

Status and Necessity of Second Marriage in Islam

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Abstract

The Arabic word "عائلة" 'Ā'ilah is customary to refer to wife and home. In Urdu language, the appropriate substitutes for this word are clan and family whereas a "family" usually comprises husband, wife and kids. Family life is also known as domestic life which is not merely a pillar of a society but also is its foundation. A home is the basic unit of domestic life and society. Contentment, peace and stability of a home depend on good and pleasant relations between husband and wife. In case the understanding between husband and wife are deficient, their relations suffer largely and become weak. Islam assigns increased significance to a firm family system in the human society. It is the family environment which is the beginning of human life. A family is the basic natural institution of human society which sustains since the time of Adam (A.S.), and as long as human societies exist, the status of family will also survive and prevail. Each human child coming into this world takes birth in a family where it is brought up to flourishes in family environment. The present-day secular environment, secular education and a society lacking the teachings of Allāh and Messenger Muḥammad (S.A.W.) has deviated the Muslims from their real objective of life and the thought about the life hereafter. Today's Muslim carries the tendency of leading his life according to his own free will and desires instead of leading his life according to the teachings of the holy Qur'ān and the tradition of the Messenger Muḥammad (S.A.W.). He feel highly uncomfortable to pass his life as per instructions contained in the holy Qur'ān and the tradition of Muḥammad (S.A.W.). Various institutions and so-called NGOs in the name of women's rights and enlightenment are causing increased complexities for women. Today, woman is getting far and farther from her home and households. On the plea of enlightenment and freedom she is getting away from the religious teachings, her husband and also from her children. The state under influence of these organizations has, without appropriate consideration and detailed thought, framed laws against a second marriage. This legislation has affected the society and opened way for more perversion, distance from the faith and several other social complexities which instead of finding some solution are becoming more and more intricate.

Keywords: 'Ā'ilah, Nikāḥ, Family, Second Marriage.

Wedding (Nikāḥ) as tradition of Muḥammad (S.A.W.)

"Nikāḥ" literally means "to wed", "to have sexual intercourse" and "to influence". According to common terms, Nikāḥ is a contract according to which a man in lieu of dowry gets the right to have sexual relations etc., with a woman.

Nikāḥ is an emphasized tradition because to wed is a natural activity and a tradition of the Messengers of Allāh. Therefore, Allāh and His Messenger Muḥammad (S.A.W.) ordered to wed since

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the human race and survival of humans depends on male-female sexual relations and it is also needed to satisfy the natural desire of humans. Nikāḥ is an emphasized tradition, and instructions in this regard are described in the holy Qur'ān and the sayings of the Messenger Muḥammad (S.A.W.). Abdullah bin Mas'ūd (R.A.) narrates that the Messenger (S.A.W.) said:

يا معشر الشباب من استطاع منكم الباءة فليتزوج فإنه أغض للبصر وأحصن للفرج و من لم يستطع فعليه بالصوم

Translation: "O" the group of youngmen! whoever of you has the capacity to keep a woman, should wed because this lowers eyes and protects your genitals, and whosoever cannot afford to wed, should practice fasting."¹

Hence, the Messenger (S.A.W.) said:

النكاح من سنتي فمن رغب عن سنتي فليس مني²

Translation: "Nikāḥ is my tradition, whoever deviated from my tradition, is not from me (my community)"

Those who are in love, wedding is the best blessing for them. The holy Messenger (S.A.W.) said:

عن ابن عباس رضي الله عنهما قال قال رسول الله صلى الله عليه وسلم: لم تر للمتحابين مثل النكاح

Translation: 'Abdullāh bin Abbās (R.A.) states that the Messenger (S.A.W.) of Allāh said: "I have not seen anything better than wedding for those who love each other".³

The Two Components of Nikāḥ

Nikāḥ comprises two components, the first being presence of witnesses and the second being the offer and acceptance. Nikāḥ should be performed in presence of at least two witnesses. The best form of Nikāḥ is that it should be announced publicly. Hazrat Ayesha (R.A.) describes that the Messenger Muḥammad (S.A.W.) of Allāh said:

