

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

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AUTHOR DECLARATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

“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.

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ABSTRAK

Projek Ilmiah ini bertajuk “Hak-hak Isteri dalam poligami dalam Islam”. Penulis membincangkan mengenai hak-hak isteri dalam poligami mengikut Islam. Untuk menerangkan dengan lebih mendalam lagi tentang tajuk ini, penulis telah membahagikan kepada empat bab. Kajian ini adalah untuk menerangkan hak-hak Isteri dalam poligami tanpa mengira isteri pertama, kedua dan seterusnya. Melalui kajian ini, penulis dapat mengetahui secara mendalam dan terperinci mengenai hak-hak isteri dalam poligami mengikut Islam. Ini kerana, ianya merupakan objektif utama kajian ini. Kaedah yang telah digunakan oleh penulis dalam mendapatkan maklumat ialah kajian perpustakaan dan dokumentari yang meliputi bahan seperti kamus, buku-buku yang berkaitan dengan tajuk kajian, majalah-majalah ilmiah, akta-akta dan artikal-artikal. Selain itu juga, penulis menggunakan Al-Quran sebagai rujukan untuk membincangkan tentang hak-hak isteri dalam poligami. Akhir sekali, penulis dapat mengetahui hak-hak isteri yang telah digariskan oleh Islam tanpa mengira isteri beberapa sekali pun isteri tersebut.

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 بعنوان "حقوق الزوجة في التعدد في الإسلام". والكاتبة تبحث عن رأى الاسلام في حقوق الزوجة في التعدد، وهى إما أن يكون الأولى أو الثانية أو الثالثة أو الرابعة . وكى يكون البيان أدق يقسم البحث إلى أربعة أبواب . ومن خلال هذا البحث يعرف بتفصيل عن رأى الإسلام عن حقوق الزوجة في التعدد وهو الهدف الأول من البحث . والمعلومات تؤخذ من المكتبة التى تشمل القوامس والكتب المتعلقة بالموضوع والمجلات العلمية والقوانين وغيرها . وبالإضافة إلى ذلك ، يستخدم القرآن الكريم كمرجع فى هذا البحث. وأخيراً، تعرف الباحثة حقوق الزوجة المعترفة فى الإسلام .

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GLOSSARY

<i>Al-Quran:</i>	the Holy Book revealed by Allah SWT to Prophet Muhammad SAW.
<i>As-Sunnah:</i>	the tradition of Prophet Muhammad SAW including his deeds, saying and approval.
<i>Hukum:</i>	ruling of Shariah.
<i>Hukum Syara' / Fiqh / Islamic Law:</i>	practical laws of Islam.
<i>SAW / PBUH:</i>	Peace Be Upon Him.
<i>Syariah:</i>	the collective name for all the laws ordained by Allah SWT for his servants through Prophet Muhammad SAW including the Islamic systems of 'aqidah , akhlaq, 'ibadah and mu'amalah.
<i>Surah an-Nisa': Zina:</i>	Chapter Four of al-Quran. offence of fornication and adultery.

TRANSLITERATION

1) Letter

<u>Arabic Letter</u>	<u>Latin Letter</u>	<u>Example</u>	<u>Transliteration</u>
ء	'	فار	fa'r
ب	b	برد	burd
ت	t	تلّ	tall
ث	th	ثوب	thawb
ج	j	جدار	jidar
ح	h	حليب	halib
خ	kh	خادم	khadim
د	d	ديك	dik
ذ	dh	ذهب	dhahab
ر	r	رفيق	rafiq
ز	z	زميل	zamil
س	s	سلام	salam
ش	sh	شعب	sha'b
ص	s	صخر	sakhr

ض	d	ضيق	dayq
ط	t	طازج	tazij
ظ	z	ظالم	zalim
ع	c	عقل	'aql
غ	gh	غلام	ghulam
ف	f	فيل	fil
ق	q	قلب	qalb
ك	k	كلام	kalam
ل	l	لُبّ	lubb
م	m	مال	mal
ن	n	نجم	najm
هـ	h	هول	hawl
و	w	ورق	waraq
ي	y	يَمّ	yamm

2) Short Vowel

<u>Arabic Letter</u>	<u>Latin Letter</u>	<u>Example</u>	<u>Transliteration</u>
_____	a	كتب	kataba
_____	i	علم	'alima
_____	u	غلب	ghuliba

3) Long Vowel

<u>Arabic Letter</u>	<u>Latin Letter</u>	<u>Example</u>	<u>Transliteration</u>
ا , ي	a	عالم, فتى	alim, fata
ي	i	عليم, داعي	alim, da'i
و	u	علوم, أدعو	ulum, Ad'u

4) Diphthong

<u>Arabic Letter</u>	<u>Latin Letter</u>	<u>Example</u>	<u>Transliteration</u>
و	aw	نوم	nawn
ي	ay	ليل	layl
يَّ	iyy	شافعي	shafi'iyy (di akhir)
وَّ	uww	علوَّ	uluww (di akhir)

5) Exception

5.1- Arabic Letter ء (hamzah) in prefixes was transliterated as a not ' .

