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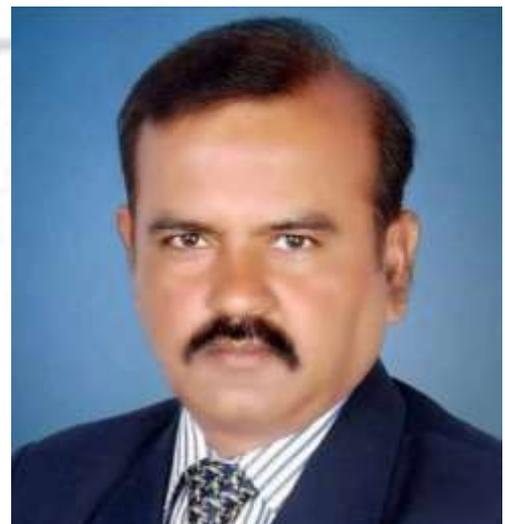
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

REIMAGINING POLYGAMOUS MARRIAGE IN ISLAM: BETWEEN DIVINE TEXTS AND HUMAN JUSTICE

AUTHORED BY - JANVI J BHANUSHALI

Abstract

While Islamic law allows polygamy, it has received and continues to receive deep attention from theological, ethical, or socio-legal perspectives. Its enduring practice in various Muslim societies not only shows the lasting impact of traditional legal thought but also the difficulties of merging the religion and its laws with shifting societal ethics and social changes. This study aims to analyze polygamous marriage not as a monolithic religious commandment bound in time but as an institution pliable to interpretation—an institution that must be justified by its ethical spirit within Islam. Important for this consideration is the assumption that Islamic law or Sharia is not simply a compendium of prescriptions, but rather a system of profound ethics charged with principles like justice (adl), compassion (rahmah), and human dignity (karamah).

Through the intersection of theological exegesis, comparative legal analysis, and ethical reasoning, this study addresses present-day occurrences of polygamy and considers whether they are in consonance with the objectives undergirding Sharia—maqasid al-shariah. Hence, if these refined objectives are meant to act as an interpretive mechanism for reconciling traditional legal allowances with contemporary moral predicaments, we would speak here about the protection of justice, family welfare, and social harmony. While recognizing the traditional justification of polygamy within Islamic tradition, the study's major critical concern centers on the distance that exists between scriptural allowances and the frequently inequitable reality occurring with its modern practice.

This study goes on to argue for the position that a reimagining of polygamy that places emphasis on ethical intent rather than legal form is not merely possible but necessary to maintain the sanctity of family law in an evolving world. Such re-evaluation, guided by the higher objectives of Sharia, can possibly set Islamic legal discourse on the path toward a more faithful, just, and compassionate vision that respects the dignity of man as well as divine revelation.

Rationale

It is that against which modern times have witnessed a lucid rise of interest in polygamy. Migration and rising globalization, along with women's empowerment, have brought the tensions between Islamic matrimonial laws and modern human rights frameworks to the fore. Hence, this study has been prompted by the urgent need to rethink polygamy under Islamic law through a more creative, critical, and humane lens.

Objectives

1. To trace the historical, theological, and jurisprudential foundations of polygamy in Islam.
2. To compare how different Muslim-majority countries legally interpret and regulate polygamy.
3. To examine the ethical and psychological implications of polygamy, especially concerning gender and children.
4. To propose pathways for reform and reinterpretation within Islamic legal theory.

Methodology

This study adopts a multidisciplinary approach:

- Textual Analysis: Quranic verses (e.g., Surah An-Nisa 4:3) and Hadiths are examined alongside classical fiqh (jurisprudence).
- Comparative Legal Review: Legal frameworks of countries such as Saudi Arabia, Indonesia, Tunisia, and India are analyzed.
- Qualitative Research: Ethnographic accounts and interviews with individuals in polygamous marriages provide real-world perspectives.
- Ethical Evaluation: Contemporary ethical frameworks are used to assess polygamy's compatibility with Islamic values like justice, compassion, and equality.

Core Thematic Analysis

1. The Qur'anic Context: Regulation, Not Promotion

Surah An-Nisa (4:3)¹ permits men to marry up to four women "if you can deal justly" with them. This verse is often cited to justify polygamy. However, a deeper hermeneutical reading reveals that the verse came in a context of social welfare—particularly for orphans and widows post-battle. The subsequent verse (4:129) asserts that "you will never be able to

do justice between women, even if you desire it.” This contradiction implies that monogamy is the ethical ideal, and polygamy is a concession—not a command.

