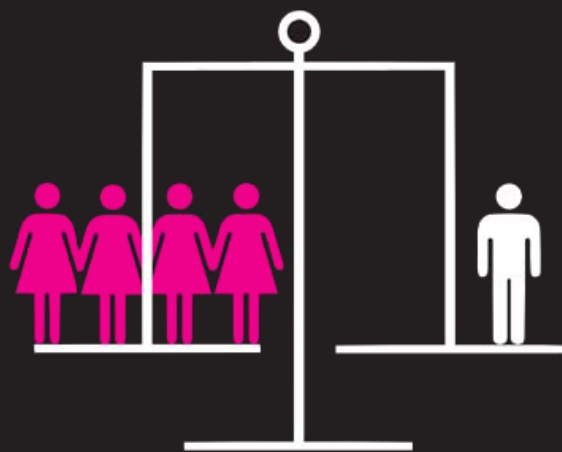


Polygamy and Law in Contemporary Saudi Arabia



Maha A. Z. Yamani

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ITHACA
P R E S S

POLYGAMY AND LAW IN CONTEMPORARY SAUDI ARABIA

Published by
Ithaca Press
8 Southern Court
South Street
Reading
RG1 4QS
UK

Ithaca Press is an imprint of Garnet Publishing Limited

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First Edition

ISBN-13: 978-0-86372-326-1

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library

Typeset by Samantha Barden
Jacket design by David Rose

Printed by Biddles, UK

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ACKNOWLEDGEMENTS

To my parents, Leila and Zaki, now apart, yet jointly in my heart, whose approval remains a priority for the rest of this life.

To my four children, Maryam, Ahmad Zaki, Yussra and Yumna, whose existence represents my lifelong connection to Saudi Arabia, the land that witnessed the Revelations.

To the anonymous men and women who gave me their time, honesty and trust, turning this work into a collective effort.

For invaluable legal advice, I wish to thank Osama S. Al Yamani, Naif F. Yamani and Mish'al Al Thaqeel. I would also like to acknowledge the helpful input of Dr Ali Dakaak and the tireless efforts of Rajaa' H. Yamani.

I remain forever indebted to my supervisor, Professor Tim Niblock at the Institute of Arab and Islamic Studies at the University of Exeter for his support and guidance. I also gratefully acknowledge the positive role played by Dr Nadge Al-Ali during the formative stages of this work, and thank Dr Kamil Al Mahdi for his wisdom and constructive criticism during the later stages.

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FOREWORD

The topic of polygamy is generally perceived by outsiders as being unambiguously Islamic, and evokes images of harems and Hollywood-style foreign intrigues; the practice is often viewed in terms of sexual connotation and male power versus female powerlessness.

The purpose of this book is not to test a specific hypothesis but to shed light on the often misunderstood polygamous situation. It seeks to discover the frame of mind, the impulses, the incentives, the reasons and circumstances which drive individuals towards polygamy, and the actual day-to-day aftermath which follows the polygamous marriage in its many diverse forms as practised today in modern Saudi Arabia.

The book examines the official Saudi Arabian approach which puts forward the positive aspects of polygamy, as a condition beneficial to the public good (*maslahah 'ammah*). This is correlated against the reality of the long-term personal and collective disadvantages of the practice, as related by those individuals involved in it. It contributes a unique academic addition to the field by presenting for the first time a detailed, first-hand insight into the personal life of individuals within a Saudi Arabian polygamous context.

Since the aim here is to obtain a complete picture of the social values and interpretations of the researched sample, both male and female objectives and views were given equal importance throughout the research. There is no evidence that such direct, in-depth, one-to-one personal interviews with both genders have ever been attempted before on this topic in academic studies in a closed society like Saudi Arabia. The research forms a shared collective effort between the researcher and the researched, taking into account each individual recommendation for change, stemming from each person's unique experience.

I was allowed access to the sample group concerned in part because I originate from the same locality, and because I had my own personal experience with polygamy. My motives, credibility and lifelong commitment to the group were easily identifiable.

Being a woman played highly in my favour as it gave me access to the women in my target research group, and initially to men who were part of my extended family or married into the family. The snowball sampling method was consistently applied as the circle widened, with interviewees introducing further potential candidates. It would not have been socially acceptable for a man working on a similar research topic to interview women on such a personal level.

The research for this book was approached from a qualitative, ethnographic mode, based on an open-ended, adaptable questionnaire. A reliance on objective personal observation methods was in many cases essential. Some quantitative research was attempted, but this did not prove to be sufficiently accurate as identifiable statistics were only rarely available, due to the secret nature of the topic and the noticeable lack of official registration of an important number of marriages and divorces (see p. 40).

Individuals interviewed for the purpose of this book came from varied social and economic backgrounds, ranging from a state school primary teacher to a highly placed decision maker. They all had in common their Saudi citizenship and their experience with polygamy.

In some cases, the interviewee had come forward with a set ‘message’ to deliver, each adding new dimensions to the research. There was a strong sense that individuals had much to say about the topic in question but felt unable or unwilling to express their opinion openly: in a socio-political structure which naturally suppressed personal expression, they were happier expressing their ‘valid’ views through the means of a ‘local interpreter’ (myself) who was willing to represent them in some way, while respecting their anonymity.

