

## ISLAM POLYGAMY: INDIA'S JUDICIAL RESPONSE AND JURISPRUDENTIAL BASIS

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**Abstract:** Polygamy is a societal practice that is prohibited in most countries and is not widely recognized. This phrase refers to a sort of marriage in which there have been more than one spouse, but at the same time, this will apply to more than one wife. With an emphasis on India and other Countries like Malaysia, Syria, Tunisia, Iraq, Pakistan this study examines the basis of polygamy in Islam and International Human Rights legislation and the Jurisprudential view on Polygamy through different case laws related to Polygamy in India and their requirements and difficulties of a dynamic legal system are contrasted with the application of Islamic law to polygamy.

**Key words:** Polygamy, Marriage, Islam, Judiciary, Muslim women, Bigamy.

### Introduction

The Muslim Personal Law's allowance of polygamy is its most criticized and misinterpreted feature. The main characteristics of objections have been their conservative attitude, licentious aim, and denigration of women's status and dignity in general. The practice of polygamy has been so severely criticized by biased and envious writers in the West, including so-called modern supporters of women's rights, that contemporary educated Muslims have been forced to lower their heads in shame. The specific matter was taken up by the Christian priests in order to conceal the true socioreligious philosophy of Islam, which is implied in the holy scripture allowing limited polygamy, from their people. They also managed to produce such offensive caricatures of Islam that would be repulsive to look at. In response, the Christian fathers and orientalist accused Islam of being the source of polygamy. However, the history of human civilization attests to the fact that, even before Islam, polygamy was more common than polyandry in all of the religious communities.

There is currently a concentrated attempt to persuade India's Bar and Bench through persuasive argumentation that Islam not only invented and encouraged polygamy but also permits Muslims to enter into up to four marriages concurrently as a matter of religious faith without any precedent or restrictions. To a greater extent, nevertheless, the terrible circumstances of the society adhering to monogamy and the emphatic refutation of the baseless reason against polygamy have eliminated any misconceptions that may have arisen in this regard. However, in order to understand the underlying reason for the skepticism, one must examine the institutional history of polygamy.

### **The Evolution of Polygamy:**

Polygamy has long been a recognized institution in human society and a fundamental component of all known human civilizations. Multiple marriages were not only accepted by common norms in ancient India, but were also often engaged in. Numerous times throughout the Rig Veda and other Hindu scriptures, the spouses of kings and heroes are mentioned. In the Rig Veda Samahita, instances of polygamy among kings, nobles, and occasionally even priests are specifically described. During the Rig Vedic era, polygamy had become a part of societal hierarchy, yet the general populace was still free from wickedness. However, it is abundantly evident from later Samahitas and Brahmins that polygamy was not only accepted but actively practiced during the Rig Vedic era. not detested in any way either. The Yajur Veda mentions that a man may have two wives, but a woman cannot have more than one husband. Maitraiani Samahita mentions Manu as having ten wives. Raja Pando had two wives, and Raja Dushrath had three. The fact that a renowned seer like Yajnavalkya had two wives provides unambiguous proof of polygamy throughout the Brahmana period. The references to polygamy in the Rig Vedic literature mostly concern reigning princes, nobles, and occasionally even priests. As a result, polygamy—a holdover from earlier ages persisted in Hindu society until the Hindu Marriage Act of 1955.

In the Talmud and the Bible, polygamy was also common. It was promoted by the Mosaic Law, and the majority of their well-known prophets took several wives. Moses had four wives, Prophet Yaqub had four, and Prophet Abraham had two. Prophet Sulaiman (Soloman) had one thousand and seven hundred wives and three hundred slave girls; Prophet Dawud (David) had nine wives. Christian monarchs have a long history of having multiple wives. Both Philip and Frederick William II were approved by the Church and St. Luther to have multiple wives. In 1650, the Nuremberg Conference decided to legalize polygamy as a means of addressing the underpopulation issue.