اعلنوا هذا النكاح واجعلوه في المساجد واضربوا عليه بالدفوف

Translation: "Announce your Nikāḥ and arrange Nikāḥ ceremony in mosques, and play tambourines on this occasion."⁴

It is preferable and appropriate that Nikāḥ is performed on Fridays after Friday prayers, 'Aṣr prayers or any other prayer. This will be a source of earning blessings of place and time. A gathering attended by scholars and pious people is preferable as their prayers on the occasion of Nikāḥ will bring blessings. When Nikāḥ ceremony is performed in a mosque, the etiquettes should be observed. Performance of Nikāḥ ceremony in mosques will help eliminate many customs and practices of ignorance.

Wedding as a sacred relation

Islam declares the wedding contract as a firm and sacred relation. Anas (R.A.) narrates that the Messenger (S.A.W.) of Allāh said:

إذا تزوج العبد استكمل نصف الدين فليبق الله في النصف الباقي

Translation: "A person who weds, gets have of the faith done, and for the rest half he ought to fear Allāh".⁵

A wedding performed with minimum expenses, and instead of extravagance moderate way is adopted, is considered greatly blessed. About such a wedding, the Messenger (S.A.W.) of Allāh says:

عن عائشة رضی الله عنها قالت قال النبي صلى الله عليه وسلم: إن أعظم النكاح بركة أيسره مؤنة

Translation: 'Ā'ishah Siddiqah (R.A.) narrates that the Messenger (S.A.W.) of Allāh said: "Certainly in terms of blessings the significant Nikha is the one which is arranged with minimum expenses." ⁶

The Importance of the Nikāḥ (Wedding) Contract

Man usually passes his entire life from birth till death with his family. Their mutual relations keep the members of a family tied with one another. The wedding relation known in Islam as "iḥṣān" provides a lawful and excellent foundation for family life. According to Islamic concept, for the formation of a family, a man and woman can develop a proper relationship only through a wedding contract which is considered an extremely firm and sacred relationship according to Islam. Allāh says in the holy Qur'ān:

هو الذى خلقكم من نفس واحدة وجعل منها زوجها ليسكن إليها

Translation: "It is He who created you from one soul and created from it its mate that he might dwell in security with her." ⁷

و من آياته ان خلق لكم من انفسكم ازواجا لتسكنوا اليها و جعل بينكم مودة و رحمة

Translation: "And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy." ⁸

The Family and the Human Society

Family system bears great significance and benefits. Family is not only a source of continuity of human race but it also causes the human society to stay firm and survive. On families depends, to much extent, the formation of a society, its development and progress as well as its success. Islam is the faith that emphasizes the importance of human civilization and the importance of family in the social set up, and Islam assigns the family system the fundamental status in the social order.

Polygamy

The present-day secular lifestyle, secular education and the society miss the teachings of Allāh and Messenger Muḥammad (S.A.W.) and hence gone swept the Muslims away from their real objective of life and the thought about the life hereafter. Today's Muslim carries the tendency of leading his life according to his own free will and desires instead of leading his life in line with the teachings of the holy Qur'ān and the tradition of the Messenger Muḥammad (S.A.W.). He feels highly uncomfortable to pass his life following the instructions contained in the holy Qur'ān and the tradition of Muḥammad (S.A.W.). The sociological and common affairs of life were already influenced by these aspects but now, additionally, the pure religious matters like religious practices, trade transactions, customs and traditions, relationships, the licit and illicit matters are so largely overwhelmed by personal desires that we do not feel the least hesitation in violating the clear-cut instructions of the holy Qur'ān and the Tradition of Messenger (S.A.W.). We commonly appear pursuing our personal desires in the issues of marriage, divorce and legacy, and unfortunately the orders of the Islamic laws are altogether ignored in these matters.

A notable of these issues is the second marriage which is emphatically criticized by the secular and

faithless classes of people on the plea of different apprehensions, propaganda and objections. More surprisingly, the so-called scholars of present times, proud of their scholarly excellence, are far ahead in creating doubts and objections with regard to second marriage. Their knowledge about faith is either least or they are deliberately acting ignorantly.

