

Islam and Polygamy: A Case Study in Jammu and Kashmir

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Abstract:

Jammu and Kashmir is one of the Muslim majority states in India and is divided into three main provinces these are Jammu, Kashmir (the valley) and Ladakh province. Among the three regions of Jammu and Kashmir the valley has a Muslim majority of 97% as per the census of Indian 2011. Though Islam is practiced by 97% of its population in the valley and plays a predominant role in the daily lives of people in Kashmir valley. Apart from the constitutional rights Muslim's in India are governed by Muslim personal laws in certain walks of life and the belief of people in the religious texts based on the texts of Holy Quran and the Hadith. Although Polygamy is an Islamic issue and Muslim's have very little say about polygamy. Polygamy is practiced by the Muslims all around the world as per the Islamic Shari'a; same is in the case of Jammu and Kashmir and polygamy is also practiced in this part of country, yet many of the obstacles faced by the Jammu and Kashmir society disproportionately affect women-mentioning one is polygamy. Can polygamy be questioned in Islam? Are there possibilities to restrict or ban polygamy in Muslim societies? This paper therefore engages in analysing the perception of women on the above issue.

Key words: Polygamy, women, Jammu and Kashmir, Islam

Introduction

Definition of Polygamy

Polygamy means a system of marriage whereby one person has one or more spouse. Polygamy can be of two types. One is polygyny where a man marries more than one woman, and the other is polyandry, where a woman marries more than one man at a single time.

India is one of the several countries sharing the history of Islamic resurgence. The secular nature of the country has given birth to separate Muslim Personal Law for Muslims in the country. The authentic sources are the Holy Quran (religious book of Muslims) and the Hadith (the sayings of the Prophet Muhammad) PBUH.

Marriage to more than one wife at the same time - Polygamy - is a practice as old as the history of man, and is allowed in Islamic law. Among others, Polygamy was well known to the Ancient Hebrews, Egyptians, Greeks, Persians, Assyrians, Japanese, Hindus, Russians and Germanic peoples. All previous revealed religions practiced and condoned Polygamy. The Old and New Testaments are at the foremost in the list of the religious Books that legalized and practiced it. Many of the Prophets of Allah before Prophet Muhammad (Peace be upon Him) entered into plural marriages. Prophet Abraham had two wives; Prophet Jacob had four wives; and Prophet David had ninety-nine wives (may Allah exalt their mention). Prophet Solomon (may Allah exalt their mention) had seven hundred wives who were free noble women, and three hundred other wives who were slave women. Nowhere does the law of the Prophet Moses (may Allah exalt their mention) set or determine a specific number of wives to which a husband was entitled. The compilers of the Talmud, who lived around Jerusalem, decided upon a certain number of wives for a man, and some Jewish scholars only permitted a second wife or more if the first wife was permanently ill or barren. Still other

Jewish scholars did not permit plural marriages at all. In the New Testament of the Bible, Jesus is commissioned to comply with and complete the Laws of Moses (may Allah exalt their mention) and we cannot find a single quote in the Bible that forbids plural marriage. The prohibition of plural marriages in Christianity came about only as a result of legislation set forth certain segments of the Christian church, and not by the original teachings of Christianity itself. For this reason we find many examples of Christians taking multiple wives. The Irish king, Ditharmet, for instance, had two wives. King Frederick the Second had two wives with the church's approval. Thus, it must be noticed that prohibition was in the hands of the priests of the church, and not in accordance with any universally recognized original law of Jesus Christ himself (may Allah exalt their mention). Martin Luther, the German priest who first established the Protestant sect, considered plural marriage acceptable and advocated it on many occasions. Polygamy was well known amongst pagan Arab tribes prior to the advent of Islam but there was no limitation for the number of wives, like in the cases of some of the Prophets mentioned above.

With the advent of Islam, the Islamic law condoned Polygamy but a man was limited to only four wives, and specific rules regulated these marriages. There are numerous examples in the authentic traditions wherein the Messenger of Allah (Peace be upon Him) obligated those who had more than four wives, when they accepted Islam, to choose four and divorce the rest honourably.

