*Can a Muslim woman be forced into polygamy by her husband ?*

written by Kevin Abdullah Karim

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Can a Muslim woman be forced into polygamy by her husband ? Before we answer this question we first have to study polygamy in the context of the Qu'ran and authentic Sunnah of our beloved Prophet Muhammad. Unlimited polygamy was a pre-existing practice prior to the revelations of the Holy Qur'an. When Islam was revealed, it prescribed a limit to the number of women one may marry and also placed conditions for this to take place.

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, orthat your right hands possess, that will be more suitable, to prevent you from doing injustice. [1]

It's important to point out that the letter and the spirit on the verse on polygamy was revealed following the tragedy of the battle of Uhud and was concerned with the overriding welfare and protection of women and children following the death of dozens of Muslim men in the still formative Muslim community of Medina. Therefor polygamy was made permissible in this context, but not the norm in islam, nor encouraged nor discouraged. Dr. Zakir Naik adds the next information to this in one of his booklets:

Qur'an permits limited polygyny As I mentioned earlier, Qur'an is the only religious book on the face of the earth that says "marry only one". Before the Qur'an was revealed, there was no upper limit for polygyny and many men had scores of wives, some even hundreds. Islam put an upper limit of four wives. Islam gives a man permission to marry two, three or four women, only on the condition that he deals with them justly. In the same chapter i.e. Surah Nisa verse 129 says: "It is very difficult to be just and fair between women". Therefore polygyny is not a rule but an exception. Many people are under the misconception that it is compulsory for a Muslim man to marry more than one wife. Broadly, Islam has five categories of Do's and Dont's.   
  
1: "Farz" i.e compulsory  
2: "Mustahab" i.e recommended or encouraged  
3: "Mubah" i.e permissible  
4: "Makruh" i.e "not recommended" or discouraged  
5: "Haram" i.e prohibited or forbidden  
  
Polygamy falls in the middle category of things that are permissible. It cannot be said that a Muslim who has two, three or four wives is a better Muslim as compared to a Muslim who has only one wife.  [2]

The Holy Qur'an only permits polygamy, if the man is completely sure and able to treat his wifes all equal and with justice. This is an extreme hard task, and most men these days are not able to fullfill all these conditions. This is confirmed by Shayk Yusuf Al-Qaradawi.

The condition which Islam lays down for permitting a man to have more than one wife is confidence on his part that he will be able to deal equitably with his two or more wives in the matter of food, drink, housing, clothing and expenses, as well as in the division of his time between them. Anyone who lacks the assurance that he will be able to fulfill all these obligations with justice and equality is prohibited by Allah Almighty from marrying more than one woman, for Allah says: "But if you fear that you will not be able to do justice (among them), then (marry) only one..." [An-Nisa:3] [3]

The next hadith of the Prophet moreover warns against polygamy should the man not be able to practice equality amongst his wives. This moreover confirms the fatwa given by Shayk Yusuf Al-Qaradawi in his book.

Abu Hurayrah narrated that the Prophet said*:* "Whoever has two wives and gives one of them preferential treatment, he will come on the Day of Resurrection with half of his body leaning" [4]

Without doubt we can clearly see that a Muslim man must treat his wifes equal in financial support, sexual pleasure, kindness and division of time. These tasks are extreme hard for a man to fullfill as pointed out by many scholars. Moreover we have see that polygamy was permitted by the Qur'an to do away injustice to orphans and widows, rather then men's desires. Actually the Arabic word yatama includes widows also. Moreover the condition which Islam lays down for permitting a man to have more than one wife is that he has confidence on his part that he will be able to deal equitably with his wives in the matter of providing food, housing, clothing, and expenses, and that he will also be able to divide his time between them. Secondly many forget or fail to fully understand polygamy as practised by the Prophet, peace be upon him. Prophet Muhammad had a monogamous relationship with Siti Khadijah bint Khuwailid, who was 15 year his senior, for 28 years until her death. Of these 28 years, 17 were before he became a Rasul and 11 years after that. During those 28 years, he never married anyone else. His next marriage took place two years after Siti Khadijah's death, following the marriage of three of his four daughters. Siti Khadijah's death was a deep loss for the Prophet for he had not only lost his wife, but his companion and partner in the struggle.  
  