As for second marriage, article 6 of the Muslim Family Laws Ordinance 1961 of Pakistan describes that:

1. No man, during the subsistence of an existing marriage, shall except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered under this Ordinance.

5. Any man who contracts another marriage without the permission of the Arbitration Council shall,
(a) pay immediately the entire amount of the dower whether prompt or deferred, due to the existing wife or wives, which amount, if not so paid, shall be recoverable as arrears of land revenue; and
(b) on conviction upon complaint be punishable with the simple imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

These unusual restrictions on polygamy point to the thought that in the eyes of the legislators of these laws, polygamy is an evil which can be adopted only in a state of constraint. This law and the mentality behind it, is not only opposed to the clear orders of the holy Qur'ān and the Tradition but from the early times until present, the ancestors and the significant people of the Muslim community who understood these orders of the holy Qur'ān and the Tradition, through their action upon these instructions, wedded more than one women. The said Family Laws seem intended at proving this old practice as doubtful and wrong deed.

What has been customary among the Muslims in the light of the teachings of the holy Qur'ān and the Traditions since the period of the holy Messenger (S.A.W.) till present day will be presented in the following text to prove that the existing laws and the objections propagated with regard to second marriage are misleading and baseless.

Second Marriage and the Qur'ānic Directives

The holy Qur'ān contains clear directives concerning marriage, second marriage and polygamy. The Almighty Allāh says in the holy Qur'ān:

و ان خفتم الا تقسطوا فى اليتامى فانكحوا ما طاب لكم من النساء مثنى و ثلاث و رباع

فان خفتم الا تعدلوا فواحدة او ما ملكت ايمانكم ذالك ادنى الا تعولوا

Translation: "And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those which your right hand possesses. That is more suitable that you may not incline [to injustice]".

This holy verse absolutely and clearly proves that:

1. A free man is allowed to keep four wives at a time i.e. wedding four women is allowed.
2. The whole Muslim community has the consensus, and agrees that wedding more than four women at a time is not allowed.

3. Whether one wife or more than one, should be fairly and decently treated.
4. Where more than one wives are to be kept, the fundamental condition is to maintain fairness among them. If a man is unable to maintain fairness among them, then he must marry only one woman.

Meaning of Fairness

The primary condition for taking more than one woman into one's wedlock is fairness and justice. Here, fairness refers that all the wives whether new or old, virgin or divorced or widowed, are entitled to following rights:

1. All be provided with equal clothing.
2. All be provided with equal food.
3. All be provided with equal residence.
4. All be equally shared in terms of sexual relations.

In all these matters if a man can maintain fairness and justice, he may be permitted to take more than one women into his wedlock. In the exegesis of this verse it will be worthwhile to mention at this point the sayings of some Companions, their followers and exegetical authors so that the issue could be clearly understood:

1. This verse addressing the orphans says that in case you apprehend that after wedding the woman under your guardianship you will not be able to do justice with regard to their dowry and other matters, then you should not wed them but take other stranger women into your wedlock in that Allāh has declared marriage with up to four of such women as lawful provided that you would observe fairness among them. This translation is in accordance with the exegesis and is narrated to Ayesha (R.A.).¹⁰

Explaining this verse, the renowned exegetical author of his time 'Allāmah Ghulām Rasūl Sa'īdī writes:

This verse argues that a man who is able to financial and physically afford to keep several wives, can on the condition of maintaining fairness and justice, keep four wives into his wedlock, and if he cannot meet the requirements of justice and fairness, then he should keep only one wife in his wedlock.

Allāmah Sa'īdī further writes:

On the condition of fairness the permission given in Islam to wed four women, the Orientalists keep criticizing. Then there are some liberal Muslims also who consider themselves protectors of human rights more than Allāh and His Messenger (S.A.W.). These are the people under whose influence Family Laws were framed in Pakistan and it is legally forbidden for a man to go for a second marriage without permission from the first wife. For several years till now this law has been in practice in Pakistan despite the fact that all the scholars competent to give judicial verdict have rejected this law. In the case of some social complexities permission for polygamy is a reasonable solution and there is no other way out except this one.

