

HNRS 299: Political and Social Life in the Muslim World
Paper #1 – due T Mar 30 in class

This paper should be 10-12 pages, but not longer than 12 (with one-inch margins and 12 point font). PLEASE DO NOT PUT YOUR NAME ANYWHERE ON THE PAPER EXCEPT ON A FINAL, TITLE PAGE STAPLED TO THE END OF YOUR PAPER. You need to submit one hard copy in class and email one to vlangohr@holycross.edu.

Anything more than a very small number of spelling or grammatical errors will result in points being deducted from your grade. If you are not able to turn the paper in on time, you will lose five points per late weekday unless your class dean contacts me to ask for an extension.

Make sure all quotations are properly footnoted with page citations. For example, “the Qu’ran says xxx.”¹ (see proper footnote citation at the foot of this page). You should not have many direct quotes, and if you choose to paraphrase an author’s argument rather than directly quoting it, use the rule of thumb that using any more than **three consecutive words** verbatim from the author constitutes a quote, in which case you must use the author’s exact words, enclose them in quotation marks, and footnote them with a page citation. Specific figures (for example, that literacy rates for women in Iran increased from 36% in 1976 to 72% in 1996) must be footnoted with a page citation.

Background

Family law (more commonly referred to as personal status law, or PSL) regulates marriage, divorce, child custody, and inheritance, and in most Muslim countries the PSL that applies to Muslims is based upon that country’s understanding of *shari’a* (Islamic law). PSLs regulate issues of central importance in women’s lives, including the age at which they can be married, their right to financial support during marriage, the conditions under which they may divorce or be divorced, and child custody, and in most Muslim countries PSLs give men many more rights than women. Thus it is not surprising that many women believe, in the words of one activist, that “family law is the key to the gate of freedom and human rights for women” (quoted in Charrad, p. 5). As a result, campaigns to alter the more discriminatory aspects of PSL have been waged in many Muslim countries. In this paper topic, “conservative” PSL refers to PSLs which give men many more rights than women, and “progressive” refers to PSLs that increase women’s rights in the areas discussed above, even though they may still not be equal to the rights of men).

The Charrad reading below will familiarize you with the evolution of various aspects of the PSLs in two North African, Arab Muslim countries – Tunisia and Morocco. The Tunisian PSL adopted at independence in 1956 differs markedly from most interpretations of *shari’a* and, as Charrad notes, “gave women rights not enjoyed anywhere else in the Arab world” (1). Morocco, on the other hand implemented a conservative PSL in 1957-8 which gave men many

¹ *States and Women’s Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*, Mounira Charrad, (University of California Press, 2001), p. I made it up. Any subsequent use in a footnote of a work for which you have already given this complete citation only has to have the author and page number – Charrad, p. 7.

more rights than women. As Charrad notes, Morocco and Tunisia share their geographical location in North Africa, a history of French colonialism, and status as majority-Muslim countries. Her book is an attempt to examine both countries' histories to explain what can account for such divergent outcomes in family law given the many strong similarities between the two countries.

Since the Moroccan PSL of 1957-8 discriminated against women in many ways, it is not surprising that many, although certainly not all, women, and many men did not support it. The journal articles below describe efforts, beginning in the 1980s and culminating in 2004, to change the PSL in ways that would improve women's status. The 2004 law does give women many more rights than its predecessor, although men still retain more rights than women in key areas.

Assignment – ANSWER ALL OF THE FOLLOWING QUESTIONS

A group of activists from an unnamed Muslim country want to work to change PSLs in the Muslim world to give women more rights. They know that these laws vary greatly, with some giving a lot of rights to women and others giving them very few. You are a PSL expert who works as a consultant to such groups, and they commission you to write a paper explaining the following:

- 1) **What historic, political, economic, demographic, geographic or other factors affect how discriminatory against women the PSL of a particular country is likely to be AT INDEPENDENCE?** (Answer this based on your knowledge of the evolution of PSLs in Tunisia and Morocco – IN MOROCCO FOR THIS QUESTION, GO ONLY UP UNTIL THE 1957-8 LAW). **THIS ANSWER SHOULD BE FOUR-SIX PAGES.**