The Quran in this context says,

Translation:

(And if you fear that you shall not be able to deal justly with the orphan girls, then marry (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess. That is nearer to prevent you from doing injustice.) [4:3]

Thus we see that strict justice and fairness in treatment, and avoiding any injustice and wrong practices against all wives, is stipulated and conditional for those who wish to take more than one wife. The Messenger of Allah (Peace be upon Him) warned against favouritism saying

"He who has two wives and is not just between them, he will come on the Day of Resurrection with one of his sides fallen."
(Abu Dawood 2133 & Tirmidhi 1141 and verified)

Justice and fairness, in this context, applies to material things such as ex-penditure, fair division of wealth, gifts, time, etc. As for emotional matters, such as love and inclination of the heart towards one wife over the other, it is recognized that man has no control over his innermost heart and emotions, as they are involuntary.

The Quran says,

Translation:

(You will never be able to do perfect justice between wives even if it is your ardent desire (i.e. emotions of the heart), so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft-Forgiving, Most Merciful)
[4:129]

A man who is impotent should not seek any marriage since he is unable to fulfil its basic requirement. He who knows for sure that he is financially incapable of supporting another wife and household, is not allowed to seek another marriage, just as the bachelor who seeks to marry must strive to earn the wherewithal and must be able to sustain his wife and future children. As Allah says, and which can be taken as a general rule

Translation:

And let those who find not the financial means for marriage keep themselves chaste, until Allah enriches them with His Bounty. [34:33]

Muslim feminists call for restrictions on polygamy as they believe that polygamy is a pre-Islamic practice and that conditions attached to polygamy like justice cannot be fulfilled in the modern age and therefore it should be banned/ restricted. In contrast to this view, a general belief among the Muslims is that the polygamy is an Islamic practice and mentioned in the Qur'an, therefore it cannot be questioned. This view is based on the fact that the Qur'an is unquestionable, what so ever mentioned in the Qur'an must be followed. Now this makes it a bit difficult to analyze whether the calls by Muslim feminists for restricting polygamy are questioning the Qur'an. However in Jammu and Kashmir polygamy is viewed very strictly and people in Jammu and Kashmir marry almost only one woman, and is not banned or restricted in Jammu and Kashmir.

Objective:

To analysis the perception of women on the issue of Polygamy.

Methodology:

Universe: The women from Srinagar city of Jammu and Kashmir constitute the universe of the study. Among Srinagar city the University of Kashmir was chosen for the purpose of drawing up the sample. Locating the research in University was helpful as it provided me with an environment where people are more open to debates and new ideas. Parts from this, students are the future leaders and they occupy several positions in government and private machinery and some may hold positions at the policy level. They are the ones who are

going to decide the future of the nation. It is important to know their perceptions.

Three faculties are chosen namely, Faculty of Arts, Faculty of Social Science (in which Islamic Studies) was chosen and Faculty of Sciences. It is imperative that students in all three faculties are grounded in different academic fields; therefore a varying perception is expected from each faculty giving researcher a wide range of opinions on the issue.

To ensure the consistency of the result, a sample size is determined based on the calculations by Krejcie and Morgan (1970). This is mainly done to ensure that the probability of committing type I error is $p < .05$. The target set in the sample size was 100 % achieved as the researcher approached all the respondents in person, guided them step by step to fill in the survey questionnaire. Based on the Krejcie and Morgan (1970) sample size determination the respondents were 218 as shown in Table 1. From the marital factor, a total of 186 (85.32 %) out of 218 are single majority of the students still in the younger age (PG, M.phil, Ph.D.). Thus the married students are only 32 (14.68%). The data collected is analyzed through SPSS and survey utilized a 5-item Likert Scale with responses as follows: Strongly Agree, 2 = Agree, 3 = Undecided, 4 = Disagree and 5= strongly Disagree.

Delimitation: Due to resources and time the present study covers only university female students in only one university of Jammu and Kashmir.