In every Eastern nation, polygamy was acknowledged as a legitimate institution. Polygamy was popular in Iran, Egypt, Greece, Babylon, Austria, China, and Japan. Israeli polygamy was common and persisted even after Moses. Among the Romans, the independence of women, the lack of ties that connected them to males, the regularity of wife swaps or transfers—taken together, the prevalence of polygamy under various names. Not even Jesus Christ expressly forbade polygamy. Several Bible texts are cited by John Milton in his book on Christian doctrine to support polygamy. So, polygamy among Christians flourished in a more or less noticeable form until being outlawed by Justinian's regulations. Nonetheless, it persisted in use until modern society denounced it. St. Augustine himself appears to have said that there is no inherent immorality or sinfulness in it and that polygamy is not illegal in nations where it is a recognized institution. General of the Capuchin order Burnardo Ochinus produced a pro-polygamy essay about the middle of the sixteenth century. In his *Uxor Hebracia*, Seldon demonstrates that polygamy was accepted not only by Jews but likewise all the other Nation.

According to all reliable historical accounts, Arabs were a polygamist community in the immediate period preceding the birth of the Holy Prophet (PBUH). Native Arab Christians and Jews, as well as outsiders and animists, were all typically polygamists. Among the great-grandfather of the prophet, Qussi bin Kalab, and his grandpa, Al-Mutlib, had multiple wives. Therefore, in the civilization where Islam originated, polygamy was the norm. All throughout Arabia, there was a widespread practice of unbridled, unprincipled, and uncontrolled polygamy.

Therefore, in the civilization where Islam originated, polygamy was the norm. All throughout Arabia, there was a widespread practice of unbridled, unprincipled, and uncontrolled polygamy. It was practiced by both Arabs and non-Arab residents of the area. The originator of Islam, the Holy Prophet (PBUH), was born into this civilization.

Even after Prophet Muhammad (PBUH) acknowledged his prophetic status, polygamy persisted as the norm. Numerous polygamists were among the Holy Prophet's (PBUH) closest companions. It was a complex web of polygamous relationships, for sure. It was prevalent all-around Islam's founder. Both Umar and Abu Bakr, who were married to the prophet, were polygamists.

So were a great many of his ardent admirers and fierce foes. As a result, it is evident from the historical study that very few individuals who were the prophet's relatives, friends, supporters, foes, or adversaries did not have more than one wife. Many wives were owned by those who rejected his mission and teachings, such as Abu Jahl, Abu Lahab, 'Utba, Umayya, Abu al-Bakhtari, etc. But when the laws of Islam were brought about by the Prophet Muhammad (PBUH), around 600 years after the birth of Jesus, polygamy was a well-established phenomenon across all nations and faiths. Since the beginning of time, it has been a very well-established institution. No social structure or religion vehemently denounced it. The Islamic prophet made the best decisions he could under the constraints, taking into account the natural, moral, and social norms of the community. Islam brought about racial change and social reform in human society by outlawing the number of spouses and imposing severe restrictions on having multiple wives at once. Thus, Islam both prohibits and regulates polygamy.

This demonstrates that polygamy has always been accepted as a legitimate institution by all peoples and periods of history; even the Jewish prophets took multiple wives, and Jesus did not forbid it. Therefore, the biggest and most repugnant error made by Western writers, as well as by some non-Muslim jurists and the so-called progressive and enlightened Muslim writers in India, is to believe that the Prophet Muhammad either invented or supported polygamy.

### **Holy Qur'an and Polygamy**

Two passages in the Holy Quran specifically address polygamy, and they are both found in Chapter IV, "The Women" (Surah Nisa). Other scriptures are equally significant in determining the direction on Polygamy.

The Quran's position on polygamy. The following are verses from the Holy Quran that both directly and significantly relate to polygamy:

وَأِنْ خِفْتُمْ أَلَّا تَقْسِطُوا فِي النِّسَاءِ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثَلِيٍّ وَلِلَّهِ وَرَبِّهِ ۖ فَإِنْ خِفْتُمْ أَلَّا تَعْلُوا فَوَاحِشَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَٰلِكَ أَدْنَىٰ  
أَلَّا تَعْلُوا ۗ

*"If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, Two, or three, or four; But if ye fear that ye shall not be able to deal justly (with them). Then only one, or (a captive) That your right hands possess. That will be more suitable. To prevent you from doing injustice."*

- Holy Quran Chapter 4 verse 3.