Since you are trying to give the group tools to analyze many different Muslim societies, frame your answer not in terms of a history lesson on Morocco or Tunisia but in abstract terms that can be applied to many societies. For example, if you feel that one reason Morocco's PSL was more conservative was that at independence most Moroccans lived in the countryside while more Tunisians lived in cities, then note that more liberal PSLs are more likely to emerge from more urbanized countries, and speculate on why that might be. A good answer will 1) offer at least four factors which are distinct from one another, and 2) where appropriate, will speculate on the conditions which make these reasons likely to occur. For example, if you argue that PSLs are more likely to be conservative in countries where the government is not able to impose laws on significant parts of the population, are there any conditions which in turn make that outcome more likely, like a mountainous terrain where groups seeking to escape government control can hide?

- 2) **In more recent attempts to change PSLs, what factors have helped to get more progressive laws passed?** (Base this only on the articles about Morocco's attempts to change the law between the 1980s and 2004). Again, phrase this in abstract terms which could be applied to other countries.

- 3) **Even if a relatively progressive PSL ends up being implemented, as in 2004 in Morocco, what are the limitations on how much it may really change women's lives? What conditions are likely to limit the positive effects of these legal changes on women?** (Again, base this only on the case of Morocco based on the articles below). Give at least three conditions/limitations. **Given these obstacles, is it worth it for the group to put a lot of effort into changing PSLs, or**

should they put the time and effort into something else – for example, like improving women’s education? (NOTE: make an argument like this only if you can clearly link your alternative strategy, like increasing women’s education, to better PSL outcomes for women).

4) In most Muslim countries arguments about changing PSLs are closely connected to opposing interpretations of Qu’ranic texts and *hadith*. Any activist group seeking to improve PSLs in the Muslim world actually spends a lot of its time trying to argue against interpretations of these texts that are widely believed to justify limiting women’s rights. Examine the articles attached to this paper topic presenting arguments by Muslim clerics, scholars, and activists that polygamy either IS or IS NOT permitted by Islam, and if it is, under what circumstances. Also examine, in the Katulis reading, the differing levels of support of Moroccans in focus group interviews shortly after the new PSL was passed in 2004 for different aspects of the new PSL, and the reasons they give for supporting or opposing particular PSL articles. Finally, examine the articles on polygamy in the Moroccan 2004 PSL that are in this paper packet.

Using the data above, explain to the group which you are advising what seem to be the main ways that Muslims challenge Qu’ranic texts and *hadith* which are alleged to justify PSL laws that discriminate against women. (For example, do they dismiss sexist arguments by saying they only applied to the time when the Qu’ran was revealed? Do they add historical context to the conditions in which a Qu’ranic verse was revealed to try to limit what appears to be a clearly sexist interpretation? Do they appeal to what are alleged to be more general Islamic values like “justice” to refute particular texts? **These are just examples and you should come up with some arguments other than these**). **How do the final regulations on polygamy in the Moroccan 2004 PSL seem to have reflected the opposing arguments on whether polygamy is allowed that you read? Do they seem to accept only the arguments of the anti-polygamy camp, some offered by the “polygamy is accepted” camp, or something in between? Do the regulations on polygamy in the 2004 PSL help to give the group that you are advising some insight into limits on how progressive a PSL can be when its articles have to be justified in terms of Qu’ranic texts and hadith (as opposed, for example, to the Tunisian case, where leaders largely ignored Islamic law in formulating the 1956 PSL)? **THIS ANSWER SHOULD BE AT LEAST TWO PAGES.****

Readings

- *States and Women’s Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*, Mounira Charrad, (University of California Press, 2001) Table 1, 1-7, 9-10, 21-23, 70-73, 28-49, 87-98, 103-109, 114-120, 125-131, 139-142, 201-216, 218-232, 147-167 (read in this order) (ER)
- “Women, Islam, and the Moroccan State: The Struggle Over the Personal Status Law,” Bruce Maddy-Weitzman, *Middle East Journal*, Summer 2005 (ER)
- “The Feminization of Public Space: Women’s Activism, the Family Law, and Social Change in Morocco,” Fatima Sadiqi and Moha Ennaji, *Journal of Middle East Women’s Studies*, Spring 2006 (excerpts) (ER)

