lost their fathers (but not their mothers), and can also refer to widows. *Surah an-Nisa'* 4:127 specifically mentions female *yatama* (*yatama an-nisa'*), i.e. women who have lost their husbands and/or fathers. *Yatama* is also used to refer to widows in ancient Arabic poetry. A child who has lost both father and mother is called a *latim* in Arabic.

<sup>3</sup> The verb *tāba* comes from the root meaning to be good, feel good, give freely, freely consent. It occurs twice in this passage: once in 4:3 and once in 4:4. Both times it refers to women. However, in 4:3, classical and modern exegetes have disregarded women's feelings and have restricted this meaning only to either men feeling good about the women (i.e., choosing whoever they like) or to ensuring the women do not fall in an impermissible category, e.g. their mothers, etc.

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## Muslim legal tradition allows limits on polygamy.

The Hanbali school of law recognizes a wife's right to exercise divorce if her husband marries a second wife. This is supported by practices from the early days of Islam. A great-granddaughter of the Prophet and granddaughter of Ali and Fatima, Sakina bint al-Hussein, put various conditions into her marriage contract, including that her husband would have no right to take another wife during their marriage. Various Muslim countries recognize the right to include such conditions, including among communities who are not followers of the Hanbali school, e.g. Jordan, Morocco, Egypt and Iran. Tunisia has forbade polygamy outright, on the ground that it is impossible for a man to be able to be fair and just between multiple wives.

## Religious scholars and leaders recognize the harm caused by polygamy.

In March 2018, Grand Imam of Al-Azhar Sheikh Ahmed El Tayeb said, 'Polygamy is an injustice to women and children' and the practice is the result of 'a lack of understanding of the Qur'an and the tradition of the Prophet'. He discussed how the Qur'an says that a man 'must obey conditions of fairness' in order to marry multiple wives, 'and if there is not fairness it is forbidden to have multiple wives' (AFP, 2019).

## POLYGAMY IS NOT POPULAR

### 2007–2012 MALAYSIAN SURVEY

**60%** OF THE WIVES AND CHILDREN

said they did not support their husbands / fathers after they had become polygamous.

**92%** OF THE CHILDREN (+18)

said they would not recommend polygamy based on their life experiences.

### 2008 STUDY IN IRAN

**96%** OF WOMEN SURVEYED

did not approve of allowing a man to take a second wife.

### 2016 MENA SURVEY

**1%** OR FEWER OF ALL MARRIAGES

Polygamy featured in one per cent or fewer of all marriages in Egypt, Morocco, and Palestine.

Numerous studies show that women and children in Muslim contexts do not support polygamy. A 2007–2012 Malaysian survey of husbands, wives, and children in polygamous families found that 60 per cent of the wives and children said they did not support their husbands / fathers after they had become polygamous, and 92 per cent of the children (above 18) said they would not recommend polygamy based on their life experiences (Sisters in Islam, 2018). A 2008 study in Iran found that 96 per cent of women surveyed did not approve of allowing a man to take a second wife (Institute for War and Peace Reporting, 2010). A recent MENA survey found that polygamy is increasingly rare in Egypt, Morocco, and Palestine. It featured in one per cent or fewer of all marriages in each country (El Feki, et al., 2017, pp. 68, 118, 224).

## Some international human rights obligations related to polygamy:

- **Universal Declaration of Human Rights article 16(1) (echoed in CEDAW article 16):** 'Men and women ... are entitled to equal rights as to marriage, during marriage and at its dissolution.'
- **CEDAW Committee General Recommendation 21, para. 14 (1994):** 'Polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that such marriages ought to be discouraged and prohibited.'
- **CEDAW Committee General Recommendation 29, para. 27-28 (2013):** '...the Committee has pointed to the grave ramifications of polygamy for women's human rights and economic well-being and those of their children, and has consistently called for its abolition' and to ensure the protection of economic rights of those in existing polygamous marriages.'
- **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) (2003):** 'States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that ... (c) monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships, are promoted and protected; ...'