¹ The Qur’an, Surah An-Nisa 4:3, 4:129.



2. Historical and Cultural Practices

Historically, polygamy served economic and demographic functions—providing social security for women in patriarchal societies. However, in the modern context, its rationale often transforms into an assertion of male privilege. A historical institution, once rooted in necessity, risks becoming a cultural artefact unless re-contextualized.

3. Legal Pluralism: The Global Mosaic

Different Muslim-majority countries present a legal mosaic:

- Tunisia outright bans polygamy under the Personal Status Code.
- Indonesia and Malaysia permit it under strict judicial scrutiny.
- India, under Muslim Personal Law, permits it without court oversight, often leading to controversy.

These differences highlight that polygamy is not uniformly applied across the Muslim world and that national interpretations shape its legitimacy.

4. Gender Justice and Ethical Tensions

Polygamous marriages often entrench gender inequalities. The unilateral male right to multiple spouses—with no reciprocal right for women—challenges contemporary understandings of equality. Moreover, emotional and economic neglect, rivalry among co-wives, and psychological strain on children raise serious ethical concerns.

Islamic ethics (akhlaq), rooted in the Prophet's example, emphasize fairness, mercy, and social harmony. A marriage that causes harm or injustice violates these principles—even if technically legal.

5. Reform Within Islamic Jurisprudence

Islamic law is not static; it is rooted in dynamic interpretative tools like *ijtihad* (independent reasoning), *maslahah* (public interest), and *maqasid al-shariah*. Contemporary jurists and scholars increasingly argue that legal reforms—such as conditioning polygamy on the consent of the first wife, requiring judicial permission, or outlawing it in contexts of abuse—are not only permissible but necessary.

Key Challenges and Issues

a) Legal Ambiguity and Inconsistency

Islamic texts allow polygamy but within a tight ethical and legal framework. Modern legal systems either overlook or overextend these limits, resulting in ambiguity.

b) Ethical Dilemmas and Rights of Women

Can consent be truly free in deeply patriarchal contexts? Do women in polygamous marriages receive equal love, respect, and financial support?

c) Stigma and Discrimination

Ironically, while polygamy is religiously permitted, it often attracts social stigma, especially for the wives involved—leading to marginalization and psychological stress.

d) Impact on Children

Children in polygamous families may struggle with divided loyalties, lack of parental presence, or feelings of neglect. Islamic law prioritizes child welfare (hifz al-nasl), which should guide any legal reforms.

Towards a Reimagined Jurisprudence

The future of polygamous marriage under Muslim law need not lie in simple binaries of prohibition vs. permission. Instead, a third path—grounded in contextual reinterpretation—can be envisioned.

1. Ethical Re-anchoring: Reassess polygamy through the ethical core of Islam, not just legal technicalities.
2. Legal Reforms: Introduce judicial oversight, spousal consent, and enforceable rights for co-wives and children.
3. Gender Parity: Uphold the Quranic ethos of mutual respect, compassion, and dignity in all marital relationships.
4. Community Dialogue: Encourage scholarly and community-led conversations to bridge the gap between tradition and transformation.

Hypothesis Revisited

While traditional Islamic jurisprudence accommodates polygamy, contemporary social and ethical realities demand a re-evaluation. There is scope within Islamic legal theory for reinterpretation that aligns with both religious integrity and gender justice. This research affirms that reimagining polygamy is not a betrayal of Islamic values—but their highest fulfillment.

1. **Introduction**

In an era of general legal reforms, increased gender awareness, and shifting social values, polygamous marriage-where applicable-under Islamic personal law still remains one of the most contested and complicated, as well as misconstrued. Normally reduced to binary-based explanations, polygamy commonly, if not always, is presented as either an absolute right of Muslim men, divinely sanctioned and ingrained within the sacred scriptures, or simply as an outdated patriarchal notion that survives purposely against the tide of modern concepts of gender equality and marital justice. Neither of these portrayals, however, does justice to the theological profundity, varied historical contexts, and ethical considerations that have intruded such debate into the very fabric of the Islamic legal tradition.²

The practice of polygamy, especially under the purview of Islamic law³, is neither an absolute obligation nor a cultural aberration; it is simply a conditional right granted with the safeguards of justice (adl), equity (insaf), and social welfare (maslahah). In the Qur'an, its regulation, especially in Surah An-Nisa (4:3), is accompanied by ethical caveats of fairness and responsibility that express an underlying intention that is so often missed in modern-day discourse. In modern-day practice, however, polyandry is commonly divorced from this ethical framework, and as a result, there are issues of legal ambiguity, emotional and financial disparities, and systemic gender inequities that cast serious doubts on its legitimacy as a socially just institution.