This is an undeniable reality that the rate of birth of women is generally higher than that of men. If we assume the ratio of men to women to be one to two; and if every man weds only one woman, then the question rises as to what solution is there for those women who remain from getting married. There are only three possible solutions to this issue:

1. Rest of the women should pass all life without marriage and remain without ever satisfying their sexual desires with any man.
2. Rest of the women should satisfy their sexual desires using unfair methods.
3. Rest of the women should marry those men who are financially and physically suitable for them.

The first solution is opposed to nature and out of the human strength. The second solution is unfair and a sin both from religious and legal points of view. Therefore, it is the third solution alone which is practicable, popular, natural and permitted in Islam.

Another reason for polygamy is that sometimes the wife of a man is infertile and hence unable to produce child whereas it is human instinct to reproduce his race in the form of progeny. This issue can be resolved in two ways:

- (a) Divorce his first wife and marry another woman
- (b) Marry another woman in presence of his existing wife

From the standards of justice and fairness and human empathy the second option is the only solution. This option is based on the principle of polygamy allowed in Islam because a woman who is unproductive, herself desires children, and children of his husband (even from another woman) provide her satisfaction.

Another argument in favor of polygamy is that let's assume that wife of a man is suffering from a contagious disease or any other ailment where there is least hope of recovery, and her husband is young and healthy. This man will have four choices:

- (a) Divorce that woman
- (b) Keep his sexual desires unfulfilled forever
- (c) Satisfy his sexual desires by unfair methods
- (d) Marry another woman

Keeping in view the demand of justice and fairness, the last choice is the most desirable and practicable.¹¹

The exegetical author of the holy Qur'ān Pīr Muḥammad Karam Shāh Al-Azharī in the first volume of his exegesis "Zīa al-Qur'ān" writes:

"The critics of Islam particularly the westerners have produced much argument about the issue of polygamy. Moreover, those Muslims also worry about this matter who consider only those standards of good & evil and fair & prohibited which their intellectual masters have set. Therefore, it will be useful to briefly present some realities about this aspect:

- (1) This (polygamy) is not a commandment which is binding upon the followers of Islam. It is rather a permission.
- (2) This permission, too, is not unconditional but is subject to strict conditions.
- (3) The ancient and modern medical sciences agree that physical attributes of man are different from those of woman.
- (4) Sexual desire in man is far higher than in woman obviously for the reason that after sexual activity the woman has to pass through different sensitive stages.
- (5) In most of the countries, birth rate of women is higher than that of men. Moreover, in the case of militant nations, hundreds of thousands of men sacrifice their lives in

battlefields, which enhance the number of women further.

- (6) Are not Europe and America, despite all their advancement in the field of sciences, worried about the tremendous increase in the number of illicit children and virgin mothers? (According to a report of the UN, the average number of illicit children in some of the European countries has approached as high as sixty percent)."

These are some of the realities which prove difficult when not admitted. Presenting solution to these sensitive issues, Islam (the faith of nature) has permitted to marry more than one woman. Several thinkers of the west are screaming at the moral decline of their society, and the poor condition of these women and the illicit children. These thinkers are constrained to admit that there is no way out except adopting the laws of the Qur'ān.

Now consider for a while the article 6 of the family laws and family ordinance of Pakistan to see how by setting aside the realities of the Qur'ān and Tradition it has been attempted to nurture in the minds of the nation that a second marriage or polygamy is an evil activity although the history of our ancestors show a large number of instances of polygamy. The holy Messenger Muḥammad (S.A.W.) and the guided caliphs had several wives. If polygamy is an evil, what would one say about these sacred personalities? God forbid, did these great personalities kept on practicing something forbidden? Are the non-Muslims of Europe and America who avoid this evil (second marriage) very pious and clean, and did our ancestors (God forbid) continued this forbidden practice? Is this conception tolerable to any Muslim?

Second Marriage and Instructions of the Holy Messenger Muḥammad (S.A.W.)