## WHERE REFORM HAS HAPPENED

Several countries have acted to ban or severely restrict polygamy and ensure fairness and justice for women:

### Prohibition of polygamy by law:



#### Tunisia:

Polygamy was prohibited under the 1956 law based on the understanding of *Surah an-Nisa* 4:129 ('You are never able to be fair and just as between women, even if it is your ardent

desire ...') that no husband can treat multiple wives equally. It is a criminal offence with the possibility of imprisonment or a fine. A polygamous marriage is considered irregular and subject to nullification.

### Requirement for court authorization and agreement of existing wives to enter into a polygamous marriage:

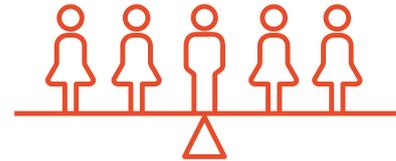


#### Algeria:

Polygamous marriages must be authorized by the court and may only be concluded with the agreement of existing wives. Court permission is only granted if the husband is able to provide justification for entering into multiple marriages as well as proof of his ability to be fair to all wives and meet the necessary conditions of married life with regard to all his marriages.

#### Iraq (Kurdistan region):

Polygamous marriages must be authorized by the court and may only be concluded with the agreement of the existing wives and if certain conditions are met. Men who marry without the authorization of a judge face imprisonment and a fine; judges are prohibited from suspending penalties.



#### Indonesia:

Polygamous marriages must be authorized by the court and may only be concluded with the agreement of existing wives. Court permission is only granted if the husband's existing wife: (i) is unable to perform her conjugal duties; (ii) suffers from a physical infirmity or an incurable disease; or (iii) cannot bear children.

### Requirement for official (court, etc.) authorization to enter into a polygamous marriage:



#### Bangladesh, Pakistan:

Polygamous marriages are only permitted with the written permission of an Arbitration Council (a Chairman and one representative each of the husband and wife or wives) who must be satisfied that the proposed marriage is necessary and just, subject to such conditions (if any) as may be deemed fit.

#### Morocco:

The Preamble of the 2004 *Moudawana* discourages polygamy based on *Surah an-Nisa* 4:3 and 4:129, allowing it only under strict conditions to prevent illegitimate marriages. Polygamous marriages are forbidden if there is a risk of inequity or the wife stipulates in the contract that the husband cannot take a second wife. Courts may authorize polygamous marriages only if an exceptional and objective justification for the marriage is proven and the husband has sufficient resources to support the two families and guarantee all maintenance rights, accommodation, and equality in all aspects of life. The first wife must be present and consulted before authorization is granted.

#### Singapore:

Polygamous marriages must be authorized by a state appointed official (*kadi*), who must be satisfied that the husband can balance financial, physical, and emotional well-being of his wives; his existing marriage is going well; the new marriage will be beneficial to all parties.

### Wife's right to seek divorce following a polygamous marriage by her husband:

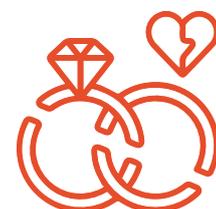


#### Afghanistan (Shia), Algeria, Bahrain, Egypt, Jordan, Lebanon, Mauritania, Morocco, Palestine:

A woman can stipulate in the marriage contract that her husband cannot take another wife. If her husband breaches this term of the marriage contract, the woman has the right to divorce.

#### Bangladesh, Pakistan:

A wife may seek a divorce if her husband has taken an additional wife in contravention with the requirements of the law.



#### Afghanistan (Sunni), Egypt:

A woman may petition the court for a divorce if she is able to show that her husband's polygamous marriage is causing her harm.

## HOW TO ENSURE EQUALITY AND JUSTICE

Given the harm that polygamy can cause to husbands, existing and subsequent wives, and children from these marriages, and given the societal problems it can create, States must take steps to promote monogamy, restrict polygamy, and eventually ban the practice altogether. Religious leaders, faith-based and community organisations, schools, and families must work with States to address the factors that lead to polygamy and address the problems it causes.

*Surah ar-Rum 30:21* explains: 'And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.' This is only possible between two spouses who can commit to each other and strengthen one another in their marriage.

## Promote monogamy as the preferred form of marriage to support the well-being of spouses, children, and families.



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