When the Prophet began practising polygamy - a common custom for Arabian society at the time - it was at the age of 54. He married a total of 11 times, and most of his marriages were to elderly women, widows, women with children and divorcees, entered into for political and tribal reasons. The only virgin he ever married was Aishah, on the insistance of her father, Abu Bakar, the first caliph of Islam. The Prophet married nine women after Aishah within a space of 5 years and never divorced any of the women he was married to. The only wife who was to bear him children who lived to adulthood was Siti Khadijah. So, when we look at the way and reasons he married the 11 women they indicate that the Prophet did not marry to have a "keturunan", nor did he marry young women to fulfill his desire. In fact, he practised polygamy within the realm of spreading Islam to the communities at the time.  
  
Polygamy in Islam is permissible, but neither encouraged or discouraged. Polygamy moreover could be a solution for certain circumstances / situations. For example, if a wife puts herself in the shoes of a widow who does not have anyone to care for or look after her, and thinks sincerely of a solution to her problem, she will find that she would be happy to be a second wife rather than to stay as a widow and continue to suffer the problems in raising children and having the same life as her peers do. So there is always wisdom behind the permission of polygamy. Moreover we have seen that polygamy was permitted by the Qur'an to do away injustice to orphans and widows ( actually the Arabic word yatama includes widows also ) , rather then men's desires. Moreover the condition which Islam lays down for permitting a man to have more than one wife is that he has confidence on his part that he will be able to deal equitably with his wives in the matter of providing food, housing, clothing, and expenses, and that he will also be able to divide his time between them. Any man who doubts that he will be able to fulfill all these obligations with justice and equality would be prohibited by Allah Almighty from marrying more than one woman.

Polygamy is permitted in the Qur'an. Unlike marriage and divorce, it is only mentioned once, and only incidentally rather than having a seperate sectio nor verse devoted to it. It is only permitted with the proviso that if you feel you may not be equitablr to co-wives then you may only marry one (4:3). So it is neither obligatory, nor highly recommended, merely allowed in certain circumstances.   
  
Muslim scholars have written in justification of this institution. They argue thatin some marriages it can be advisable if, for instance, the first wife is unwell or has lost interest in marital relation, or cannot bear children. If the husband is barred from marrying another wife he may find no alternative to divorcing the present wife. In such circumstances, if polygamy was not allowed, men could be driven towards having an illicit relationship. In situations where women outnumber men, polygamy also provides a solution in a religious morality that does not allow sexual relationships outside marriage...  
  
Polygamy can actually increase the number of marriages in society, and properly entered into, can protect marriage and lessen the need for divorce. [5]

Conclusion: polygamy is neither discouraged nor encouraged. It is a matter of personal choice for a couple to decide. This brings us to the next question: "Can women be forced into polygamy ?" We shall answer this question now. Islam gives Muslim women the right / option to stipulate in their marriage contract the condition that their husband may not enter into another marriage without their consent. This is confirmed by the renowned Muslim scholar Ibn Qudaamah in his classic "Al-Mughni"

If he married her on the condition that he should not make her move from her house or her city, then this condition is valid, because it was reported that the Prophet said: ?The most deserving of conditions to be fulfilled are those by means of which sexual intercourse becomes permissible for you." If he married her on the condition that he will not marry another wife, then she has the right to leave him if he does take another wife." In conclusion, then, the conditions of the marriage contract are divided into three types, one of which must be adhered to, which is of benefit to the wife, such as her being able to stipulate that he cannot make her move from her house or city, or travel with him, or take another wife or a concubine. He has to adhere to these conditions, and if he does not, then she has the right to annul the marriage. [6]