- “Morocco,” in Women’s Rights in the Middle East and North Africa, 2010, Freedom House, introduction and section titled “Autonomy, Security, and Freedom of the Person” <http://freedomhouse.org/template.cfm?page=384&key=260&parent=24&report=86>
- “Morocco’s Imperfect Remedy for Gender Inequality,” Camilo Gomez-Rivas, *Middle East Report*, Summer 2008 (ER)
- “Women’s Freedom in Focus: Morocco, Findings from January 2004 Focus Groups with Moroccan Citizens on Women’s Rights,” Brian Katulis, 2004, pp. 3-4 and 23-29 http://www.freedomhouse.org/uploads/special_report/32.pdf
- Readings attached to this paper topic on articles referring to arguments for and against polygamy being allowed in Islam and the regulations on polygamy included in the Moroccan *moudawana* (personal status law) of 2004. NOTE: in these articles references to *suras*, particularly *Surat al Nisa* (“Nisa” means “women”) refer to chapters of the Qu’ran: they are direct excerpts from the Qu’ran, with the same religious status in Islam that Bible verses have in Christianity. Remember that, as our reading on the basics of Islam in the first week of class explained, a *hadith* refers to a story that is told about something the Prophet Muhammad did or said; the Prophet’s behavior or instructions to Muslims on how to behave in certain circumstances are taken to represent the correct behavior on the issue in question. So most of the arguments that polygamy is or is not allowed in Islam, and under what circumstances, refer to Qu’ranic *suras* or *hadith* to back them up.

Some Arguments by Muslim Scholars and Activists that the Qu’ran Does Not Legitimize Polygamy

1) Excerpts from the booklet “Islam and Polygamy” by the Malaysian group “Sisters in Islam”:

“In Malaysia, ever since the Law Reform (Marriage and Divorce) Act 1976 was enforced in 1982, banning polygamy for non-Muslims, polygamy has increasingly come to be associated with Islam.

In the late 1970s and early 1980s, certain attempts have been made intending to control the abuse of polygamy among the Muslims. However, these attempts have not been very effective in practice, and it is most unfortunate that any vigorous measures against the abuse of polygamy are often condemned as being “un-Islamic,” due to a general mistaken notion that polygamy is a sacred male right guaranteed by Islam.

Sisters in Islam (SIS) wish to point out that Islam neither invented nor encouraged polygamy. Unlimited polygamy was a pre-existing practice prior to the revelations of the Qur’an. The Qur’anic revelations relating to polygamy are clearly restrictive rather than permissive.

Since the nineteenth century, several leading Islamic scholars including Sheikh Muhammad Abduh, the Grand Mufti of Egypt until his death in 1905, have pointed out that polygamy was reluctantly tolerated by Islam due to the pre-existing conditions at the time of revelation.

Similarly, slavery was also reluctantly tolerated by Islam, with the guiding principles towards its eventual abolition by enjoining the kind treatment of slaves as well as making the freeing of slaves a cardinal virtue. The guiding principles in the Qur'an against polygamy can be demonstrated by firstly, limiting the maximum number of wives to four, then by enjoining on the fair and just treatment of multiple wives, and finally by declaring that fair and just treatment is impossible.

An argument that is sometimes put forward in support of polygamy is that it is intended to reduce social ills such as illicit affairs, prostitution and the birth of illegitimate children. However, the legality of polygamy has not actually put an end to these social ills among the Muslim community. In some cases, it might even have contributed to the problem of social ills among young people who have been brought up in unhappy and neglected polygamous households.

It is disheartening that many of those who advocate polygamy seem to ignore Qur'anic injunctions on polygamy in Surah An Nisa 4:3: "if you fear you cannot deal justly (with your wives), marry only one (wife)". The Qur'an is also the only holy scripture that contains the phrase "marry only one." A further injunction is to be found in Surah An Nisa 4:129 which goes on to add that "You are never able to be fair and just as between women, even if it is your ardent desire...". If the rights of Muslim women are upheld and advanced as contained in the spirit of the Qur'an, then the justice that it embodies will never be ignored.