This paper aims to move beyond superficial dichotomies and to explore the complex architecture of polygamy as both a legal concession and an ethical institution. It is argued that, much like a polygamous marriage does not lend itself to be a sovereign unchanging religious construct, an interpretative evolution does indeed take place-a notion that deserves fresh engagement in the light of lived realities, rights-based discourses, and justice-centered paradigms permeating contemporary Muslim societies. By pursuing this re-interpretation of polygamy through maqasid al-shariah-the higher objectives of Islamic law-the study aims to shed light on ways in which

² MOHAMMAD HASHIM KAMALI, SHARIAH LAW: AN INTRODUCTION (Oxford Univ. Press 2008)

³ WAEL B. HALLAQ, SHARI'A: THEORY, PRACTICE, TRANSFORMATIONS (Cambridge Univ. Press 2009)



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sacred values can be reconciled with modern ideas of equity, human dignity, and relational ethics. With this study, more nuance is injected to show that the real challenge is not merely whether polygamy is allowed but whether it can be carried out in such a way that truly realizes as its core commitment, justice, which Islam upholds.

2. The Qur'anic Ethic: Permission with Constraint

In view of the disquisition regarding polygamy in Islam stands a duo of verses in Surah An-Nisa, which stand, justly and legally, upon the said two verses. The Qur'an verse 4:3 goes, "Marry women of your choice, two, three, or four; but if you fear that you shall not be able to deal justly (with them), then marry only one..." The verse is often quoted as a divine dispensation allowing polygamy. However, there is no unconditional license therein: The permission is conditional, conditional upon the existence of justice and equal treatment of all the wives. Of paramount consideration in the determination of the intent of the verse is the historical occasion of its revelation. The occurrence followed the Battle of Uhud, which produced widows and orphans in considerable numbers. Hence, the verse may be considered to have been enacted with a practical and merciful intent of social protection and maintenance of communal welfare. It entered a pressing socio-moral crisis where ensuring the caring of vulnerable women became an imperative task and marriage was considered the way to provide that dignity with security and inclusion in society.⁴

Yet the moral injunction in the allowance becomes glaringly apparent, especially when one puts it alongside Verse 4:129 of the Qur'an in which the Divine speaker, acknowledging an agonizing truth, says: 'You will never be able to deal justly between women, even if you strive to do so.' Therefore, this verse opens up a deliberate tension between what is legally permissible and what is held to be ethically attainable by human powers. It recognizes in plural marriage the impossibility, or at least difficulty, for a human being to act with strict Justice, especially when it

⁴ KECIA ALI, SEXUAL ETHICS AND ISLAM: FEMINIST REFLECTIONS ON QUR'AN, HADITH, AND JURISPRUDENCE (Oneworld Publ'ns 2010)

is a question of matters concerning human feelings, matters of the heart, and in complex psychological and relational terms. This direct juxtaposition is not altogether contradictory but very much reflective; it suggests a pluralistic or layered moral reasoning from within the Qur'an. The Divine message, therefore, seems to offer not just legal precepts but a principle of caution that, while polygamy is allowed in varying social circumstances, it nonetheless comes with great ethical hazards and, therefore, with a need for greatest caution, if not outright avoidance.

Such verses develop an intricate theological stance that does neither affirm nor prohibit polygamy unequivocally; it is described as an institution of moral complexity, absolutely tolerated within Islamic law yet with so difficult conditions to impose that the path of highest morality remains toward monogamy. Hence, the permission cannot by any stretch of the imagination be construed as an endorsement of male privilege. After all, the allowance is considered "restrictive" and always to be exercised with an eye on paramount ethical considerations such as justice, protection of those unable to help themselves, and social welfare. This condition ought to provoke believers as much as jurists to deeper reflection: asking not only whether polygamy is allowed but rather whether it can be undertaken in such a way as to realize justice and equity as commanded by the Qur'an.