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ ۚ فَلَنْ تَمِيلُوا عَلَىٰ الْاِمْتِلَاقِ فَتَذَرُوهَا كَالْمُعْلَقَةِ ۚ وَإِنْ تَصْلَحُوا وَتَتَّعَفَوْا فَإِنْ أَلَّا كَانَ غَفُورًا رَحِيمًا

*“Ye are never able to be fair and just as between women even if it is Yours ardent desire: But turn not away (From a woman) altogether. So as to leave her (as it were) Hanging (in the air). If ye come to a friendly Understanding, and practice Self-restraint, God is Oft-Forgiving, Most Merciful.”*

- *Holy Quran Chapter 4 verse 129.*

Over time, several Islamic Scholars have interpreted these verses from the Holy Quran in different ways. The following explanations have been offered for Surah Nisa verse 3:

Hazrata Ibn Abbas claims that the scripture in question was revealed to address a problem that was common in the days of ignorance. Because they had no one to stand up for them, the guardians of the orphan girls used to marry them for their wealth and beauty with the goal of keeping them under their control; then, without fear, they mistreated them. They therefore felt uncomfortable marrying orphan girls after converting to Islam. Therefore, if they were afraid they wouldn't be able to treat the orphan girls in their care with justice, the Quran counseled them to marry women of their choosing rather than those assigned to them.

Hazrat Ibn Abbas and his follower Ikrimah comment on this, saying that the purpose of the revelation of the commandment Holy Quran verse (IV: 3) was to eliminate an injustice that was common during the period of ignorance. Prior to Islam, there was no restriction on the number of wives a person may have—some would even marry a dozen—but when their income from these unions grew, they were obliged to pilfer the belongings of their vulnerable relatives, even their orphan nephews. Allah therefore commanded that a person must treat each of their wives with justice and set a cap of four as the maximum number of spouses.

Islamic Scholars such as Said Ibn Jubair, Qatadah, and others assert that the purpose of this Command is to protect the interests of polygamous wives. They firmly believe that, even prior to the arrival of Islam, injustice was detested by society, but wives were treated differently; they would marry as many as they pleased and treat the orphans harshly and unfairly without worrying about backlash from the community or any guilt feelings. Allah therefore forewarned them, warning them not to treat their wives unfairly, as they had done with the orphans. Thus, if there was a fear of harm to them, they shouldn't have married more than four wives.

Thus, it is evident that although verse IV: 3 discussed the equality of co-wives and made it a requirement for polygamy, Holy Quran verse IV: 29 discussed the equality of love and affection between co-wives and established an exemption for the same, regarding this as something outside of human control.

### **Modern Juristic View on Polygamy**

Abdullah Yousaf Ali, the most well-known Indian translator of the Holy Quran, states:

*“Notice the conditional clause about orphans, introducing the rules about marriage. This reminds us of the immediate occasion of the promulgation of this verse. It was after the Battle of Uhad when the Muslim community was left with many orphans and widows and some captives of war. Their treatment was to be governed by the occasion is past but the principles remain. Marry the orphans if you are quite sure that you will in that way protect their interests and their property with perfect justice to them and your own dependants if you have any. If not, make other arrangements for the orphans ... The unrestricted number of wives of the “times of ignorance” was now strictly limited to a maximum of four provided one could treat them with perfect equality*

*in material things as well as in affection and immaterial things. As this condition is difficult to fulfil, it is a clear recommendation towards monogamy.”*

Another noted scholar and jurist of recent times Abul ‘Ala Maududi says: “It should be noted that this verse was not sent down to permit polygamy, for polygamy was already considered lawful in Arabia and the Holy Prophet (PBUH) himself had more than one wife when this verse was revealed. The real object of its revelation was to help solve the problem of the orphaned children of Muslims who fell martyrs in the Islamic battles. There is a complete consensus of the juristic opinion that this verse restricts polygamy to four wives and prohibits keeping more than four wives at one and the same time. Moreover, it restricts polygamy with the provision of justice to all the wives. The person, who abuses the permission without fulfilling the conditions of justice and marries more wives than one, tries to deceive Allah.”