"If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three or four; But if you fear that ye shall not be able to deal justly (with them), then only one That will be more suitable, to prevent you from doing injustice."
Surah Al-Nisa' 4:3 (translation by Abdullah Yusuf Ali)

"You are never able to be fair and just as between women,
Even if it is your ardent desire...".
Surah An Nisa:129

Many forget the authentic hadith which reported that the Prophet...when asked if he would permit Saidina Ali (Langohr: this refers to the Ali who Shi'ites believe should have been the first legitimate leader after the Prophet's death, who was married to his daughter Fatima) to marry another woman, said that he would not, "....unless and until Ali Ibn Abi Talib divorces my daughter, for surely she is part of me and what troubles and agitates her, troubles and agitates me too; and what harm befalls her befalls me too."

In other Muslim countries such as Syria, Jordan, Morocco, Egypt and Iran, they have adopted the ruling that a husband who has agreed in his marriage contract not to take another wife during the marriage, is bound by that stipulation. The awareness about being able to do this is high in those countries and many couples do insert this stipulation into the marriage contract."

Source: http://www.epayasia.com.my/sistersinislam/products.aspx?merc_id=0611ff34-0512-4a98-9fa4-44fb3a9a2519&prod_id=789d8d0a-2ed2-4dd7-93dd-b17d5ec53516

2) EDITORIAL: "The Quran on Polygamy"

By Dr Riffat Hassan

Friday, 05 Jun, 2009, in *Dawn*, the major English-language newspaper in Pakistan

“There is a widespread misconception that Muslim societies are essentially polygamous. However, in the Quran permission to marry more than one wife is given under highly exceptional circumstances and with stringent conditions attached.

After his hijrah to Madina from Makkah in 622 AD, Prophet Mohammad laid the foundations of the first Muslim society which from the start faced grave threats from the Meccans who waged three major wars against it — the battles of Badr (624 AD), Uhud (625 AD) and Khandaq (627 AD). At a time when the Muslim community in Madina was very small in number, the death of many men in these wars left a large number of dependent children and women who had lost the male member(s) of their family, and had to be provided for.

In addition, the property of the orphans had to be protected. In English, the word ‘orphan’ refers to a child who has lost both parents. However, in Arabic, it refers to a child who has lost his or her father. The Quran, showing deep concern regarding this matter enjoined in Surah 4: An-Nisa’: 2, “Render unto the orphans their possessions, and do not substitute bad things (of your own) for the good things (that belong to them), and do not consume their possessions together with your own: this, verily, is a great sin.”

In prescribing moral or legal norms which believers are required to follow in the future, the Quran upholds the highest ethical ideals. However, it also recognises that most human beings would not selflessly undertake the responsibility of caring for disadvantaged children and women, and states in Surah 4: An-Nisa’: 3: “And if you have reason to fear that you might not act equitably towards orphans, then marry from among (other) women such as are lawful to you — (even) two, or three, or four: but if you reason to fear that you might not be able to treat them with equal fairness, then (only) one — or (from among) those whom you rightfully possess. This will make it more likely that you will not deviate from the right course.”

In order to understand the full meaning or implications of the verses referred, a systematic analysis of the text is required. The well-being of orphans is the primary concern of this text, and verse 2 begins by enjoining Muslim men to safeguard their property. Verse 3 begins with the words, “And if you have reason to fear that you might not act equitably towards orphans, then marry from among (other) women such as are lawful to you — (even) two, or three, or four.” The implications of this statement are as follows:

One, equitable treatment of orphans is of primary importance and, therefore, the Quran stipulates that justice must be done to orphans; two, the best moral course for a Muslim man is to treat orphans justly simply because this is what God desires; three, if a Muslim man is not fearful that he cannot do what God desires selflessly, then — and only then — is he allowed to marry more than one woman, and up to four.

Permission for polygamy was given in order to safeguard the rights of orphans. This means that there has to be a relationship between the woman or women whom the Muslim man marries and

the orphans, because marrying a woman unrelated to orphans will not be of help in safeguarding their rights. While doing justice to orphans is mandatory, so also is doing justice to all the women whom a Muslim man marries. If he cannot do justice to all his wives, he must have only one.

Polygamy, then, is permitted by the Quran — not readily but reluctantly as the last resort — and only in conditions of great social hardship and for humanitarian purposes. It is very important to note that there are two commandments to do justice in Surah 4: An-Nisa': 2-3, and that polygamy was allowed for the benefit of orphans and the women who were their guardians or caretakers.