Table. 1. Demographic of the respondents based on marital status

Variable	category	n	%
Marital status	Single	186	85.32
	Married	32	14.68
Student faculty	Arts	32	14.68
	Social-science (Islamic studies)	123	56.42
	Science	63	28.90

Sources: Primary Data computed

Results

Agreement on polygamy issues:

The results in Table 2 show that nearly half of the respondents (47 %) agree that polygamy is a social or moral issue and 34 % respondents agree that polygamy is a form of sexism. In addition to that, 46 % respondents agree that polygamy is an Islamic issue and at the same time 51% respondents disagree to involve in a polygamous marriage. Moreover, nearly half of the respondents (47 %) agree that since polygamy is an Islamic practice therefore it cannot be questioned. And 42 % of the respondents disagree that polygamy brings more benefits to men than women.

Table: 2 Results of the survey

Statements	Agree	Disagree	Neutral
Polygamy is a form of sexism	34 %	32 %	21 %
Polygamy is an Islamic issue	46 %	13 %	41 %
Would you like to have a polygamous marriage	23 %	51 %	22 %
As polygamy is an Islamic practice, it cannot be questioned	47 %	19 %	34 %
Polygamy brings more benefits to men than women	37 %	42 %	21 %
Divorce affects women more than men	33 %	21 %	46 %
The laws pertaining to the practice of polygamy should be made stricter.	39 %	19 %	42 %
The laws pertaining to the practice of polygamy should be implemented and followed properly.	52 %	09 %	39 %
The Qur'an gives liberty not only for Muslim men but also Muslim women	49 %	05 %	46 %
<i>Ulema</i> who only comprised of men are the only authorized people who should interpret the Qur'an	62 %	19 %	19 %
Learned Muslim men and women although not <i>Ulema</i> can also be involved in the interpretation work	42 %	22 %	45 %
The interpretation of the Qur'an is male dominated, therefore polygamous marriages	22 %	31 %	47 %

occur.			
Women's voices are repressed or muted in the interpretation of the Qur'an and therefore issues like polygamy are considered Islamic.	21 %	33 %	47 %
Muslim women Feminist should be allowed to interpret the Qur'an?	18 %	33 %	49 %
Polygamy should be banned	32 %	29 %	39 %

Sources: Primary Data computed

Parts from that, 33% of the respondents agree that divorce affects women more than men and 39% of the respondents agree that the laws pertaining to the practice of polygamy should be made stricter. Whereas, 52 % agree that the laws pertaining to the practice of polygamy should be implemented and followed properly. Moreover, 49 % respondents agree that Qur'an gives liberty not only for Muslim men but also Muslim women and 62 agree that the *Ulema* who only comprised of men are the only authorized people who should interpret the Qur'an. In addition to that, 42 % agree that learned Muslim men and women although not *Ulema* can also be involved in the interpretation work. 31 % respondents disagree that the interpretation of the Qur'an is male dominated, therefore polygamous marriages occur. 33 % of the respondents disagree that women's voices are repressed or muted in the interpretation of the Qur'an and therefore issues like polygamy are considered Islamic. 33 % respondents disagree that Muslim woman Feminist should be allowed to interpret the Qur'an? And finally, 32 % agree that Polygamy should be banned.

Table 3 shows the difference of perception among the students on polygamy based on the field of study. It illustrates that in the Faculty of Arts students remain neutral with 66.1 %, 15.3 % agree and 18.6 % disagree. Furthermore, in the Faculty of Islamic Studies 56.0 % remain neutral, 22.9 % agree and 22.1% disagree. Moreover, in the faculty of science, 62.6% remain neutral, 32.2% agree and only 5.3 % disagree.

Comparison between fields of studies

The results illustrate that science students have the highest level of agreement (32.2%) and Arts students have the lowest (18.6%). The Islamic studies students are in the middle. This means that Science students are more positive in their perception of reforms on polygamy and divorce and Arts students are more negative in this case. The level of agreement (22.9%) among Islamic studies students is higher as compared to the level of disagreement (21.1%) which means that Islamic studies students fall more positive towards reform of laws on polygamy and divorce.