Every individual interviewed was guaranteed anonymity, unless permission was granted to quote his or her name for a particular purpose. Even identifying the case studies by initials or numbers would have compromised the anonymity the interviewees had been promised. If case study (1) were labelled as such throughout the volume, his wives, family or friends would find it easier to identify him; quoting him randomly throughout the different chapters proved a safer way of keeping his identity unknown, while retaining the benefit of his experiences.

Non-polygamous individuals were also interviewed, making an invaluable addition to the research due to their professional contact with local polygamous issues. They include: two imams of mosques; one local

judge; several employees involved with the region's social services; several locally practising lawyers; and male and female teaching staff at the King Abdul Aziz University in Jeddah.

This book challenges several presuppositions. Historically, polygamy is reported to have existed: 1) in royal circles and amongst the very rich and powerful; and 2) as a post-war remedy to redress the imbalance of females versus males in the population, to revive a decreasing population, and to create additional working hands in the fields. It is also observed that polygamy decreases with the rise in urbanisation, education and the employment of women.

Bearing in mind these assumptions, the book addresses the reasons why a new polygamous culture has been created in Saudi Arabia within a group of urban, educated men and women, despite the higher ratio of male versus female in the population, and the economic challenges created by the unprecedented demographic increase in the local population.

A common argument used by pro-polygamy writers is that the practice is a two-way street, and that its existence indicates the willingness of both the men and women involved. This book sets out to challenge pre-existing polygamy assumptions as it defines the overwhelming circumstances which create a 'willingness' or 'acquiescence' by the females who enter into a marriage contract based on terms that are unequal to those of their male partners. A complete picture is offered through the inclusion of both male and female views on the subject.

The book draws extensively from Arab academic and Islamic sources, defining classic interpretations of Muslim law, and the methods used for the creation and application of Saudi law, and from unique local interviews with the men and women involved with polygamy, from a marital and a professional point of view.

Definitions

Following its Greek origin, the word polygamy is understood in the broader sense to include any simultaneous multiple marriage unions for one person, such as female polyandry and male polygyny; however, the word polygamy is used throughout this work to describe the state of a man having more than one woman, including the religious, legal and customary aspects of these unions.

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INTRODUCTION

Earlier research has identified variations in the practice of polygamy between the urban educated and the tribal inhabitants of Saudi Arabia. In view of the recognised educational, social and cultural differences between the inhabitants of the vast geographical area under Saudi rule, polygamous practice may vary, making an accurate generalisation inconsistent with the purpose of this research. Although some cases could suggest a wider, more general picture, the research only aspires to represent the case of the individuals observed and interviewed and not a general picture of the practice of polygamy in Saudi Arabia.

The research was concentrated geographically on the Hijazi cities of Jeddah and Mecca,¹ situated in the Western Province of Saudi Arabia. According to the Saudi Arabia Information Resource, this region is one of thirteen in the Kingdom; it is politically referred to as the Governorate of the Makkah Region, *Imarat Mantiqat Makkah Al-Mukarramah*.²

Statement of the Problem

There was a general agreement amongst academic writers that the practice of polygamy in the Muslim world was declining, due to economic restrictions and the spread of education, which resulted in more women refusing the arrangement, but also due to their newly acquired ability to provide a husband with compatible companionship.³ A marked shift was noted, from the extended towards a nuclear family arrangement. This put more emphasis on the unity of the couple – husband and wife – as opposed to the importance previously attached to the extended family structure.

However, this decline has been followed by a revival, beginning in the second part of the 1970s, and still ongoing. For the purpose of this study, this has affected the newly emerging educated groups in the Hijazi region in particular.⁴ Polygamy has now become more widely practised amongst the educated and its popularity is still on the increase.

Informal verbal communications amongst local individuals has suggested two main reasons for this phenomenon:

- the increase in wealth, due to oil revenues, has made it possible for the average man to afford two or more households;
- the return towards Islamic religious values has created a shift from the previously common pattern of married men having extramarital affairs,⁵ now viewed as morally wrong, to religiously acceptable polygamous marriages. The new trend is widely promoted through popular literature, with titles such as (I translate): ‘One wife is not enough, the second wife instead of the fornicator’.

Focus of the Book

This work attempts to establish a direct connection between the current evolving Saudi state structure and the increase of polygamous marriages amongst a group of educated Hijazi men and women. The character and customs of the current ruling class in Saudi Arabia, together with internal and external factors that have precipitated some legal and administrative public policy decisions, have directly influenced and encouraged a resurgence of polygamous marriages amongst this group.

A distinction is made between Islamic laws, directly drawn from the Qur’an and the Sunna of the Prophet Muhammad, and other laws referred to by the research as man-made laws, mainly consisting of royal decrees, other ministerial, judicial and administrative regulations, and religious *fatwas*. The impact and long-term influence of these man-made regulations, enacted for the most part over the past fifty years, was to alter to a large extent the pre-existing gender dynamics, thus affecting the quality of both the public and private aspects of the daily lives of the target group. These laws, promoted as Islamic, may or may not in reality be consistent with the true spirit of Islam; they have created an imbalance within the monogamous nuclear family structure of educated Hijazi people.