3. Legal Divergence: The Global Islamic Mosaic

The legal practice in relation to polygamy is quite diverse across Muslim-majority lands. This diversity reveals the deep diversity and adaptability found in Islamic jurisprudence when translated unto the socio-political and cultural spheres. In principle, polygamy has been restricted under Islamic law, yet the development of modern nation-states in their options of further regulating or even disallowing the practice is the result of an interplay between dogmatic assertions, legal reforms, and changing societal values.

One classical illustration of legal divergence finds its place in Tunisia, since under the Presidency of Habib Bourguiba, the Code of Personal Status (1956) provided for a textbook prohibition on polygamy. This legal reform appeared as part of a larger modernization program aimed at adjusting family law across the governmental spectrum with ideals of gender equality

and individual rights. The Tunisian regime argued that polygamy ran against the Qur'anic injunction to do justice between spouses, an injunction that is in practice deemed nearly impossible to fulfill. Thus, Tunisia stands as a case in which an Islamic legal consideration has been stretched in favor of prohibition on account of ethical imperatives relative to social reform.

Conversely, polygamous marriages are allowed in Indonesia and Malaysia but subject to stringent laws designed to prevent abuse and promote equity. In each of these countries, the husband must gain judicial consent prior to taking on an additional wife and the courts must determine whether the union meets standards such as financial status, consent or notification by the existing wife or wives, and necessity for the marriage. Such measures try to thread the allowance in scripture with protections for women and children representing a case study in which Islamic law is maintained in spirit but adjusted in procedure.

Unlike the other kinds of polygamy permitted in India by applying secular laws, polygamy is permitted by the Muslim Personal Law (Shariat) Application Act, 1937, without the requirement of judicial scrutiny, just cause, or even consent from the first wife. This legal vacuum has occasionally permitted the misuse of polygamy: hence, there have been voices raised for reforms by women's rights groups, academics, and even sections of the Muslim community themselves. The lack of regulatory safeguards often places women in a vulnerable position—as a result of emotional, economic, and legal rights in situations where they do not have access to legal remedies or protection.

These legal variations establish the fact that polygamy is neither monolithic nor uniformly practiced within Islam. Instead, the legal philosophies and political will of society constantly shape, restrict, or enhance the very scope of polygamy according to their cultural values. The Qur'an provides the base framework but the realization of polygamy has much to do with constitutional ethics, human rights norms, and evolving ideologies of gender justice. Hence, in their diversity, they also establish that Islamic law is not some backward, hard, and fast legal tradition but, rather, a living legal tradition that can be re-examined and contextually adapted. This, therefore, affirms the need to review the institution of polygamy from the standpoint of present-day realities and ethical responsibility rather than depending upon⁵

⁵ ABDULLAH SAEED, *INTERPRETING THE QUR'ĀN: TOWARDS A CONTEMPORARY APPROACH* (Routledge 2006)

4. Gender Justice and Ethical Paradox

There is a fundamental, highly consequential question in any modern analysis of polygamy under Islamic law: Can polygamy, as it is commonly exercised today, really satisfy the Qur'anic injunction of justice? This is the very core of many of the ethical controversies surrounding the institution, and, upon deeper scrutiny, it appears to be utterly in the negative in most cases. While the legal structure of polygamy still exists in various jurisdictions, often backed by rigid interpretations, the ethical and spiritual essence that was to come with it rarely finds expression in reality. It is for this very reason that what was intended to be a conditionally accepted and socially responsible institution in the Qur'an has in many modern situations become one of the tools of structural oppression and emotional hurt.⁶

A disturbing model emerges from case studies and qualitative research in Muslim-majority and minority societies that speaks of: emotional neglect among co-wives, rivalry and psychological strain within polygamous households, economic inequalities between families, and usually the lack of agencies that ensure the consent of the wives already there. One should look at polygamous marriages through the eyes of women, seeing not middle ages or fairytale conditions but disbelief that a woman would enter one of her own free will. Both scenarios become a serious denial of justice; that is, not merely hard to achieve but being systematically violated. Gender disempowers these women further by not allowing them the same privileged status accorded to men; in other words, stereotyping polygyny as an overwhelming form of male power that simply cannot be reconciled with the basic notion of equality and mutual respect today.⁷

This structural inequality is a very contemporary notion of human rights discourse; it also runs contrary to the moral framework of Islam, which is founded on values such as 'adl (justice), rahmah (mercy, compassion), ihsan (excellence in conduct), and karamah (human dignity). In