If understood correctly in its Quranic context, polygamy was a grave responsibility for Muslim men. In practice, however, it has often been regarded as a male privilege intended for the pleasure of men. The stringent conditions relating to justice which are stated in Surah 4: An-Nisa': 2-3 have generally been disregarded by the traditional interpreters."

The writer is a scholar of Islam and Iqbal, teaching at the University of Louisville, Louisville, US.

Source: <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/editorial/the-quran-on-polygamy-569>

Some Arguments by Muslim Scholars that the Qu'ran Does Legitimize Polygamy, and Under What Circumstances

The following are from IslamOnline.net, a website to which Muslims around the world email questions about Islam which are answered by various reputable Muslim clerics. The first answer is by Sheikh Yusuf al Qaradawi, arguably the most widely respected Islamic scholar in the Sunni world. Each of the questions below was emailed to the site, and various Islamic clerics respond.

1) Dear scholars: What is the meaning of Allah's words: "Ye will not be able to deal equally between (your) wives, however much ye wish (to do so)" (An-Nisa': 129)? Does it imply that polygamy is prohibited as some claim?"

Date
27/Jul/2004

Name of Mufti
Yusuf Al-Qaradawi

Answer

In the Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

Dear questioner, we would like to thank you for the great confidence you place in us, and we implore Allah Almighty to help us serve His cause and render our work for His sake.

A man's obligation to treat his wives equally is concerned with supplying them with equal provision and equal division of time (with regard to abode). However, equal division of love is beyond human capacity; hence, one will not be accounted for it before Almighty Allah. Unfortunately, there are many countries that allow men to practice adultery but prohibit polygamy.

The eminent Muslim scholar Sheikh Yusuf Al-Qaradawi states:

“Citing the above mentioned verse as evidence of prohibiting polygamy is rejected, as it means changing words from their context. Moreover, it implies accusing the Prophet (peace and blessings be upon him) and his Companions (may Allah be pleased with them) of not understanding the Qur'an or of purposely not following it, for almost all of them married more than one wife.

The verse in fact indicates that absolute justice between wives is beyond human capacity, for it involves exact equality in everything, even in the distribution of affection, love, and sexual satisfaction, which is beyond man's power. A man may not help being attracted to one of his wives more than to the others; hearts are within the Hand of Almighty Allah Who changes them however He wills. [A man's feelings are not subject to his will.]

Besides, if those who claim that the above mentioned verse prohibits polygamy contemplate the rest of the verse, they will realize that it includes a refutation of this very claim. Allah Almighty says in the same verse: “But turn not altogether away (from one), leaving her as in suspense. If ye do good and keep from evil, lo! Allah is ever Forgiving, Merciful” (An-Nisa': 129). In these Divine words, Almighty Allah directs His servants to the fact that they will not be able to practice absolute justice between their wives with regard to love, but this does not mean that one of them should dis incline from the wife (or wives) that he is not attracted to as much as another, in favor of the one whom he is attached to.

The Prophet (peace and blessings be upon him) dealt equally with his wives concerning provision and abode and then would beseech Almighty Allah saying: “O Allah! This is my division with respect to what I can provide for (that is, I deal with my wives with fairness and justice as much as I can concerning what is in my capacity). So I beseech You not to account me for what You can control but I cannot (that is, my feelings towards them).”

However, it is quite strange to find that there are some Arab Muslim countries that prohibit polygamy but allow adultery, the sin about which ..Allah says: “And come not near unto adultery. Lo! it is an abomination and an evil way” (Al-Israa' 17:32). Such countries do not forbid adultery except in certain cases, such as when a man forces a woman to commit adultery with him, or in cases of marital infidelity in which the spouse who was betrayed does not forgive his/her partner.

The former Grand Sheikh of Al-Azhar, Sheikh `Abdel-Halim Mahmoud... told me that a Muslim man from some Arab Muslim country that prohibits polygamy married a second wife in secret. He did not register the marriage contract lest he be punished by the man-made law of his country. The police suspected and followed him until they arrested him in his second wife's home. Facing him with the accusation that he had a second wife and thus breached the laws of the country, he evaded the accusation saying, “Who told you she is my wife? She is not; she is my mistress, and we make love to one another from time to time.” Upon that, the investigators apologized to him, “We are so

sorry for this misunderstanding. We thought that she was your wife. We did not know she is your mistress!” Thus, the man was set free, for his country regards adultery as a right of personal freedom, while it forbids polygamy!”

