“THE RIGHTS OF MARRIED WOMEN IN A POLYGAMOUS MARRIAGE IN ISLAM”

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NUIE S UNIVERSITY ISLAM MALAYSIA
"THE RIGHTS OF MARRIED WOMEN IN A POLYGAMOUS MARRIAGE IN ISLAM"

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AUTHOR DECLARATION

I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

Date: 17 March 2003

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ACKNOWLEDGEMENT

"In the Name of Allah Most Merciful Most Compassionate"

First and foremost, all praises be to Allah (S.W.T) who has revealed a syariah to guide us in life and sent a most noble Prophet, Muhammad (S.A.W), to guide us in the best understanding of the law and its applications.

Firstly, I would like to take this opportunity to give the special thanks and appreciation to my supervisor (Prof. Dr. Abdul Samat Musa as a Dean of Faculty of Syariah And Judiciary) for his opinion, guidance, commitment, time, cooperation, and so on until my academic project is completed and successful. May Allah bless you and your family.

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SARIMAH BINTI SAID
P000 159
FACULTY OF SYARIAH AND JUDICIARY
ABSTRAK

ABSTRACT

This Academic Project is titled “The Rights of Married Woman in a Polygamous Marriage in Islam”. The writer tries to discuss about the right of married women in Islam. In order to elaborate this topic the writer has divided this topic into four chapters. This study is to observe the right of married women in polygamy in Islam and the concept of equality between wives. The method of gathering information that writer used is library research and documentation to get more information on the topic. The reference materials used are dictionaries, books related with this topic, magazines, statutes and articles. Therefore, as a result the writer is able gather information on the right of married women in polygamy in accordance with Islam, regardless of the number of wives.
ملخص البحث

هذا البحث العلمي يتناول "حقوق الزوجة في التعدد في الإسلام". والكتابة تبحث عن رأي الإسلام في حقوق الزوجة في التعدد، وهو إما أن يكون الأولى أو الثانية أو الثالثة أو الرابعة. وكلي يكون البيان يقسم البحث إلى أربعة أبواب. ومن خلال هذا البحث يعرف بتفصيل عن رأي الإسلام عن حقوق الزوجة في التعدد وهو الهدف الأول من البحث. والمعلومات تأخذ من المكتبة التي تشمل القواميس والكتب المتعلقة بالموضوع وال коллات العلمية والقوانين وغيرها. وبالإضافة إلى ذلك، يستخدم القرآن الكريم كمرجع في هذا البحث. وأخيراً، تعرف الباحثة حقوق الزوجة المترفة في الإسلام.
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<td><strong>Hukum:</strong></td>
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<td><strong>Fiqh / Islamic Law:</strong></td>
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<td>Peace Be Upon Him.</td>
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<td><strong>Zina:</strong></td>
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## TRANSLITERATION

### 1) Letter

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### 4) Diphthong

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<td>shafi’iyy (di akhir)</td>
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<td>uww</td>
<td>علّر</td>
<td>uluw (di akhir)</td>
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5) Exception

5.1- Arabic Letter اء (hamzah) in prefixes was transliterated as a not ’.

Example: أكبَر Tralitteration: akbar (not ‘akbar)

5.2- Arabic Letter ء (ta’ marbutah) in word without ال (al) which joint with another word with ال (al) in prefixes was transliterated as t.

Example: المكتبة الإمام Transliteration: maktabat al-imam

If, there have word with (al) or single word or in suffixes, ta’ marbutah was transliterated as h.

Example: المكتبة الأهلية Transliteration: al maktabah al-ahliyyah

قلعة qal’ah

دار وحبة dar wahbah
CHAPTER ONE

Definition of marriage:

Polygamous marriage is a system of marriage whereby one person has more than one spouse. In Islamic law, it is considered lawful as long as the conditions set by the Qur'an and Sunnah are met. The husband is required to treat all of his wives fairly and equally.

Married women mean women who have or used to have a husband through a lawful contract. Polygamous marriage is a system of marriage whereby one person has more than one spouse.
CHAPTER ONE

1.1 Definition of title

This project title is “The Rights of Married Women in a Polygamous Marriage in Islam”. The definition of title; the right means, “The behaviour, actions etc which morally good or justified or required by law or duty”. Married women means, “Woman who has or used to have a husband through a lawful contract”. Polygamous in Islam is, “a system of marriage whereby one person has more than one spouse”.

1.2 Definition of marriage:

Every country has its customs; just as every region, every town and every village has its practices and traditions. These custom’s, if one may say so, give a country its personality and its own particular stamp which differentiate it from other regions with which it may have very close and solid bonds such as race or religion¹.

Where customs are innumerable and vary from one population group to another, for example customs on marriage.