Key Points Considered by the Book

- Why do men resort to polygamy? Are they polygamous by nature? Is it for purely ‘physical’ reasons? Are there other elements which

facilitate or encourage the resurgence of polygamy into an entire social structure in general and into a monogamous marriage in particular?

- Could the Islamic acceptance of polygamous marriages be viewed as a legalisation of a human state of affairs, which would otherwise continue to exist illegally?
- What are the reasons encouraging polygamy in Saudi Arabia in particular?
- What is the external role of society and the state in influencing an increase in polygamy?
- Can women adapt and live happily within polygamous arrangements? Is the average male partner in Saudi Arabia capable of fulfilling the needs of more than one family fairly?
- What factors would influence an educated woman in Saudi Arabia to step into an existing monogamous partnership, turning it into a polygamous marriage? How do she and her husband justify the results of their decision? And, from the other perspective, what makes an existing wife stay in a marriage which has become polygamous? Or what makes the existing wife leave a marriage which has become polygamous?
- What are the rules and conditions governing these human arrangements? Is there a specific administrative or legal body directly responsible for implementing these rules?
- What is the reality of daily existence for the different parties living within a polygamous household?

Objectives

This book seeks to discover the less obvious reasons behind this increase in polygamous marriages amongst some educated groups in the Meccan region. While attempting to expose social dilemmas that have not yet been voiced and, therefore, remain unresolved, the research also seeks to find valid examples where polygamy has truly proved beneficial to all the parties involved.

A New Dimension to Existing Academic Work

Despite the current existence of academic literature on the legal and general aspects of polygamy in the Arab/Muslim world, together with the

flood of popular literature dealing with the topic, there is an academic gap in the context of its socio-legal evolvement in Saudi Arabia. The author's direct personal connection with both the location⁶ and the topic, combined with periods of absence from the 'scene' of the research (giving me the chance to notice occurring changes), adds a new dimension to the existing academic literature.

The book does not attempt to provide one single, overriding theory; it has instead developed a combined framework which includes Islamic law and social practice, the influence of Saudi history and the impact of the political system on current local marriage practices, including polygamy.

The Structure of the Book

Chapter 1 consists of this Introduction.

Chapter 2, 'Polygamy in General', provides an overview of polygamy, covering a variety of academic, historical, psychological and religious literature. This chapter observes polygamous arrangements occurring within a legalised religious sphere and the more informal types of long-term relationship involving one male and two or more females occurring outside the confines of organised religion. It traces the roots of the practice from its early history to its more modern aspects and deals with it from a general, worldwide, non-Islamic perspective before considering the historical and the religious origins of polygamy in Islam, including the main verses of the Qur'an and the Sunna (tradition) which are generally interpreted by Muslims as a justification for the practice. Leading Islamic interpretations are considered, traditional and modern, as are the more recent Islamic movements and the role they have played in the current resurgence of the practice witnessed in many Muslim countries today. To illustrate these points, extracts are taken from the published views of writers both in favour and against the practice, thereby setting out the current Arab/Muslim discourse on polygamy.

Chapter 3, 'The Historical and Modern Developments of Polygamy in Saudi Arabia', gives a historical account of the marital practices of the two areas of Hijaz and Nejd. It analyses the level of moral and social blending of people who originate from a variety of ethnic backgrounds but who are united under a common nationality, and sheds light on the overall effects of the unification of Saudi Arabia on marriage customs and expectations. The chapter describes the religious promotion of

the practice by the government-controlled media, which seek to portray polygamy as a solution to many current social problems. Relying on the practical results of the fieldwork survey, the chapter culminates with a discussion of the manner in which the practice of polygamy has gradually evolved into its current form in Saudi Arabia today.

Chapter 4, 'The Social Acceptability of Polygamous Marriages', explores this issue amongst the studied group. Differences are identified between the publicly promoted acceptability and the true personal acceptance of polygamy amongst the individuals involved in the practice, and amongst their immediate social circle and their families. The effect of external and internal factors on the fluctuating level of acceptability is also considered.

Chapter 5, 'The Muslim Marriage Contract, its Terms and Conditions and Modern Variations', sets out the main requirements for the validity of the Muslim marriage contract within the four major Sunni Muslim schools of thought. It considers examples of the marriage stipulations used historically and currently in a Muslim marriage contract, and then considers their realistic, practical application within the existing Saudi court system today. This is followed by a detailed overview of the differences and similarities of the many non-standard marriage arrangements commonly used in Muslim countries, and the situations in which they replace the standard marriage contract.

Chapter 6 deals with 'The Legal Framework and Legal Changes' in Saudi Arabia insofar as it affects the research topic. It outlines the difference between the *shari'ah* (Islamic jurisprudential laws) and the legal regulations which are enacted to suit modern needs while keeping within an Islamic framework. The chapter explores the process of legal formation and application in the Saudi courts; it separates the religious laws (derived directly from the Qur'an and the Sunna) from public policy, customary, religious, administrative and legal regulations, and exposes regulations that come into direct conflict with the true spirit of Islamic law. These two types of laws are often confused by many to be of the same nature.

The chapter also identifies the link between recent internal and external events leading towards the enactment of legal changes directly crippling the financial independence and personal freedom of women in Saudi Arabia. Only those laws deemed relevant to the topic at hand are addressed here.