Maulana Ashraf Ali Thanvi, another eminent Indian religious scholar, outlines the traditional Quranic injunction on polygamy in his well-known work Bahishti Zewar. He states that if a person has multiple wives, he must treat each one equally and maintain a household. They all possess equal rights. Every gift a husband offers one wife, he ought to give to the other wives as well. He ought to spend one night with both of his wives if he spends one night with the first. It is not appropriate to give preference to one over the other. The new and old wives shouldn't be any different from one another. Equality only applies to overnight stays; during the day, it is not necessary. There won't be any harm if the husband spends a greater portion of the day with one wife and less with the other. However, it would be sinful if he spent the night with one wife right after Maghrib and the next night with the other wife after 'isha. However, it is imperative that one respect and uphold equality during the day if he stays at home during the day and continues to perform his duties at night.

Commenting on the second verse i.e., Holy Quran Chapter 4 verse 129, noted Islamic jurist Abdullah Yusuf Ali says:

*“Legally more than one wife (up to four) is permissible on the condition almost impossible to fulfil. If, in the hope that he might be able to fulfil it, a man puts himself in that impossible condition, it is only right to insist that he should not discard one but at least fulfil all the outward duties that are incumbent on him in respect of her.”*

Further, commenting on the same Holy Quran i.e., Chapter 4 verse 129, Asghar Ali Engineer says: “This verse is so clear on the question of justice and fair treatment with all wives that polygamy is almost impossible to practice. The words that you cannot do justice “even if it is your ardent desire” are so clear that there is no need for any further discussion. It is humanly impossible to treat all wives equitably (especially in matters of love) and one should not leave one woman hanging in the air and incline totally towards the other. Here, it is important to point out the Quranic methodology in social matters like slavery, polygamy and similar other matters. At the first stage, the Quran permits an existing practice with proviso for reforms and improvement so as to lessen its negative impact but subsequently it points out in no uncertain language that it is best to be abolished.”

As a result, the Chapter 4 verse 3 of Holy Quran, seems to approve of polygamy, but the second verse 129 of Chapter 4 of Holy Quran, seems to warn against the dangers of having many wives. It establishes stringent requirements for treating each wife equally; if a person has cause to believe that they won't receive the same treatment, they should only marry one. Therefore, in order to accurately determine the Law-Giver's intention, it is necessary to read both verses together.



However, it is obvious that having more than one wife is not as important as treating everyone equally and fairly as Chapter 4 verse 129 indicates when taken literally.

Fear of injustice is emphasized twice in Chapter 4 verse 3 of Holy Quran. Therefore, it is important to consider the moral implications of polygamy. Thus, taking a second wife shouldn't be left up to an individual; instead, it should be strictly regulated or outlawed. Therefore, legal intervention is absolutely necessary.

### **Characteristics and Extent of Parity Among Polygamous Wives**

It is evident from the text that equality among spouses is intended in terms of maintenance, upkeep, and marital relations. A husband is guilty of injustice if, for instance, he spends two nights with one wife and one with the other; if he pays one wife's monthly expenses with rupees 100 and the other with rupees 50; if he gives one wife a large and comfortable home while providing an uncomfortable one with rupees 50. However, a husband satisfies the requirements of justice if he does not discriminate between one wife and the other in these or other similar circumstances. The disgruntled wife may petition the Qazi if her husband has failed in this regard, and if her allegation is validated, the Qazi is obligated to act. Islamic law scholars have ruled that parity between the spouses is required and have defined it precisely.

A person can have one wife or several wives. If he is the father of multiple children, he must treat them all equally in terms of marital connections, support, and upkeep. He must uphold exact equality between his two free women and his two slave wives with regard to food, clothing, housing, and marital relations.