Let us try right at the outset to define marriage. Formerly when one talked about “making a marriage” it meant chaining two prisoners together. Perhaps it is from there that this transaction has come to be so named, for is not marriage a voluntary binding together between two persons? A binding together, moral rather than material, which make them, tread side by side the long and difficult path of life.

Having said this much, marriage, which in Arabic is called “zawwaj”, in French “le mariage”, in Italian and Spanish “matrimonio” and in German “Ehe” now has a civil connotation which is very precise and well known.

“Marriage is a physical, moral and legal union between man and woman, husband and wife sharing life completely in common in order to found a family and perpetuate the species”.  

In religion marriage is “a sacrament institution to sanctify the union of man and woman”.

The above said that marriage is a physical, moral and legal union between man and woman.

The use of the word “legal” brings our attention to bear on the fact that a law has been established and that it is in accordance with this, or these laws, that this transaction or ceremony is conducted. Now when were these laws instituted? That is what we are going to see. But first let us take a look at what marriage was with primitive man.

In the oxford Advanced Learner’s Dictionary meaning of the marriage is “agreement between a man and a woman making them husband and wife; the state of being married: a happy, unhappy or loveless marriage. Their marriage ended in divorce”.  

---

Wedding in a is to join husband and wife wider the regulation determined by Allah SWT with this ceremony the legitimate is partnership of wife and husband is legitimate. Their partnership is based on, ‘aqidah, syari‘ah and moral as explained in al-Qur‘an and sunnah.

Wedding system in Islam is the most complete and superior system is not that compatible by any law in this world? It is admitted by Masters Of Law Degree from West, East, Muslim or non-Muslim. Its perfection is observed from as big a matter relating to marriage to the smallest in Islam. More primary it is a revelation from Allah SWT. Allah SWT as creator and absolute owner of world and its entire fill of contents is the one who is most lawful to arrange law for his creation of Allah law of marriage suited with the natural being of a person, at any time and place. He who knows everything about all his creation and the suitable law to fill the necessity of the person.4

1.3 Advantages of Marriage5

Marriage has many advantages as follow;

(i) To legitimize man's relationship with as one of the requirement commanded woman and woman by Allah.

(ii) To rescue a person's generation for a child born in the wedlock is much protected of his origin and generation.

(iii) To produce more respected descendent of the Prophet SAW.

(iv) To channel human sexual passion and desire in accordance with Islam whereby they are well rewarded by Allah and at the same time protect the oral values in society.

5) Ibid., page 51.
(v) To strengthen the moral of society, for a stable marriage produces stronger
generation.

(vi) To raise aspirations, strengthen the intention and diligence of work to build a
happy family.

1.4 Types of marriage

(a) Prohibited Jahiliyah's wedding

Marriage is an institution, found in any society. But marriage system that is
established by Islam is the most complete and superior. For example ancient Greek's
society and ancient Hindu the marriage system is very much not in order. Everything
stem from injustice onto wife who is considered as man's play, goods than can be sold
to buy and only to satisfy man's desire as such as the goods in market.\textsuperscript{6}

In Jahiliyah's society is worse, because there is diverse the marriage type that is the
cruelty onto wife. This matter was explained by Prophet SAW through saying that is
narrated by al-Bukhari: \textsuperscript{7}

ان النكاح في الجاهلية على اربعة ازهاء: فنكاح منها نكاح النساء اليوم يخطب الرجل إلى
الرجل وليته أوابته فصد قهائم ينكحها ونكاح آخر فلما بعث محمد صل الله عليه وسلم
بالحق هدم نكاح الجاهلية كلهما إلا نكاح النساء اليوم


Meaning:

"Truly the wedding at Jahiliyah's era has four types: An of them is a today's generation' wedding that is man comes to man, to engagement woman in its power or his child, and then it determines the gold marries, Later it marries the person, and there is the other wedding, but had is sent by Prophet Muhammad (PBUH) become Prophet by bringing permission, it get rid of all the wedding of Jahiliyah, does except wedding that is today's generation".

From the saying above, we can understand that there were at least ten types wedding of practiced by Arab society especially Jahiliyah and many other society of since that time until now, but all are now prohibited by Islam. Those wedding are as follows:

(i) *Istibda'*(استبضاا) Wedding^8^:

The term *Istibda'* means business; whereby marriage is seen as a profit making business. It is not in monetary means, but a wife who recently reached puberty is sent to the respected houses not to get profit but with the purpose to wealthy and produces so-called good quality children who are clever and hopefully will become the most famous. Due to the injustice, Islam has abolished such wedding for it not only immoral (*nafs*), it also treated woman as victim to man's lust. A woman was seen as clothes that can be lent to others. Where is husband's responsibility over his wife? If he loves his wife how could he do such? Even a newly bought clothes is difficult to be lent to others, what more of a wife?