⁶ ASMA BARLAS, "BELIEVING WOMEN" IN ISLAM: UNREADING PATRIARCHAL INTERPRETATIONS OF THE QUR'AN (Univ. of Tex. Press rev. ed. 2019)

⁷ JOHN L. ESPOSITO & NATANA J. DELONG-BAS, WOMEN IN MUSLIM FAMILY LAW (Syracuse Univ. Press 2d ed. 2001)

short, these ideals are not peripheral concepts within Islamic law; they constitute the very spirit of that law itself. Any marital institution in Islam could, therefore, never be accepted simply by dint of its inclusion within Islamic technical legal allowances; it must also serve these higher ethical ends. When polygamy becomes a source of emotional suffering, injustice, and gendered subordination, on that moment it loses its spirit of Islamic ethics and becomes a distortion of values it is meant to uphold.

Here, we understand that while polygamy may remain legal under certain ethnographic frameworks, its generalized application will almost always contradict the moral dictates imposed by the very texts from which it is authorized. A marital contract that operates against the very notion of justice, mercy, and dignity enshrined in the Qur'an could never, so far as perpetuation is concerned, increase its claim to religious sanction. Thus, Muslim jurists, scholars, and Muslim communities must not only ask if polygamy is permitted but also whether it can be practiced in a way that is truly in harmony with the ethical vision of Islam in present-day moral and social realities

5. Social Impact: Children, Communities, and the Cycle of Harm

Polygamous family structures, often analyzed in legal and theological investigations of their contexts, have important social and psychological implications reaching beyond the direct marriage relationship. Their impact on children, in fact, is particularly dramatic and merits more study. In settings where polygamy is common, children are likely to experience emotional displacement, confusion of identity, or increased feelings of insecurity—especially in situations where one wife and her children are accorded considerably less emotional effort or material support than their counterparts. Such disparity, by intention or accident, can lead to long-term development problems, including low self-esteem, sibling rivalry, and conflict between parents and children. The unequal treatment of children often creates resentment and instability within the family system, negating the very cohesion that Islamic law attempts to preserve.⁸

In addition to the internal dynamics that occur within the family, the social implications that occur outside of the home are of equal importance. Women who find themselves in polygamous relationships are generally expected to face immense social stigma, especially in urbanized or reformative cultures in which monogamy is considered the norm of marriage. Such stigma can ostracize women and their children, limiting their access to community

resources, support networks, and even access to legal protections. The compounding effect of social isolation, emotional distress, and economic instability tends to trap women in polygamous relationships in patterns of vulnerability and dependence—particularly when such women were coerced into such a relationship against their will or in the absence of such protections.⁹

The adverse consequences in question go well beyond simple sociological effects; they actually contravene the fundamental ethical and legal objectives in Islam. One of Sharia's key objectives—*hifz al-nasl* (preservation of lineage and health of members of the family)—requires preservation of the children's health, keeping the health of family units intact, and developing the moral and emotional development of generations to come. If the modern practice of polygamy systematically undermines these intentions, it is no longer performing its function as intended under Islamic legal frameworks. Rather than encouraging social solidarity and family support, it has a tendency to enhance inequality and lead to emotional suffering.¹⁰

Consequently, Islamic ethics, founded not simply on legal principles but on higher ethical principles like compassion, justice, and the common good, call for a re-think of the practice. Where a legally permissible act inflicts harm which is apparent to sight, it is the duty—not the indulgence—of the Muslim community to review its application, using the tools of *ijtihad* (independent reasoning) and *maslahah* (public interest). On this occasion, polygamy needs to be

⁸ AYESHA S. CHAUDHARY, *DOMESTIC VIOLENCE AND THE ISLAMIC TRADITION: ETHICS, LAW, AND THE MUSLIM DISCOURSE ON GENDER* (Oxford Univ. Press 2021)

⁹ KHALED ABOU EL FADL, *SPEAKING IN GOD'S NAME: ISLAMIC LAW, AUTHORITY AND WOMEN* (Oneworld Publ'ns 2001)

¹⁰ ZIBA MIR-HOSSEINI, *ISLAM AND GENDER: THE RELIGIOUS DEBATE IN CONTEMPORARY IRAN* (Princeton Univ. Press 1999)

considered not simply in terms of its past rationales, but in terms of its modern impact upon the most vulnerable elements of society—above all, women and children—whose dignity and rights are the substance of Islamic moral teaching.