The definition of justice provided above clarifies its meaning and supports the idea that it must be applied. The commentators cite Surah Al-Nisa verse No. 3 to bolster their position. Here are some remarks made by Maulana Syed Ahmad Qadri:

‘God gives someone permission to marry two, three, or four women, but refrain them not to use that authority if they are unsure of their ability to balance maintenance costs and conjugal relations between several spouses. Consequently, it is evident that no such directive would have been issued if equality and justice were not required. When discrimination among spouses is outlawed, equality among spouses follows as a natural consequence. Justice is valued so highly that evenings must be split evenly amongst wives of different ages and physical attributes. Furthermore, when it comes to dividing up the turns, Kitabia and Muslims, old and new, widows and virgins, and the elderly all need to be treated equally. However, equality in love and natural inclination is well beyond human capacity, which is why Shariah has not made it required. Surah Al-Nisa's verse 129 makes this clear. Aside from this, the Quran states as a general rule that Allah does not burden a person with obligations that they are unable to fulfill.’

### **Legal Developments Concerning Polygamy in Islamic Nations**

We will now move on to examine the legislative actions that have been implemented in Islamic nations to lessen the hardship that women endure as a result of the widespread practice of polygamy.

- 1. PAKISTAN:** The Muslim Family Laws Ordinance 1961, Section 6, establishes the legal framework governing polygamy in Pakistan. The following are the pertinent provisions:  
(1) No man shall, except with the prior written consent of the Arbitration Council, during the continuation of an existing marriage. Get married again, or allow a marriage that has already been consummated without authorization to be registered under this ordinance.

(2) To request permission under sub-section (1), an application must be made to the Chairman in the specified way and include the necessary fee. The application must include the reasons for the intended marriage as well as whether the present wife or wives have given their assent.

(3) Following the receipt of an application under sub-section (2), the Chairman will ask the applicant and his current wife or wives to each nominate a representative. If the Arbitration Council is satisfied that the proposed marriage is necessary and just, it may grant the requested permission, subject to any conditions that may be deemed appropriate.

(4) After determining the application, the Arbitration Council will document its reasoning. Any interested party may then submit an application for revision to the relevant Collector within the allotted time frame and for the appropriate fee. The Collector's decision is final and cannot be contested in court.

(5) If a man marries again without the Arbitration Council's permission, he will be subject to the following penalties:

(a) pay the full amount of dower, whether it is due right away or later; if it is not paid, it will be recovered as arrears of land revenue; and

(b) face simple imprisonment, which is punishable by up to a year in jail, a fine of up to 5,000 rupees, or both.

**2. IRAQ:** Article 3 of the Code of Personal Status 1959, as amended in 1987, specifies the laws pertaining to polygamy in Iraq.

In line with Article 3:

(1) Getting married to more than one wife requires the approval of the court, and the approval of such a marriage is contingent on the husband's ability to support the expenses of his multiple wives as well as the possibility that the marriage would further legitimate goals.

(2) A plurality of spouses will not be allowed, regardless of whether the women fear injustice toward one another; the court will decide this.

(3) Anyone found to have arranged a second marriage in violation of these rules faces a maximum one-year sentence in jail, a maximum fine of one hundred dinars, or both.

**3. SYRIA:** The Syria Code of Personal Status 1953, Articles 17 and 19, gives the Court the authority to deny permission to a married individual to marry another woman if it is determined that he is unable to support two wives.

Articles 17 and 19 state the following:

i. **Article 17:** Unless there is a valid reason and the man can support two wives, the court will not allow a married man to remarry.

ii. **Article 19:** The court's approval for the marriage must be acquired where there is a discrepancy in age between the parties to the marriage.

**4. TUNISIA:** Multiple marriages are not allowed in Tunisia. The Code of Personal Status 1956, Article 18 states:

(1) Regardless of whether the second marriage violates any provisions of this Code, anyone who remarries after being legally divorced and before the first marriage is formally dissolved faces a year in prison, a fine of 240,000 Malims (Francs), or both.

(2) Those who enter into a second marriage while living in matrimony with their first spouse and who wedded in contravention of the restrictions outlined in Law No. 3 of 1957 related to Organization of Civil Status will be subject to the same penalties.

(3) Anyone who intentionally marries someone who is subject to the punishment listed in the preceding sections will likewise be subject to that punishment.