Table 3. Contingency table for Polygamy based on field of study

Field of study	Statistics	disagree	Neutral	Agree	Total
Arts	n	22	78	18	118
	%within faculty	18.6 %	66.1%	15.3 %	100 %
	%within category	32.4 %	27.6 %	15.9 %	25.4 %
Social science (Islamic Studies)	n	37	98	40	175
	%within faculty	21.1	56	22.9	100
	%within category	54	34.6	35.4	37.7
SCIENCE	N	9	107	55	171
	%within faculty	5.3	62.6	32.2	100
	%within category	13.2	37.8	48.7	36.9
TOTAL	n	68	283	113	464
	%within faculty	14.7	61	24	100
	%within category	100%	100%	100%	100%

Sources: Primary Data computed

Discussion:

The findings suggest that respondents of the study agree that polygamy is an Islamic practice and therefore it cannot be questioned. The reasons that why subjects support polygamy is because it is clearly mentioned in the Qur’an and Islam allow it

– though with certain conditions. These conditions include: (1) the wife(s) has no objection about polygamy during or before the marriage contract and if the husband disregards that, the wife has the right to raise that to the Islamic court, (2) If a man can do equitable treatment for all the wives, (3) if the man is wealthy enough to fulfil all their financial needs, and (4) if women are unable to produce children. If the man lacks those material and moral conditions, or he is not competent enough to satisfy all of them, then he will not be eligible to take more than one wife. Also, Islam has emphasized that the basic objective of healthy marital life comes from mutual love and benevolence between the husband and the wife which normally can be found in the form of regular marriage - monogamy. But in case if a man who does not fulfil the given conditions and still goes polygamous, it should be considered as an administrative flaw.

This finding contrasts with a study reported suggests that polygamous man have caused hardships and misery to women and children in their plural families, especially first wives and their children. Based on this study, 75 % of polygamous husbands are unable to fulfil their responsibilities as provider and protector. Over 80 % husbands have failed to continue in providing the required and necessary nafkah zahir (material/economic maintenance) for them and their children (Othman, 2012).

Furthermore, the findings also suggest that science students are more positive in their perception of reforms on the laws regarding polygamy and arts students are more negative in this case. The science students rather think of polygamy in economic perspectives and believe that polygamous marriages create economic problems as a husband has to look after more than one family at a time. In contrast, the social sciences students take polygamy as conditional – as they say it depends on the partners how they manage a polygamous marriage, and then they are also closer to their stance with the students of Islamic studies that it is mentioned in the Qur'an therefore

banning polygamy is never an option. It should be seen case wise – as in some cases it is beneficial and in others it is not.

The fact that Islam encourages polygamy, though conditionally, cannot be denied. But the condition is very clear: polygamy should be practiced by men who can manage it successfully, and demonstrate an uncompromising certainty that they will treat their wives equally (Surah 4:129). This condition cannot be fulfilled, at least, absolutely. Islam is fully aware of that. Hence, a second thought on this part of the Qur'an suggests that Islam does not recommend polygamy as an excuse for marital disavowal (Kamaruddin and Abdullah, 2008). We need to understand that polygamy was part of the African tradition before the advent of Islam. Any attempt to refute this knowledge will amount to a gross distortion of a historical reality pertaining marriage life in pre-Islamic—and precolonial- Africa (Alexandre, 2007). Although Islam did impart the African life when it came, it will be wrong to hold Islam absolutely responsible for all the problems polygamy creates.

Conclusion:

Polygamy is still practiced almost in all Muslim societies with a greater incidence in the Middle East - where polygamy is taken as an Islamic act that protects Muslim women from posterity and low moral values – for them the advantages of polygamy far outweigh the disadvantages. Indeed, the proponents of polygamy claim that its practice favours women more than a man – as it protects them from social degradation and low moral values. A most common argument is that it favours Muslim women better to share a husband rather than accepting a living of spinsterhood. But as per as the polygamy in Jammu and Kashmir is concerned it is not practiced as usual and hardly a man marries a second wife, however in case of death of one wife or divorce it is common that people use to marry

second time and is taken seriously by the people and the courts as well.

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