Source: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaEAskTheScholar&cid=1119503548826

2) Question: I'm a Muslim that lives in the US and all the time people ask me questions about Islam and I always answer them based on logic and thinking. But there is only one question that I don't know how to answer it; it's about the fact that men are allowed to marry up to four wives at a time. What is the reason behind that and how can we answer this question in women's right perspective of view? If women and men are equal in Islam, then why can't women marry four husbands? I face this question all the time and I don't know how to answer it. I prefer the answer in English so I can make people read it and so they can understand more.

Answer

In the Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

Dear brother in Islam, we commend your keenness on getting your self well-acquainted with Islam and its teachings, and also appreciate your keenness to teach others about the true nature of Islam, which is the way Allah has chosen for the welfare of His servants.

Islam is a way of life consonant with nature, providing human solutions to complex situations and avoiding extremes. This characteristic of Islam can be observed most clearly in its stand concerning the taking of more than one wife. Islam permits the Muslim to marry more than one woman in order to resolve some very pressing human problems, individual as well as social.

In his answer to the question in point, the eminent Muslim scholar, Sheikh Muhammad Al-Hanooti, member of the North American Fiqh Council, states:

"First, understanding Islam is based on wahy (revelation) rather than reason. The principle of reason is used to further understand the wahy but not to judge or rule.

Second, the majority of Prophets were married to many wives, whereas they are considered the models for humanity for every sort of activity or style of life.

Third, in reality, you can hardly find one Muslim out of tens-of-thousands who is married to more than one wife. But, he cannot have affairs or dating with any woman. In non-Muslim societies, more than 65% of married men have affairs with more than 2, 3 or 4 women. There are more than 45% of women who have affairs the same way outside of marriage. All these practices are correct for the people of reason. They admit any zina (fornication/adultery) but they don't admit any alternative for keeping people in cleanliness and pure solutions.

Fourth, if you want a woman to marry more than one man, this is not the only misconception we hear from people who allege they are people of reason and intellect. But I don't need to make any comment other than saying this question is answered by what Allah, the Creator, has made of laws. He knows the best what is convenient and what is inconvenient for man or woman."

For further elaboration on why Islam does not allow a woman to marry more than husband at one time, you are advised to read: *Between Polygyny and Polyandry*

Shedding more light on why Islam allows polygamy, the European Council for Fatwa and Research issued the following Fatwa:

"Prior to Islam, men used to marry as many women as they wished without any limits nor conditions. 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.

As for the limit, Islam prescribed that the maximum number of women a man can marry is four, as stated in the Qur'an: "Marry women of your choice, two or three or four..." (An-Nisa': 3)

As for the condition, it is the confidence of the man that he can actually be totally just and fair between his wives, otherwise he is not allowed to re-marry. The Qur'an stated: "...but if you fear that you will not be able to deal justly (with them), then only one..." (An-Nisa': 3) In addition, the other conditions of any marriage must also be present, such as the ability to provide for the family and the ability to satisfy the sexual needs of the woman.

The reason for the allowance for a man to marry more than one woman is because Islam is a realistic religion and one which is not based upon idealistic notions which would cause real problems of everyday life without solution or treatment. It is very probable that a man marrying a second wife could be solving a problem, in that his first wife is incapable of bearing children or has extended menstruation cycles which result in his sexual needs being unsatisfied. The first wife could be ill and thus, instead of divorcing her and leaving her alone, could marry a second wife and remain next to his first wife, and so on. This allowance also solves the problem of a widow who needs a husband to care for her but does not wish for an unmarried young man, similar to a divorced woman with children. Indeed this allowance may solve a social problem which arises from the high proportion of good women who want to marry in comparison to able men. This is a common problem which increases particularly in the aftermath of wars and the like. The fact, in this case, is that the extra women do one of three following options:

- 1) That they remain unmarried for the rest of their lives, and are thus deprived from being a wife and a mother, which is a great injustice.
- 2) That they fulfill their sexual needs regardless of decrees of religion and acceptable behavior, which will result in a tragic loss in this life and the hereafter.
- 3) That they agree to marry an already married man who is capable of meeting their living and sexual needs and who is confident in his ability to deal fairly and justly between his wives.