Before the advent of Islam, polygamy was customary among the Arabs. According to a saying of the Messenger (S.A.W.), Imām Tirmidhī narrates that Abdullah bin Umar (R.A.) states that Ghailān bin Salamah Thaqaḥī embraced Islam. He had ten wives during the period of ignorance. These women, too, converted Muslims. The Messenger (S.A.W.) instructed him to keep any four of them.¹³

Imam Ibn Mājah narrates that:

"Qais bin Harith (R.A.) narrates that when I became Muslim I had eight wives. I stated this matter before the Messenger (S.A.W.) of Allāh who asked me to keep four of them."¹⁴

There were several other similar cases during the period of the Messenger (S.A.W.) that after restriction on more than four marriages those new Muslims who had more than four wives referred to the Messenger (S.A.W.) for guidance. The Messenger (S.A.W.) of Allāh told them: "Keep four of these women of your choice". In this instruction the word "ikhtar" "أختار" means to like and أيتها شئت

(whoever you like) is worth consideration in that the Messenger (S.A.W.) did not ask any detail like as to how many of these ten women were orphans or widows? Nor did he direct not to keep any widow at all. Rather, 'Allāmah Ibn Kathīr (R.A.) has copied a narration referring to Musnad Shāfi'ī which openly contradicts the mala fide intention of those opposed to polygamy:

"In Naufil, Mu'āwiyah (R.A.) states that "when I embraced Islam, I had five wives. The Messenger (S.A.W.) told me to keep of them who I liked and to divorce one of them. I went to my previous wife who was a barren old woman and had lived with me for sixty years. So I divorced her."¹⁵

Obviously if the permission for polygamy was to cater to the needs of orphans and widows alone, the Messenger (S.A.W.) would have instructed to keep the orphan and widowed women and divorce the rest of the wives. In this case the companion divorced a sterile old woman. If permission for

polygamy was focused on supporting the orphans and the helpless women only, then helping the old woman and keeping her in wedlock would be essential. It is worthwhile to note why she was divorced.

There is another narration to note.

عن أبي هريرة رضى الله عنه قال قال رسول الله صلى الله عليه وسلم:
لا تسأل المرأة طلاق أختها لتستفرغ صحفتها ولتنكح فإن لها قدرها

Translation: "It is narrated to Abu Hurairah (R.A.) that the Messenger (S.A.W.) of Allāh said: "No woman should ask for the divorce of her sister so as to deprive her, and she ought to marry (some other Muslim) because she will certainly get what is written for her (luck)."

This means that when a man has one wife and he proposes another woman to marry him, it is not fair for this woman to demand divorce of the first wife.

Also important to note is that when a man, out of mercy, intends to take an orphan or a widowed woman as a second wife, it is not fair for her to demand divorce of the existing wife. This shows that this narration does not concern some orphan or widowed woman being taken as second wife with the aim to provide her support. Of course this refers to such woman who is being married for some of her qualities and virtues.

The Messenger (S.A.W.) of Allāh instructs such (needy) woman to get married unconditionally, which makes it clear that wedding more than one woman was not restricted to support only the orphan and widowed women, but other (than widowed and orphan) women could also be married.

Some Reservations and Justifications about Second Marriage

Some of the reservations relating to second marriage in the Muslim society are described below:

- (1) The most common fear about keeping more than one wife is that polygamy leads to excesses on women.
- (2) Second marriage cannot manage fulfillment of the rights of women.
- (3) Second marriage causes complexities in the life of women.

When this propaganda is carefully analyzed it would appear that it is a fabrication of the so-called enlightened intellectuals because the history is witness to the fact that the degree of emphasis and instruction to treat woman decently and with justice and fairness that Islam advises, even a fraction of such emphasis is not found in other religions. For example, in some religions woman is refused the right of share in inheritance; some religion instructs to burn the widow alive with the dead body of her husband; some other religion does not allow a second marriage after death of her husband and some other society forces her to live a life like animals. It is only Islam, a faith that protects rights of women by all means.

Islamic teachings place the responsibility of supporting the family on the shoulders of man. In a Muslim society, man is the caretaker. Therefore, he ought to arrange for the expenses, clothing, food and accommodation for his wife according to his financial position. Assigning the husband to pay the rights of wife and her care, Allāh advises in the holy Qur'ān that:

الرجال قوامون على النساء بما فضل الله بعضهم على بعض و بما انفقوا من اموالهم

Translation: "Men are in charge of women by [right of] what Allāh has given one over the

other and what they spend [for maintenance] from their wealth."