**5. MALAYSIA:** A woman is only permitted to have one husband and a man is only permitted to have one wife in Malaysia. However, if a man meets the requirements outlined in Article 23 of the Malaysian Islamic Family Law Act, 1984, the court may allow him to have many wives. Article 23 states as follows:

(1) No man may enter into another marriage during the duration of his current marriage, unless the Shariah Judge grants prior written permission. Nor may a marriage entered into without such permission be registered under this Act.

(2) The marriage of a man who resides in the Federal Territory or outside of it, as well as the marriage of a man who resides in the Federal Territory outside of it, are both covered by sub-section (1).

(3) A statutory declaration outlining the grounds on which the proposed marriage is alleged to be just and necessary, the applicant's current income, specifics of his commitments and his ascertainable financial obligations and liabilities, the number of his dependents, including those who would become his dependants as a result of the proposed marriage, and whether the consent or views of the applicant's current wife or wives are required must be submitted with the application for permission in the prescribed manner to the court.

(4) After receiving the application, the court will call the applicant and any current spouses to appear at the hearing, which will take place behind closed doors. If the court finds the requested permission to be reasonable, it will grant it.

(a) The proposed marriage is deemed just and necessary in light of various circumstances, including but not limited to sterility, physical infirmity, physical unfitness for conjugal relations, willful disregard of an order for restitution of conjugal rights, or insanity on the part of the existing wife or wives;

(b) The applicant possesses the necessary means to enable him to support all of his wives and dependents, including those who would become his dependents as a result of the proposed marriage, as required by Hukume Shariah (Islamic Law);

(c) The applicant would be able to treat all of his wives equally as prescribed by Hukume Shariah (Islamic Law);

(d) That the proposed marriage would not directly or indirectly lower the standard of living that the existing wives and dependents have been enjoying and would reasonably expect to continue to enjoy where the marriage not to take place; and

(e) That the proposed marriage would not cause Zazar Shar'i (what Islamic law considers an injury) to the existing wives.

Legislation in Islamic states has therefore tried to outlaw polygamy completely or to severely restrict its use.



### India's Judicial Perspective on Polygamy

Regardless of historical context, Muslims in today's secular India, where they coexist peacefully with other communities and exercise full religious freedom, could only be considered Dar-ul-Aman. After Hindus, Muslims make up the second-largest religious group in India. According to some estimates, Muslims make up the second-highest population in the world, after Indonesians. Indian Muslims are free to declare and live out their faith, as well as to adhere to all of the core tenets and rituals that Islam mandates by its own precepts. Although the nation does not have any laws limiting their rights in this way, certain of these customs and beliefs have been the focus of court rulings. Sadly, there is a widespread misconception in India that Muslim law permits a man to have up to four wives concurrently. Most of the time, court rulings regarding a man's right to polygamy are in line with both the letter and the spirit of the genuine Islamic bigamy rule. It is possible to bring up the following cases:

- i. *Badruddin v. Aisha Begum*: In this case while deciding upon the issue of polygamy, the Allahabad High Court held: Though the personal law of Muslims permitted having as many as four wives but it could not be said that having more than one wife is a part of religion. Neither it is made obligatory by religion nor is it a matter of freedom of conscience. Any law in favour of monogamy, thus, does not interfere with the right to profess, practice and propagate religion and does not involve any violation of Article 25 of the Indian Constitution.
- ii. *Sarla Mudgal v. Union of India*: In this case, on the question of polygamy, it was held: The polygamy can be superseded by the State just as it can prohibit human sacrifice or the practice of Sati in the interest of public order. The court further held: The personal law operates under the authority of the legislation and not under the religion and, therefore, the personal law can always be superseded or supplemented by legislation.
- iii. *R.A. Pathan v. Director of Technical Education*: In this case the Gujarat High Court after having analyzed the in depth the tenets of Muslim personal law and their base in religion held: A religious practice ordinarily connotes a mandate which a faithful must carry out. What is permissible under the scripture cannot be equated with a mandate which may amount to a religious practice. It was further held by the court that there is nothing in the extract of the Quranic text that contracting plural marriages is a matter of religious practice amongst Muslims. Therefore, a bigamous marriage amongst Muslims is neither a religious practice and nor a religious belief and certainly not a religious injunction or mandate. Therefore, the question of attracting Articles 15(1), 25(1) or 26(b) to protect a bigamous marriage and in the name of religion does not arise.
- iv. *Javed v. State of Haryana*: In this case, the petitioner contended that section 175 of the Haryana Panchayati Raj Act, 1994 which disqualifies a person having more than two children from contesting election for the office of Panch/Sarpanch as violative of Article 14 of the Indian Constitution. The Court held that the said section is in no way violative of Article 14 of the Indian Constitution because the classification made under the Haryana Panchayati Raj Act, 1994 is based on intelligible differentia and has nexus with the object of popularizing family planning. Further, it was also contended by the petitioner in this case that the personal law of Muslims permits performance of marriages with 4 women, obviously for the procreation of children and any restriction thereon would be violative of right to freedom of religion enshrined in Article 25 of the Indian Constitution. The Hon'ble court held in this regard: The Muslim Law permits marrying four women. The personal law