Chapter 7, 'The Character of the Polygamous Relationship', could form a book in its own right. It describes the changing nature of the relationship between the husband and his wife before and after the advent of polygamy into the monogamous marriage, and compares it to the nature of a marital relationship which is polygamous from the beginning. The focus is on the difference between the level of emotional, social and moral commitment of a wife entering into what she reasonably believes will be a lifelong monogamous partnership, and the level of commitment of a wife knowingly entering into a polygamous marriage contract or into what she reasonably expects might turn into a polygamous marriage; this was high on the agenda of questions asked during the interviews.

The marriage expectations of the husband *vis-à-vis* his first, second and subsequent wives and their expectations of the marriage are also explored. The chapter covers the negative and positive aspects of the relationship as conveyed by the interviewees. It explores the elements of jealousy experienced by co-wives and offspring, issues that are constantly faced by the polygamous husband, and whether polygamy, in general, does fulfil the expectations of the parties and whether it creates a happier solution for the husband and the wife/wives.

Chapter 8 underlines 'The Reasons for Polygamy', which include the structural, the institutional and the incidental. A comparison is made between the reasons commonly offered by the literature and the reasons given in the statements of the interviewed husbands, and the first and subsequent wives directly involved in polygamy.

Chapter 9 provides the Conclusion.

NOTES

- 1 Aside from the difference in spelling quoted at the end of this paragraph, the spelling of Mecca will be used throughout this book.
- 2 The Saudi Arabian Information Resource, Law of Regions: <http://www.saudinf.com/main/c5321.htm>.
- 3 Tawfeeq 'Ali Wahba, *Dawr Al Mar'a Fi Al Mujtama' Al Islami* (Woman's Role in Islamic Society), published by Dar Al Liwa' Li Al Nashr wa Al Tawzee' (1978), p. 71.
- 4 Dawoud Sudqi El Alami and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, Kluwer Student Editions, CIMEL, SOAS, Kluwer Law International (1996), p. 18; David Pearl and Werner Menski, *Muslim Family Law*, published by A. M. Shakoory, Brite Books (1998), pp. 240–41; Ahmed Abdullah Abdel Jabbar, *Aadaat wa Takaleed Al Zawaaj Bi Al Mantiqah Al Gharbiyya Bi Al Mamalakah Al Arabiyah Al Saoudiyah Dirasaah Midaniyyah Anthropologiyyah Hadeethah* (Marriage Customs and Habits in the Western Region of the Kingdom of Saudi Arabia) (1983); Mai Yamani, 'Some Observations on Women in Saudi Arabia', in *Feminism and Islam: Legal and Literary Perspectives*, edited by Mai Yamani, published by Garnet Publishing (1996), pp. 274–75; and Murad Hofmann, *Islam: The Alternative*, published by Garnet Publishing (1993), p. 138.
- 5 Soraya Altorki, *Women in Saudi Arabia: Ideology and Behaviour Among the Elite*, Columbia University Press, New York (1986), p. 63.
- 6 Other women who have researched their own culture include Thoraya Al Torki and Camilla Fawzi El-Solh, *Arab Women in The Field: Studying One's Own Society*, Syracuse Press (1988).

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POLYGAMY IN GENERAL

The first historical relationship between male and female presented in its Judaic and Muslim religious forms was propagated as monogamous: Adam and Eve, conceived as the first human beings, consummated the first marriage union as equal counterparts.¹ But polygamy, both official and unofficial,² can be traced back to the oldest human legal codes. Its existence continues today whenever it finds certain conditions that are economically and religiously conducive to its existence. The earliest recorded human laws, the Hammurabic legal code in 1752 BC and the Babylonian code, both contained protective clauses in favour of the second wife and her offspring, indicating the presence of polygamous practice this far back.³

Judaism permitted polygamy; examples are given in the Old Testament, such as the case of Sarah. Because she was barren, Sarah offered her slave Hagar as a concubine, to bear children to her husband Abraham.⁴ Along the same lines, in the Book of Samuel, Elkanah, son of Jeroham, had two wives, Hannah and Penninah;⁵ and 'Lamech took unto him two wives: the name of the one was Adah, and the name of the other Zillah'.⁶

Drawing on Judaic origins, this polygamous tradition has been revived in some parts of the Christian community, such as in the Mormon doctrine developed by John Smith. He was reported to have professed that the more wives a man had and the more children a woman had, the more they would be rewarded in heaven.⁷ On 1 July 1862, the American Congress passed the Morrill Act (the Anti Polygamy Act) for the suppression of polygamy.⁸

Dealing with the European experience, in her study on the lives of mistresses, Victoria Griffin described how, during the Renaissance period in Italy, the *cortegiane* of Venice, Florence and Milan were 'educated, influential and talented beauties who specialised in catering to the sexual and social needs of men who had excluded their wives from fully participating in their lives'.⁹ The artist Raphael celebrated these women by portraying them as the ideal woman.¹⁰

In fifteenth- and sixteenth-century France, the title *maitresse en titre* was created to denote the official mistress of the King of France. In the sixteenth century, Henri II kept a long-term official mistress, Diane de Poitiers, while he was married to Catherine de Medici. Henri and Diane had a joint cipher made – an H with a D on either side – and are said to have signed official letters ‘HenriDiane’.¹¹

In England, when Charles II died in 1685 while married to the barren Queen Catherine of Braganza, he left no legitimate children but fourteen acknowledged illegitimate ones by seven mothers; the two most celebrated of his mistresses were Louise de Kerouaille and Nell Gwyn.¹²

A selection from the many viewpoints related to the practice from an Islamic perspective is considered in this chapter, ranging from voices in favour of polygamy to those against it. This will be followed by a description of the overwhelming return towards polygamy as experienced in many Muslim countries,¹³ and by minority Muslim groups within non-Muslim societies.