6. Theological Tools for Reform: Ijtihad, Maslahah, and Maqasid al-Shariah

Islamic jurisprudence (fiqh), far from being rigid and immobile as is commonly assumed, is dynamic in character and based on principles allowing for interpretative change and contextual adaptation. Islamic legal scholarship has always had built into it mechanisms of reform and renewal, based on a commitment to textual observance as well as ethical consideration. Preeminent among these mechanisms is ijthihad, or independent juristic judgment, by which trained jurists are able to go directly to the primary sources—the Qur'an and Hadith—to develop legal conclusions in consonance with the evolving needs of society. Ijtihad is an intellectual and a spiritual tool by which scholars are able to reinterpret legal principles in the context of new social situations, new ethical issues, and the living experience of the Muslim community.

Most akin to this idea is the maslahah doctrine, or consideration for the common good. Under this doctrine, the good of people and society has to take precedence over compliance with textual literalism, especially where compliance could lead to harm or injustice. Maslahah provides jurists with the ability to place emphasis on human flourishing, social harmony, and moral integrity above strict compliance with the law, especially where literal compliance would render these core values null. It is an intermediary framework between enduring revelation and modern human situations, so that the law continues to be a cause of good and not sorrow.

At the heart of this paradigm is the idea of maqasid al-shariah, the general purpose or objective of Islamic law. These objectives, developed by such eminent scholars as Al-Ghazali, Al-Shatibi, and Ibn Ashur, are intended to safeguard and enhance five fundamental values: life (nafs), intellect ('aql), religion (deen), property (maal), and family or offspring (nasl). Modern scholars have added to this model other values like dignity (karamah), justice ('adl), and equality. In this

environment, all legal judgments must be assessed not only on their technical accuracy but also on their conformity with these fundamental purposes. If a custom—polygamy, for example—repeatedly results in injustice, emotional distress, or social disease, reforming it or limiting it on the basis of maqasid is warranted, not merely discussing its permissibility. Ijtihad, maslahah, and maqasid al-shariah must not be considered modern intrusions into the Islamic tradition; instead, they constitute the methodological building blocks of the Islamic tradition. The use of these tools by jurists across the centuries demonstrates that Islamic law has always possessed the inherent abilities to respond to the needs of its adherents across time and space. In the context of polygamy, these principles constitute a compelling and legitimate rationale for reconsideration. Legal measures, such as the requirement of the first wife's consent, judicial oversight, or, in some legal systems, even a prohibition on polygamy, do not run counter to Islamic law—instead, they are a reflection of its very ethical foundations.

To the challenges of the day—gender equality, psychological trauma, the welfare of children, and the breakdown of family structures—it is not only probable but perhaps obligatory that academics, lawmakers, and communities engage in informed and ethical reconsideration. It is not a revocation of Islamic tradition, but a return to its highest values: to dispense justice, maintain human dignity, and protect the moral and social integrity of Muslim communities.

7. Reimagining Polygamy: A Justified Moratorium?

Instead of calling for a general or absolute prohibition against polygamy—a strategy that might alienate traditionalist views and subvert the pluralistic nature of Islamic legal reasoning¹¹—this article supports the institution of a conditional moratorium on the practice. Such a proposed moratorium would not eliminate the Qur'anic sanction for polygamy but would require that its validity be made conditional on the verifiable satisfaction of basic ethical and legal requirements. Specifically, polygamy should be licensed only when it can be clearly demonstrated that real

¹¹ ANVER M. EMON, *ISLAMIC NATURAL LAW THEORIES* (Oxford Univ. Press 2010)

justice, necessity, and informed consent are both guaranteed and safeguarded. This includes the existence of evidence that is clear and accessible regarding the husband's capacity to provide equal treatment to all wives in terms of emotional, financial, and social care; the informed and voluntary consent of the existing wife or wives; as well as regard for the broader familial consequences—particularly those of any children involved. Without such significant safeguards, the moral bias should be towards restraint, not acceptance.¹²

Such a stance conforms to the scriptural justification of polygamy as articulated in Surah An-Nisa (4:3), but at the same time conforms to the ethical requirements of contemporary society in general, and specifically to those of gender equality, family stability, and human dignity. Significantly, it acknowledges that the Qur'anic concession was never meant to be an open-ended license but was a response to a particular historical need—i.e., the safeguarding of widows and orphans following a disastrous war. This historical background underscores polygamy as a humanitarian concession, rather than an unqualified male privilege. To thus characterize polygamy today as a right devoid of ethical obligations is to misread both its nature and intention.¹³