This act of management by man is for the reason of his courage and strong personality, and not to practice any excess on women. Islam is the only faith that gives woman her right place and status, and the men are given the responsibility to protect them instead of ruling over them; they are emphatically directed to treat their wives well. That is why the Messenger (S.A.W.) of Allāh declaring the decent treatment of women as the criterion of the good and welfare said:

عن ابن عباس رضى الله عنهما قال قال رسول الله صلى الله عليه وسلم: خيركم لأهله و أنا خيركم لأهلى

Translation:" ‘Abdullāh b. Abbās (R.A.) narrates that the Messenger (S.A.W.) of Allāh said:"The best amongst you is that who is good with his family (wife and children), and I am good with my family."¹⁸

Meeting the Primary Needs

In a Muslim society, man occupies the position of manager and caretaker, that is, he is responsible for spending on households, arranging for all the domestic needs and fulfillment of all fair and essential needs of wife and children as his primary responsibility. The maintenance allowance covers all the basic needs of woman including food, clothing and pocket money. Providing for the maintenance expenses by the husband is the right of the wife and husband's duty. In case the husband is negligent or avoids the performance of this duty, the woman has the right to seek legal justice for her rights, and on non-performance of duties by her husband she has the right to seek divorce. In case the husband refuses her expenses and also refuses to divorce, the judge is authorized to revoke the wedlock.

Expenses for Maintenance

The Islamic teachings assign the responsibility of maintenance upon man who is supposed to arrange for the expenses of his wife and children according to his strength and financial status; to deal his wife fairly; exercise no excess upon her; to fear Allāh in the dealings with his wife and adopt justice and fairness; and maintain a moderate attitude and behavior with his wife and children. Hence according to the saying of Messenger Muḥammad (S.A.W.):

عن ابن عباس رضى الله عنهما قال قال رسول الله صلى الله عليه وسلم: خيركم لأهله و أنا خيركم لأهلى

Translation:" ‘Abdullāh b. Abbās (R.A.) narrates that the Messenger (S.A.W.) of Allāh said:"The best amongst you is that who is good with his family (wife and children), and I am good with my family."¹⁹

According to another narration:

عن حكيم بن معاوية القشيري عن أبيه قال قلت يا رسول الله صلى الله عليه وسلم ما حق زوجة أحدنا عليه؟

قال أن تطعمها إذا طعمت و تكسوها إذا اكتسيت و لا تضرب الوجه و لا تقبح و لا تحجر إلا فى البيت

Translation:" Ḥakīm b. Mu‘āwiyah narrates from his father Mu‘āwiyah saying that I asked the Messenger (S.A.W.) of Allāh as to what is the right of wife over her husband. The Messenger (S.A.W.) said: Her right is that when you eat, give her also to eat and when you wear, get her also to wear, and do not hit on her face and do not say words of curse for her,

and if you suspend contact with her, do so only at home." 20

Fairness and Equality

According to Islamic teachings it is essential for the husband to keep a good behavior and attitude towards his wife; to do no excess upon her, and to fear Allāh in her case; to adopt fair and just behavior with her and in case of more than one wives he should maintain fairness and equality among them without any excess on any of them. The holy Qur'ān commands that if we are not able to maintain justice between more wives then one wife is enough and her rights should be paid. Allāh says:

فان خفتم الا تعدلوا فواحدة

Translation: " Any if you fear that you cannot maintain fairness and equality among them, then one wife is sufficient." 21

A man who marries more than one woman and inclines to one wife, neglecting the rights of the other, the Qur'ān terms such man as cruel (committing excess). The Messenger (S.A.W.) of Allāh says:

عن أبي هريرة رضى الله عنه قال: قال رسول الله صلى الله عليه وسلم
إذا كانت عند الرجل امرأتان فلم يعدل بينهما يوم القيامة و شقه ساقط

Translation: Abū Hurairah (R.A.) narrates that the Messenger (S.A.W.) of Allāh said: If a man has two wives and he does not do justice between them (inclining to one and neglecting the other), on the Day of Judgment he will come in a state that half of his body will be fallen (paralyzed).

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