Despite the indications pointing towards a constant resurfacing of polygamy throughout history as a facet of human nature, encouraged by the wealth factor, it will become obvious from events discussed in the current chapter that political and state economic factors have always been important players in the Islamic polygamous situation.

The Historical Origins of Muslim Polygamy

The historical existence of polygamous practice in the pre-Islamic context among other cultures is acknowledged by Muslim writers and often used to defend the existence of polygamy in Islam. Opinion, however, is divided amongst legal writers and historians as to the level of actual practice of polygamy in pre-Islamic and early Islamic Arabia. Polygamy is thought by some historians to have been widely practised in pre-Islamic Arabia as well as by other contemporary peoples in different parts of the world.¹⁴ Yet there are other accounts that question the extent of polygamy in pre-Islamic and early Islamic societies, maintaining that having one wife was the norm during that period, polygamy being the exception.¹⁵ According to Shiyma Al-Sarraf, polygamy was not an obvious part of Meccan life in the period immediately preceding the advent of Islam. Historical accounts of the Quraysh tribe, from which the Prophet was descended, and of the life of the Prophet himself in Mecca and his

twenty-five-year-long monogamous marriage to Khadija, suggest that monogamy was the prevailing marital trend of the time.

An example of monogamous preference in the early Islamic period is given in Al-Tabari's *History*,¹⁶ referring to year 8 of the Hijri calendar, when a group of men complained to the second Caliph, Omar. The complaint related to the expenses and responsibilities of having too many offspring, due to multiple marriages. Omar is reported to have said: 'You did it, you combined between the fellow wives (*Al-dhra'ir*)', which was interpreted as alluding to the negative results of polygamy.

There seems to be a continuing historical link between 'Islamic' polygamous practices and those of Hebrew and early biblical origins, later acquired by the Muslims following their immigration to Medina.¹⁷ Bearing in mind the monogamous trends amongst the Prophet's Quraysh tribe in Mecca in the period immediately preceding the Islamic revelations, including the early days of Islam in Mecca, links were made, following the immigration to Medina in 622 AD, between the polygamous Jewish culture and the other settled multi-tribal inhabitants of the city and the newly arriving early Muslim community. A political truce was concluded between the people of Medina and the Prophet Muhammad, as a result of which the Prophet, known for his wisdom and honesty, took over the leadership of the local people of Yathrib (later called Medina) at their request, uniting them and solving existing feuds amongst them.¹⁸ Until the arrival of the Prophet Muhammad and his Muslim companions from Mecca, the town of Medina was populated mainly by Jews and Christians and a handful of new Muslim converts, who were the main hosts and supporters of the Prophet (*Al Ansar*). The local population descended from several nomadic desert tribes who settled there. A covenant was made with the Jewish and Christian population in Medina, confirming their freedom to practise their religion and their title to their wealth. Conditions were made and accepted by both parties.¹⁹

The Jewish presence in Medina and their initial peaceful interaction with the newly formed early Muslim community should be seen in light of the fact that polygamy did not have an earlier presence amongst the Prophet's tribe, Quraysh, in pre-Islamic and early Islamic Mecca. The Prophet himself remained monogamously married to his first wife Khadija, in Mecca, until her death, when she was sixty-five and he was forty-five.²⁰ This covered the pre-Islamic period (*jahiliyya*) of his life and included the entire post-Islamic period that he spent in Mecca,

before his migration to Medina (the *hijra*) in 622 AD. He consummated his first polygamous union with his third wife, 'Aisha,²¹ while married to his second wife, an elderly widow, Sawda, after his permanent settlement in Medina. Historical reports suggest that the marriage to 'Aisha was contracted in Mecca but that consummation was delayed due to her young age at the time. The Prophet Muhammad then contracted a number of marriages for what are reported to have been moral, humanitarian, political and legislative reasons.²² Despite the emphasis placed in Arab society on marrying virgins, none of the Prophet's wives except 'Aisha was a virgin.²³

Islam limited the number of wives a man could have at any one time to a maximum of four. The matter is related through a narrative attributed to the Prophet when one of his companions (*Ghaylan Ibn Salma Al-Thaqafi*) had ten wives when he embraced Islam. The Prophet ordered him to choose four from amongst them and to 'release' the others.²⁴

The Religious Dimension

Although Muslims are encouraged to follow in the path of the Prophet and emulate his deeds and actions, as reported in the Sunna, there were aspects of the polygamy of the Prophet Muhammad that other Muslim men were not expected to follow. The Prophet married nine women concurrently (some accounts refer to eleven) yet the Qur'an was interpreted as allowing his followers a maximum of four, so he was setting himself apart from them. And when a specific verse was revealed, forbidding the Prophet's wives from marrying another man after him, the sanction did not apply to other Muslim women who frequently remarried after divorce and widowhood. The Qur'an also elevated the status of the wives of the Prophet to 'The Mothers of the Believers', guaranteeing them a place in Heaven. The rest of the Muslim wives were not included.