As for those who say that this allowance is often abused by some men, it is an unfortunate fact that many rights are abused or are used in inappropriate manners. This does not mean that we must

cancel these rights. Indeed, there are many men who abuse their first and only wives, so does this lead us to cancel marriage in its entirety?

Freedoms are often abused. Should we cancel freedoms? We see that states and governments abuse elections; would it be right to cancel these processes? In fact we find that authority and government is frequently abused, so would it be acceptable to cancel authority and let society decline into a state of chaos? It would be better, instead of calling for the cancellation of these rights, to set up boundaries and regulations which would limit the possibility of such rights being abused."

Source: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503543436

3) Question: My husband was away on business for five months and after he came back he told me that he'd like to marry a second wife. Hearing him I was upset when I know that his would-be second wife lives in Morocco and I am in UK. How can he divide the days equally if he spends more time in Morocco than here in the UK? How can he give us equal treatment?

Answer:

In the Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

Dear sister in Islam, thank you very much for having confidence in us and we implore Allah to guide you to the best and to solve your marital problem soon, Insha'Allah.

First of all, it is to be stated that "Islam provides a system, which regulates family life as well as the life of the community as a whole. In every respect of its legislation and in its regulation of relations between various groups and individuals in society, Islam maintains justice, fair treatment and a balance between rights and responsibilities. In this way it provides a solid basis for a strong, closely knit community.

Because the woman is the weaker partner in the family relationship, Islam places strong emphasis on the importance of being fair to women, and not to abuse them in any way. The Prophet (peace and blessings be upon him) describes those who are kind and good to their wives as the best of people. He (peace and blessings be upon him) is reported to have said: "The best among you are those who are best to your households; I am the best among you to my house-hold."

On his deathbed, the Prophet (peace and blessings be upon him) continued to remind the followers of three areas as needing continuous attention. The first concerns man's relationship with Allah while the other two are concerned with human relations, concentrating on the need to protect the rights of two vulnerable groups in society, namely, women and slaves. He said repeatedly: "Attend to your prayers. Do not ask those whom your right hands possess to accomplish for you what they cannot do. Fear Allah in your treatment of women.""

The above quotation is excerpted, with modifications, from: www.islamicity.com

Focusing on the necessity of being just among wives, we'd cite for you the word of the eminent Muslim scholar, Sheik Yusuf Al-Qaradawi, in his well-known book, *The Lawful and the Prohibited in Islam*. He writes:

"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)

And the Prophet (peace and blessings be upon him) said, "Anyone who has two wives and does not treat them equally will come on the Day of Resurrection dragging one part of his body which will be hanging down." (Reported by the compilers of Sunan and by Ibn Hibban and al-Hakim)

The equal treatment mentioned here pertains to the rights of the wives, not to the love the husband feels toward them, for equality in the division of love is beyond human capacity and any imbalance in this regard is forgiven by Allah Almighty who says: "And you will not be able to do justice among (your) wives, however much you may wish to. But do not turn away (from one of them) altogether..." (An-Nisa': 139)

This is why the Prophet (peace and blessings be upon him) used to divide his time among his wives equally, saying, "O Allah, this is my division in regard to what I can control. Then do not take me to task regarding what Thou controllest and I do not control" (Reported by the compilers of Sunan), referring to the attachment and affection which he felt for one particular wife. And when he planned to go on a journey, Allah's Messenger (peace and blessings be upon him) would cast lots among his wives, and the one who was chosen by lot would accompany him. (Reported by al-Bukhari and Muslim)"

In conclusion, we would like to advise your husband to fear Allah and to be just in dealing with you and his second wife, in order to be spared of Allah's Punishment on the Day of Resurrection. He can simply attain such justice if he fears Allah and seeks His Guidance. Still, the issue requires mutual understanding between you and your husband. With your concerted efforts, you will live in harmony, even if he is married to a second wife!

May Allah guide you to the straight path and direct you to that which pleases Him, Amen.