Islamic tradition offers rich historical precedent for transformative reform in the context of moral awareness. Just as the Prophet Muhammad (peace be upon him) led society in the elimination of pre-Islamic custom such as female infanticide, exploitative slavery, and capricious divorce—customs which were well entrenched in the culture—it is possible and even required that Muslim societies today critically examine and, where required, limit or phase out practices that cause systemic harm. Reform in this context is not rejection of the Sharia but, instead, an acknowledgement of its broad purposes. A practice such as polygamy, which in most contemporary situations causes emotional neglect, economic imbalance, psychological trauma, and gender disparities, need not be maintained in the name of historical continuity.¹⁴

¹² ZIBA MIR-HOSSEINI ET AL., MEN IN CHARGE?: RETHINKING AUTHORITY IN MUSLIM LEGAL TRADITION (Ziba Mir-Hosseini et al. eds., Oneworld Publ'ns 2015)

¹³ NOHA ABU-DEIF, THE POLITICS OF POLYGAMY IN CONTEMPORARY ISLAMIC LAW: GENDER, JUSTICE AND LEGAL REFORM IN THE MUSLIM WORLD (Routledge forthcoming 2024)

¹⁴ ABDULLAHI AHMED AN-NA'IM, TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS, AND INTERNATIONAL LAW (Syracuse Univ. Press 1990)

Polygamy must then be examined not merely as religious right, but more strictly as moral duty. The onus of proof must rest not with reformers, but with the advocates of a practice that always contravenes the Qur'anic imperative to justice. In cases where the prerequisites for ethical and fair polygamy are not fulfilled—as is generally the case in modern societies—avoidance of the practice becomes not merely a cautious option but a moral duty. This strategy, drawn from Islamic ethics and juristic integrity, provides a soundly principled path of action that is faithful to tradition and the conditions of modern life.¹⁵

8. Conclusion

Polygamy, in the original Islamic setting, was not a free license to expand marriage but a tightly controlled and ethically bounded reaction to a particular socio-historical emergency. The Qur'anic solution, disclosed after tension, was a humane measure to safeguard the welfare and security of widows and orphans—those most vulnerable in a patriarchal tribal setting. It was never a permanent right based on male entitlement but a contextual remedy informed by the Qur'an's general commitment to justice (*adl*), mercy (*rahmah*), and dignity (*karamah*). This basic principle is frequently disregarded in contemporary interpretations, which prefer formal legality to moral purpose.

In modern contexts, however, the institution of polygamy often deviates from its Qur'anic moral direction. Instead of being a means of social protection or moral responsibility, it is often practiced in forms that generate disparity, emotional damage, and systematic gender injustice. The lack of enforceable controls to guarantee parity among co-wives, the absence of genuine consent, and the emotional cost to spouses and children all indicate a deep disconnection between legal permissibility and ethical realization. Islamic law still identifies polygamy as an acceptable practice, but this study has revealed that, in practice, it too frequently fails to live up to the Qur'an's ethical ideals and the higher goals of Sharia (*maqasid al-shariah*).

¹⁵ FAZLUR RAHMAN, *ISLAM AND MODERNITY: TRANSFORMATION OF AN INTELLECTUAL TRADITION* (Univ. of Chicago Press 1982)

In my opinion, according to this moral mandate, Muslim societies have a serious obligation to rethink boldly polygamy as a practice, doing so with integrity and with reinvigorated ethical purpose. This rethinking should not be understood as a capitulation to secular values or an abandonment of traditional norms, but instead as an act of fidelity to Islam's own central moral principles. Reform, when informed by the virtues of justice, equity, and compassion, does not secularize Islam; instead, it refreshes its own essential core essences. Thus, serious study and principled legal reform are not merely acceptable within the framework of Islamic jurisprudence, but instead are a key instrument of its general lasting relevance and ethical life.

A juridical philosophy that places justice above formalism and human dignity above precedents is more an affirmation of Islamic law's highest aspirations than a modern reinterpretation of it. It's a challenge to scholars, legislators, and societies to rethink Islamic family law in such a way as to bring divine revelation into alignment with the shape of life today. This approach isn't abandoning tradition; it's using its deepest and most revolutionary aspects to create a more just and humane future. By doing so, it restores a moral coherence to polygamy—and to Islamic law per se—that honors both the literal sense and the implicit intention of the Qur'an.