What Muslims do attempt to follow in their polygamous practice is the manner in which the relationship between the Prophet and his wives was conducted. This is detailed in the traditional Sunna and is often reiterated, discussed and re-interpreted by contemporary Muslim writers.

The Qur'an and the Sunna

Polygamy in Islam mainly draws its legality from chapter 4 of the Qur'an: *Surat al-Nisa*,²⁵ which deals largely with women's rights and duties in the

then newly Islamic context. Its period of revelation immediately follows the battle of Uhud where many Muslims were killed; hence the concern for orphans mentioned in the opening verses. The circumstances of this revelation have either been taken into account by the voices against polygamy or ignored by those in favour of a more open male polygamous licence, as discussed in chapter 3. The relevant verses which are often referred to in arguments throughout this chapter, are translated as follows:²⁶

‘Give unto orphans their wealth. Exchange not the good for the bad (in your management thereof) nor absorb their wealth into your own wealth. Lo! That would be a great sin.’ (4:2)

‘And if you fear that you cannot deal justly with orphans, then marry from the women who seem good to you, two or three or four. But if you fear that you cannot do justice (to so many), then one (only) or, the (captives) that your right hand possess. Thus it is more likely that ye will not do injustice.’ (4:3)

‘And give unto the women, (whom ye marry) free gift of their marriage portions; but if they of their own accord remit unto you a part thereof, then ye are welcome to absorb it (in your wealth).’ (4:4)

‘You are never able to be fair and just between women, if ever it is your ardent desire: but turn not away from a woman altogether so as to leave her as it were hanging in the air.’ (4:129)

As a result of this Qur’anic foundation, evidence from the Sunna and massive support from *ijma’* (consensus) in the form of juristic consensus, all schools (both Sunni and Shi’a) are agreed that a Muslim man can, subject to self-assessed restrictions, have up to four wives at the same time, and as many female slave concubines as he can afford. Opinion however varies amongst Muslims, ranging from those who believe that polygamy was only permitted for a specific period of time in order to solve an immediate problem and was not meant to be applicable at other times,²⁷ to those who believe that polygamy was intended to be the normal state of affairs, monogamy being the exception.²⁸

In addition to his limit of four wives, a Muslim man may own as many slave girls as concubines as he likes, provided the slaves are not already married to another (male) slave. This is viewed as part of his

rights of ownership. Should a slave woman bear his children, she becomes *umm walad* (mother of son), and the children of the master are born free. However, any previous children she may have remain slaves.²⁹ In accordance with international conventions, slavery has been abolished in all Muslim countries in the twentieth century.³⁰

The classically acknowledged interpretation of verse 4:3, understood to give a licence for Muslim men to practise polygamy with up to four wives so long as they could maintain them equally and financially, was challenged through a linguistic re-interpretation of the Qur'an. This culminated in an understanding of the relevant verses as encouraging unmarried Muslims to get married (24:32), to divorce if there is no possibility of reconciliation (4:20) before taking another spouse, and (4:3) advising the male guardians of the orphaned girls in their charge (following the death of their Muslim fathers in battle) to marry them off to suitable partners, either one at a time or in groups of two, three or four, rather than keeping them unjustly in order to keep their inherited wealth.

Although the polygamous licence has in later interpretations included marriage to widows in general and war widows in particular, the above Qur'anic verse does not in any way suggest this to be the case.³¹

The rules of the practice of polygamy vary between the Sunni and the Shi'i sects of Islam mainly in that the *Ithna 'Ashari* sect of the Shi'a also allows a man to have, in addition to his four wives, an unlimited number of *mut'a* (temporary) wives at the same time.³² This study is mainly concerned with the Sunni aspect of the practice; however, mention of the Shi'i *mut'a* marriages will be essential on a comparative level. This is due to the fact that some types of modern-day polygamy, as practised amongst the Sunni target group of this research, have been influenced by aspects of the *mut'a* marriage practices.³³

*The Concept of Co-Wife Equality and Justice in Muslim Polygamy*³⁴

One of the pillar requirements of Islamic polygamy is the concept of justice and equality of a husband towards his co-wives. It originates from the above-mentioned Qur'anic verses 4:3 ('Marry women of your choice, two or three or four; but if you fear that ye shall not be able to deal justly then only one') – and verse 4:129 ('Ye shall not be able to deal in fairness and justice between women however much ye wish').³⁵ Different readings and interpretations have been debated to establish the

level of equality reasonably offered by a polygamous husband towards his wives.