nowhere mandates or dictates it as a duty to perform four marriages. No religious scripture or authority has been brought to our notice which provides that marrying less than four women or abstaining from procreating a child from each and every wife in case of permitted bigamy or polygamy would be irreligious or offensive to the dictates of the religion

- v. *Khursheed Ahmad Khan v. State of U.P.*: In this case, the validity of order removing the appellant from service for proved misconduct of contracting another marriage during existence of the first marriage without permission of the government in violation of Rule 29(1) of the U.P. Government Servant Conduct Rules, 1956 and it was contended that the Conduct Rule violates the fundamental right of the appellant provided to him by the Constitution of India under its Article 25. After hearing, the Hon'ble Supreme Court held: It may be permissible for Muslims to enter into four marriages with four women and for anyone whether a Muslim or belonging to any other community or religion to procreate as many children as he likes but no religion in India dictates or mandates as an obligation to enter into bigamy or polygamy or to have children more than one. What is permitted or not prohibited by a religion does not become a religious practice or positive tenet of a religion. A practice does not acquire the sanction of religion simply because it is permitted. Assuming the practice of having more wives than one or procreating more children than one is a practice followed by any community or group of people, the same can be regulated or prohibited by legislation in the interest of public order, morality and health or by any law providing for social welfare and reform which the impugned legislation clearly does.

## Conclusion

After examining sources of Shariah law, Islamic state legislative developments, and Indian judicial perspectives on polygamy, it is concluded that Holy Quran Chapter 4 verse 3 and 129 were revealed with the intention of ending the practice of unrestricted polygamy and the treatment of wives unequally. Thus, it is an attempt to mock the divine order made by anyone who practices polygamy and then fails to uphold the conditions of justice by having more spouses than one. All Muslim law scholars agree that this verse was revealed to restrict the number of women to four within the already-permissible practice of polygamy, rather than to legitimize and promote polygamy. Thus, the aforementioned scripture had an impact on two reforms to the widely practiced polygamy. In the first place, it restricted the number of women to four; in the second place, it made polygamy less common by enforcing the strict requirement that each wife receive equal treatment. As a result, Muslims nowadays may be permitted to marry more than once as long as they maintain the same pure religious perspective and adhere to Islamic law with the same rigor and enthusiasm as Muslims in the past. It is essentially impractical to permit Muslims to take multiple wives as prescribed by their religion, given the current declining trend in Muslim society. The Holy Quran's strong emphasis on preserving equality and fairness among spouses is a demanding requirement. Most of the time, modern Muslims lack the knowledge and moral fortitude to fulfill this need. Therefore, polygamy has no basis in the socioeconomic status of Muslims in general.

In order to ensure that the injunctions of the Holy Quran are carried out in accordance with their genuine meaning, some procedural and administrative measures must be made rather than changing the substantive law on this issue. Therefore, it is argued that the Parliament can fulfill its mandate by passing legislation that regulates polygamy in India with the assistance of Muslim jurists and ulema. In certain situations, such as when the wife is unfit to live with him, or is barren,

a husband may be permitted to enter into a second marriage upon obtaining permission from the court.

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