Example: أكبر Tranliteration: akbar (not 'akbar)

5.2- Arabic Letter ة (ta' marbutah) in word without ال (al) which joint with another word with ال (al) in perfixes was transliterated as t.

Example: مكتبة 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 وهبة dar wahbah

CHAPTER ONE

1.1 Definition of marriage

This project title is "The Status of Married Women in a Polygamous Marriage in Islam". The definition of the word "right" means "The behaviour, actions etc which usually good or justified or required by law or duty". Married women means "Women 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".

1.1.1 Definition of marriage

CHAPTER ONE

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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.

¹)) Sheikh Muhammad Rif’at Uthman. 1995. *The Laws Of Marriage In Islam*. London: Dar Al Taqwa Ltd. Page 1.

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”.²

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”.³

²) Sheikh Muhammad Rif’at Uthman. 1995. *The Laws Of Marriage In Islam*. London: Dar Al Taqwa Ltd. Page 1.

³) A S Hornby. 1998. Special price Edition. *Oxford Advanced Learner’s Dictionary of Current English*. Oxford University: British National Corpus. Page 718.

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 some time protect the oral values in society.

⁴) Mustafa Haji Daud. 1997: *Institusi Kekeluargaan Islam*. Dewan Bahasa dan Pustaka Kuala Lumpur: Percetakan Dewan Bahasa dan Pustaka. Page 50.

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 *Jahiliah'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.⁶

In *Jahiliah'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 :⁷

ان النكاح في الجاهلية على اربعة ازحاء : فنكاح منها نكاح الناس اليوم يخطب الرجل الى الرجل وليته او ابنته فيصد قهاثم ينكحها ونكاح اخر فلما بعث محمد صل الله عليه وسلم بالحق هدم نكاح الجاهلية كلها الا نكاح الناس اليوم

⁶) Zaid H. Alhamid. 1981. Rumah Tangga Muslim, Semarang: Mujahidin 1981, Page 3.

⁷) Mustaffa Hj. Daud. 1991. *Perkahwinan Menurut Islam*. Kuala Lumpur: Utusan Publications & Distributions Sdn. Bhd. Page 51.

Meaning:

“ Truly the wedding at Jahiliah'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 Jahiliah, 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 *Jahiliah* and many other society of since that time until now, but all are now prohibited by Islam. Those wedding are as follows:

(i) *Istibda'* (استبضاع) 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 (*nafsu*), 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?

⁸) Mustaffa Hj. Daud. 1991. *Perkahwinan Menurut Islam*. Kuala Lumpur: Utusan Publications & Distributions Sdn. Bhd. Page 15.

(ii) *Isytirak* (اشترك) Wedding⁹:

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 *Jahiliah'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) Wedding¹⁰:

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:¹¹

⁹) Mustafa Haji Daud. *Ibid*, page 53.

¹⁰) Mustafa Haji Daud. *Ibid*,

¹¹) Al-Quran, surah al-Isra, 17:32.

قال الله تعالى:

{ولا تقربوا الزنى انه كان فاحشة وساء سبيلا}

(سورة الاسراء اية ٣٢)

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 (مقت) 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 ما نكح ءاباؤكم من النساء لا ما قد سلف انه كان فاحشة ومقتا

وساء سبيلا}

(سورة النساء اية ٢٢ : ٤)

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.

¹³) Al-Quran , surah al-Nisa’ , 4:22.

(v) **Jam'u (جمع) Wedding¹⁴ :**

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 :

{.....وان تجمعوا بين الاختين الاماقد سلف ان الله كان غفورا رحيمًا }

(سورة النساء ، اية ٤ : ٢٣)

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) Wedding¹⁶:**

This term brings meaning as exchanger. This evil practice not only during of *Jahiliah* 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*,

¹⁴) Mustafa Haji Daud. *Ibid*, page 55.

¹⁵) Al- Quran, surah al- Nisa', 4:23.

¹⁶) Mustafa Haji Daud. *Ibid*, page 55.

Columbia, Madagaskar, 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:

الا اخبركم بالتيس المستعار؟ قالوا بلى يا رسول الله. قال هو المحلل. لعن الله المحلل والمحلل

له

Meaning:

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

¹⁷) *Ibid*, page 56.

¹⁸) *Ibid*.