The equality factor has been the subject of extensive interpretations, mainly directed at the material aspect of the relationship. This deals with income, lodging and number of nights spent by the husband with his co-wives. A distinction is made, according to various interpretations, between justice in verse 4:3 which would mean equality between wives in tangible material matters, and justice in verse 4:129 which refers to inner feelings over which a man has no control.³⁶ The concept does not seem to include equality in the level of love and affection as this is considered to be out of the control of the husband.³⁷ The justice referred to in this verse only refers to the humanly possible equitable treatment. As 'Aisha, the wife of the Prophet Muhammad is reported to have said: 'The Messenger of Allah used to distribute things and do justice to all, and used to say: "My Allah, this is my distribution which is in my control, but do not hold me responsible for what is in your control and I have no control over it."' However, a polygamous husband should avoid excesses as the Prophet is reported to have said on another occasion: 'A man who marries more women than one, and then does not deal justly with them, will be resurrected with half his faculties paralysed.'³⁸ Ideally, the husband's ability to maintain justice is to be ascertained before embarking on polygamy and not to be left as an afterthought, relying on verse 4:129. Historical reports of the Prophet's life reveal that he favoured his wife 'Aisha (daughter of his best friend, Abu Bakr) over the other co-wives. She in turn was reportedly jealous of his fond memories of his deceased first wife, Khadija, and later of his strong attraction to his Coptic Egyptian concubine, Maria, who bore him his son Ibrahim.³⁹

The Required Financial Ability to Maintain Current and Proposed Additional Co-Wives

As with other polygamous cultures considered earlier in this chapter, the wealth of the husband is classically considered as the second pillar legitimising Islamic polygamy. As a general rule, a husband who does not have the financial ability to support a second or a subsequent family is not given an open licence to remarry. Verse 4:3⁴⁰ clearly states that having up to four wives is only possible if the husband can financially provide for them.⁴¹ This rule has been implemented in several codifications

dealing with polygamy in the Muslim world, in countries like Syria, Iraq, Pakistan and Yemen.⁴²

A distinction between male and female wealth needs to be made here.⁴³ What is often alluded to by legal writers in this context is the assumption of male wealth combined with the financial dependence of the females involved, marriage representing a means of acquiring power and strength (for wives) through the procreation of more sons who, in turn, are expected to add to the father's wealth.⁴⁴ However, the research has discovered many exceptions to this rule in modern-day polygamy whereby female wealth forms an important component for certain forms of the practice.⁴⁵

Consideration of Arguments for and against the Practice of Islamic Polygamy

Opinions vary from those who see polygamy as an open unquestionable Islamic male licence, to those who view the practice as 'demonstrative of the inequality of women and men as espoused by Islam'. In between are those who view polygamy not as an unalienable legal right for a Muslim man but one that is reserved in time and context for a particular social setting, and finally those who have re-read and re-interpreted the Qur'anic verses generally understood to permit polygamy and have seen them in a different light, as never having allowed polygamy in the first place.⁴⁶

Brother Yaseen argues that the Qur'an came to a polygamous society and called for its abolition, relying on verse 24:32: 'Marry off those who are single among you and those of your male and female servants who are righteous. If they are poor, God will enrich them of his grace, for God is bounteous and all-knowing.' He explains that 'married people' are not included in the verse. He continues his anti-polygamy argument by quoting the Qur'anic verse 4:20: 'If you wish to marry another wife, in place of your present wife, and you had given any of them a great deal, you shall not take back anything you had given her. Would you take it fraudulently, maliciously, and sinfully?' According to this verse, Brother Yaseen sees divorce as a necessity before another marriage can take place, thus eliminating the possibility of polygamy. He then examines verses 4:1 to 4:6 consecutively, and argues that the marriage command contained in them is intended for the orphans, who

should be married off when they come of age. The message of these verses is one of 'justice and fairness in managing the financial affairs of the orphans when their provider dies'. Against the argument presented by the classic interpretation of these verses, as recommending polygamy with the widows of war, Yaseen sees the verses as being 'not about the widows of war, they are uniquely about the orphaned women'.⁴⁷

Legal Reforms and Codifications in Arab/Muslim Countries, Touching on Polygamy

The controversy over Muslim polygamy began at the end of the nineteenth century with the advent of European influence in Middle Eastern countries. Egypt and Turkey's intellectuals were advocating reform for women in matters relating to education and polygamy.⁴⁸ Other Arab/Muslim countries followed, excluding Saudi Arabia.

The two main voices speaking against the practice in Egypt were those of Imam Muhammad 'Abdu and Qasim Amin. Muhammad 'Abdu, often called 'The Father of Muslim Modernism', criticised polygamy as unsuitable for modern times. In his opinion, polygamy was permitted at the time of the Prophet as a concession to the then prevailing social conditions, but the true intent of the Qur'an was monogamy, since it imposed equal justice and impartiality, this being a practical impossibility between co-wives. In 1908, the Egyptian legal reformist (and associate of Muhammad 'Abdu) Qasim Amin approached the issues of women's rights, including the topic of polygamy, from a social perspective. His books, *Tahrir Al Mar'ah* (The Emancipation of Women) and *Al Mar'ah Al Jadidah* (The New Woman), became a source of inspiration to many feminists, whilst attracting harsh criticism until this day. Qasim Amin viewed the practice as a humiliation for women as, in his opinion, no woman would be willing to share her husband with another woman.⁴⁹ He called for the total abolition of polygamy, referring to it as the 'habit', since it is now seen as obsolete and no longer applicable for the requirements of modern times.⁵⁰ Amongst his arguments against the practice is the negative effect it has in harbouring hatred amongst the brothers and the sisters as a result of the instigation of their mothers, the co-wives.⁵¹