A great granddaughter of the Prophet, ( Sakina, daughter of Hussein and granddaughter of Fatimah and Ali ) put various conditions in her marriage contract, including the condition that her husband would have no right to take another wife during their marriage (reported in Kitab Al-Muraddafat ). The next hadeeth in Sahih Bukhari emphasizes the importance of these conditions:

Narrated Uqba bin Amir: Allah's Apostle said: "From among all the conditions which you have to fulfill, the conditions which make it legal for you to have sexual relations (i.e. the marriage contract) have the greatest right to be fulfilled." [7]

Muslim women have the right to stipulate many usefull conditions in their marriage contract. Muslim scholar Ibn Taymiyya gives the next fatwa in "al-Fataawa al-Kubra" in regard to this issue:

Question: a man married a woman and she stipulated that he should not take another wife or make her move from her house, and that she could stay with her mother, so he married her on this basis. Does he have to adhere to this, and if he goes against these conditions, does his wife have the right to annul the marriage or not ?  
  
Answer: yes, these conditions and similar ones are valid according to the madhhab of Imaam Ahmad and other scholars among the Sahaabah and Taabi'een, such as 'Umar ibn al-Khattaab, Amr ibn al-'Aas, Shurayh al-Qaadi, al-Oozaa'i and Ishaaq [8]

Ibn Taymiyya in his fatwa moreover supports his conclusion and opinion with the views of various famous Sahaba like Umar Ibn al-Khattab and Shurayh al-Qaadi. Ibn Qudaamah in his classic "Al-Mughni" further writes:

Imam Ahmad Ibn Hanbal agreed witht the view that it is necessary to fulfill these conditions, and if the husband is negligent in any way, the wife will have the right to demand nullification of the marriage. [9]

Other renowned Muslim scholars like Imam Malik [ the famous Imam on which the Maliki Mahdab is founded ] also agreed with this view. This is very well pointed out by Shayk Ibn Taymiyya in his famous collection of "fatawa"

The Madh'hab of Malik validates a stipulation upon a man in which it is stipulated that he is not to marry another women while in marriage with the first (wife) or else she will be given the order (power) in her hand (to annul the marriage). She would be given the power to seperate from him at her choice. This position of Malik is similar in meaning to the position of al-Imam Ahmed. [10]

Finally i would like to quote the comments made by Ibn Qudamah in volume nine of his classic book al-Mugni. Pay close attention to the names of the Sahaba mentioned by the Shayk to support his view.

First: a condition that which must be fulfill. It is a condition wherein its benefit and worth are returned. Examples are stipulations wherein he vows not to remove her from her residence or land, or that he will not travel with her to foreign lands, or that he will not take another wife while with her. All of these are conditions that he would be bound to fulfilling. If he does not honour the stipulations she is granted the ability to annul the marriage. This is reported as being the opinion of: Umar bin al-Khattab, Sa'd bin Abi Waqas, Mu'awiyah, Amr bin al- 'Aas. It was also stated by: Shurayh, Umar bin Abdul-Aziz, Jabir bin Zayd, Tawus.....  
  
As well we have named many Sahaba who validated these stipulations, and none from their generation refuted them. Therefore we establish this as being Ijma' (consensual agreement by them all). [11]

Prof. Muhammad Abdel Haleem adds:

Women cannot be forced into polygamy, as the second wife enters into the marriage freely and the first wife, or any wife, could stipulate in the marriage contract that the husband may not enter into another marriage without her consent. This is practised by some women in Muslim countries today. [12]

Muslim women have the right to stipulate in their marriage contract the condition that their husband may not enter into another marriage without their consent. Any husband who violates this condition gives his wife the right the annul marriage at her will. This is confirmed by many renowned Muslim scholars and famous Sahaba of our beloved Prophet Muhammad, peace and blessings be upon him.

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