(ii) **Isytirak (اشتراک)** Wedding:

This term means partnership or alliance lady is allowed to marry more than one to ten persons. When she bears a child, the lady is free to hand over the child to any man she likes. The husbands also take turn to avoid conflicts and fights among them.

This type of wedding not only occurs in *Jahiliyah’s* Arab societies, in fact around the world. There is woman who had a husband but keep other man.

Islam prohibits this type marriage type, as it is cruelty to the woman. In many matters when a child is born none of the husbands that held wants to be responsible to the child. Therefore, the woman has to carry the burden and responsibility of bringing up the child.

A woman’s dignity is degraded in this type of wedding for woman is seen as food that can be savored by anyone. Once she is old no man would favor her anymore. In the end she is left alone to suffer.

(iii) **Sifah (سفاح)** Wedding:

This term brings the meaning of prostitution. This practice is the oldest history and most widely practiced. It is still practiced in many part of the world.

Prostitution is still prohibited in Islam because adultery (*zina*) is sinful. Those who have weak beliefs in the religion usually indulge in prostitution, probably because of the easy money. This action at the same time lowers woman's status as low as goods in market. Spoilt leftovers are later thrown into the rubbish bin. In relation to this Allah SWT commanded:

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10 ) Mustafa Haji Daud. *Ibid*.
قال الله تعالى:

{ولا تقربوا الزن انه كان فاحشة وساء سبيلا}

(سورة النساء اية 22)

Meaning:

"And come not near to the unlawful sexual intercourse. Verily, it is a Fahishah [i.e. anything that transgresses its limits (a great sin)], and an evil way (that leads one to Hell unless Allah forgives him)."

(vi)  Maqt (مقاط) Wedding 12:

This term means that the child inherits the father’s wife and marries her. This is a wedding type that is the most terrible, because it is the same as a ferocious beast. As a result Allah SWT prohibited it the sentence:13

قال الله تعالى:

{ولا تنكحوا مانكح عاباؤكم من النساء لا ماقد سلف انه كان فاحشة ومقتا}

(سورة النساء اية 4: 22)

Meaning:

"And marry not women whom your fathers married, except that has already passed; indeed it was shameful and most hateful an evil way."

12) Mustafa Haji Daud. Ibid. page 54.
(v)  **Jam’u** (جمع) **Wedding**¹⁴:

This term means gathering that is a man marries two female siblings' at the same time. This is extremely unfair and unacceptable by the healthy mind. How can a man marry two siblings' at the same time? This action besides showing the man's lustful passion is also a torture to the siblings.

Allah SWT explained this matter through sentence:¹⁵

قال الله تعالى:

{ ... وأن تجمعوا بين الأخوات الاماماد سلف ان الله كان غفوراً رحيمًا }

(سورة النساء ، اية : 43)

**Meaning:**

"...And two sisters in wedlock at the same time, except for what has already passed; verily, Allah is Oft-Forgiving, most Merciful."

This practice is being implemented in some societies today based on reports that we read through local newspapers and we watch in television news.

(vi)  **Badl- Mubadalah** (بدل - مبادلة) **Wedding**¹⁶:

This term brings meaning as exchanger. This evil practice not only during of *Jahiliyah* era, also more widely practiced in the western civilization. Couples exchange partners is carried out before marrying, especially among Hippies groups and in *United States. Among Chukchi society, (Russia), Eskimo (United States), Manchuria,

Columbia, Madagascar, society it is one of their way of life. From Islam view it zina that is undoubtedly sin is categorized as a major.

(vii) Syighar (شغار) Wedding 17:

This term aims at getting rid of dowry (mahar). Its method is that a man, who has daughter, later marries off to other man who also has a daughter. With the hope to marry off the second man’s daughter with the first man without paying the dowry. Islam has abolished practice, as mentioned in the hadith by al-Bukhari and Muslim.

(viii) Muhallil (محلل) Wedding18:

Muhallil is a term given to a man who marries a woman who has been divorced with three ‘talaqs’. In Malaysia it is known as “Cina Buta”. In order for the woman to remarry her first husband, she has to be married and has experienced sexual intimacy with the new husband before being divorced. Islam prohibited such practice because it involves divorce and the man is paid certain wages. There are some professional Muhallil in Malaysia who does this for money and it is widely practiced. Nevertheless it is still prohibited by Islam. Prophet SAW explained this matter in saying that is narrated by Ahmad and al-Nasa’i:

الأ خبر كم بالتّيّس المستعار ؟ قالوا بل أ يرسول الله. قال هو الخلل. لعِن الله الخلل والخحل

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Meaning:

“Shall I tell you the news about loan goat to you? Friends: reply to Surely want Rasulullah yes! Say prophet: Is Muhallil, Allah cursed both Muhallil and Muhalla”

18) Ibid.