Sections Regarding Polygamy in the Text of the 2004 Family Code (the "Moudawana") in Morocco

Preamble

Four: Concerning polygamy, we (Langohr: “we” refers to the King, in whose name laws are issued) took into consideration the commitment to the tolerant principles of Islam in establishing justice, which the Almighty requires for polygamy to take place, as it is plainly stated in the Holy Koran: He said '...and if you fear that you cannot do justice (to so many) then one (only).' And since the Almighty ruled out the possibility for men to do justice in this particular case, He said: 'You will not be able to deal equally between (your) wives, however much you wish (to do so),' and he thus made polygamy quasi impossible under Sharia (religious law).

We further adhered to the distinguished wisdom of Islam in allowing men to legitimately take a second wife, but only under compelling circumstances and stringent restrictions, with the judge's authorisation, instead of illegitimate polygamy occurring if we prohibit it entirely.

From thence, polygamy shall be allowed only in the following circumstances and according to the following legal conditions:

The judge shall not authorize polygamy unless he has verified the husband's ability to guarantee equality with the first wife and her children in all areas of life, and there is an objective and exceptional motive that justifies polygamy.

The woman has the right to stipulate a condition in the marriage contract by which her husband will refrain from taking another wife, as Omar Ibn Al-Khattab, may God be pleased with him, is quoted as saying: 'The intersection of rights is in the conditions.' In the absence of such a condition, the first wife is summoned to obtain her consent, and the second wife must also be notified and consent to the fact that the husband is already married to another woman. Moreover, the first wife has the right to petition for divorce for harm suffered.

Article 40

Polygamy is forbidden when there is the risk of inequity between the wives. It is also forbidden when the wife stipulates in the marriage contract that her husband will not take another wife.

Article 41

The court will not authorize polygamy:

If an exceptional and objective justification is not proven.

If the man does not have sufficient resources to support the two families and guarantee all maintenance rights, accommodation and equality in all aspects of life.

Article 42

In the absence of a stipulation by the wife in the marriage contract precluding polygamy, the husband wishing to resort to it must petition the court for authorization.

The authorization petition should include the exceptional and objective motives that justify the request, and attach a statement on the applicant's financial situation.

Article 44

The hearing takes place in the consultation room in the presence of both parties, and both are heard in order to reach agreement and reconcile them after an examination of the facts and the presentation of the requested justifications.

The court may authorize polygamy in a well-founded decision not open to appeal once it establishes the existence of an objective and exceptional justification and puts into place conditions benefiting the first wife and her children.

Article 45

When the court confirms in the discussions that continuation of the conjugal relationship is impossible, and where the wife whose husband wants to take another wife persists in her request for a divorce, the court determines a sum of money corresponding to the first wife's full rights as well as those of their children that he is required to support. The husband must pay the fixed sum of money within a maximum time limit of seven days. Upon submission of the requisite sum of money, the court issues the divorce decree. This decision is not open to appeal as concerns the dissolution of the marital relationship.

The non submission of the requisite sum of money within the fixed deadline is considered as a withdrawal of the polygamy authorization petition. If the husband persists in his polygamy authorization petition, and the wife to whom he wishes to join a co-wife refuses to consent and does not ask for divorce, the court automatically applies the irreconcilable differences procedure in Articles 94 and 97 below.

Article 51

The mutual rights and duties between spouses are:

1- lawful cohabitation on the basis of good conjugal relations, justice, equality in case of polygamy, mutual fidelity, virtue, and the preservation of family honour and their children;...

Article 65

I. A marriage contract record is created and maintained at the Court Clerk's office at the Family Court where the marriage is to be concluded, and it shall include the following documents:

- 1- An application form requesting registration of the marriage contract. Its form and content shall be specified in a decree by the Minister of Justice;
- 2- A copy of the birth certificate. The civil status officer shall mention in the margins of this copy its date of issuance, specifying that it was issued for the purpose of marriage;
- 3- An administrative certificate for both of the engaged parties, whose content shall be defined in a joint decree by the Ministers of Justice and Interior;
- 4- A medical certificate for each of the two engaged parties, whose content and procedures for issuing shall be defined in a joint decree by the Ministers of Justice and Health;
- 5- A marriage authorization is also required in the following cases:
 - Marriage of persons not yet of legal age;
 - Polygamy when the conditions required by this Moudawana are fulfilled;
 - The marriage of a mentally disabled person;
 - The marriage of persons who have converted to Islam and foreigners.

Source: <http://www.hrea.org/moudawana.html#15>