Reforms in Egypt continued with the blessing of the late President Sadat when Section 44 of the 1979 law gave a wife the right to apply for a divorce in court, for the duration of one year, following her discovery of her husband's remarriage to another, as this polygamy is considered to

cause her harm (*dharar*). The law also declared that a husband should reveal his marital status at each marriage contract, and that both the existing and incoming wives should be informed. The law was signed and approved by the Head of Al-Azhar mosque, the Minister of Justice and the Minister of Endowments. However, due to the uproar of the Islamic opposition, who considered the assumption that polygamy caused harm to an existing wife as a denial of a law granted by God, the law was abolished after the assassination of Sadat. It was replaced by Section 11 of the 1985 law which gives the wife the right to apply for a divorce in court if she suffers financially or emotionally as a result of the polygamy, making it unbearable for a woman of her social group to live with it. The judge must apply his power of conciliation, failing which he must grant her the divorce. A limitation period of one year from the date of the discovery of the polygamy by the said wife is applicable.⁵² The significance of the amendment in the new law, in comparison with the previous one, lies in the removal of the automatic assumption that polygamy creates a *dharar* (harm) to an existing wife.

Islamic legal reforms affecting women's conditions, including education and changes in marriage practices, began in Turkey, led by the writer Namik Kemal (1840). Later, following the creation of the Republic of Turkey in 1922, the Swiss Legal Code was adopted word for word as the new Turkish Civil Code of 1926. At a stroke, President Ataturk, through the legislators, abolished all Islamic legal practices, including polygamy.⁵³ However, significant sections of the population did not accept these Western ideals of reforms and democratisation; the majority of the people retained their traditional lifestyles and perspectives.⁵⁴ The extent of the continuing practice of polygamy in Turkey, despite its illegality, has been raised as a point against it when it sought to join the European Union.⁵⁵

The relevant Qur'anic verse (4:129)⁵⁶ was interpreted by the Tunisians in 1956 to amount to a prohibition on polygamy.⁵⁷ Tunisia is the only Arab Muslim state to have specifically prohibited polygamy, in Section 18 of the 1956 law which imposes a fine and/or a prison sentence on the men who practise it.⁵⁸ The justification given for this prohibition is that it is impossible to treat two wives with absolute equity and equality.⁵⁹

Other reforming states, reluctant to make direct prohibitions against polygamy per se (through fear of upsetting the religious authorities, the *'ulema*), raised procedural obstacles to second marriages and imposed criminal penalties on husbands who evaded those obstacles.⁶⁰ Referring

to legal reforms in the area of family law occurring in Egypt, Syria, Jordan, Morocco, India and Pakistan, John Esposito describes the manner in which reforming states were careful to employ legal doctrines and methods to establish the Islamic character of their reforms, thus forming a link between legal modernisation and traditional jurisprudence.⁶¹ By insisting that first and subsequent wives are informed of the proposed marriage and by giving power to the court to decide the financial ability of the husband to support an additional family, the power to refuse a polygamous union from taking place if there is fear of mistreatment, and the granting of divorce to a wife complaining of unequal treatment,⁶² these states have opted for a compromise.

In the opinion of the author, although these reforms, mainly based on the financial aspect of the polygamous union, may not have eradicated the other known side effects of polygamy,⁶³ they have led to a decrease in financial injustices. The involvement of an effective judicial supervision system must have put an end to the dilemmas which continue today in jurisdictions like Saudi Arabia, where the male polygamous indulgence of even the poverty-stricken and the unemployed is not subjected to any form of judicial limit or restriction whatsoever. Nor is there a socio-legal system functioning for the management of the demographic increase in the street-bound offspring which result from them.⁶⁴

Apart from the Egyptian law of 1985,⁶⁵ all other reforms granting the right of divorce to an existing wife who opposes her husband's polygamy continue to involve severe repercussions for the many financially dependent mothers. Divorce could, in many cases, bring about immediate destitution and the loss of custody of those of her children who are over the age of seven.⁶⁶

Almost all that has been said or written in the Islamic discourse on the subject of polygamy and the fate of Muslim women can be described as a reaction either for or against the Western attitude towards the practice, due to its religious and historical origin, as the next section will reveal.⁶⁷

The Islamic Discourse in Favour of Polygamy

The discourse in favour of polygamy is often a defensive one, fighting against what is viewed as the anti-Islamic movement originating in the corrupted West.⁶⁸ The Western training of the anti-polygamy legislators is often alluded to in pro-polygamy arguments. Their prohibition or

banning of the practice is taken as a straightforward retaliation against the words of God and the tradition of his Prophet.⁶⁹

The discourse portrays the positive aspects of polygamy, for the benefit of those who may view it unfavourably, such as the chance of marriage or remarriage for the growing numbers of spinsters, divorcees and widows who would be saved from destitution and the risks of immorality by attaching themselves to the care of a Muslim man.

The researcher has chosen extracts from a large array of literature to give a flavour of the discourse in favour of polygamy, as it is presented by contemporary Muslim academics and writers.

Sheikh Bakr 'Itani defends the rights of unmarried women, who would remain thus without the continuity of polygamous practices; he proceeds with three different possibilities:⁷⁰

- 1) either each man contents himself with one woman, which would be unfair on the other women who would then be confined to a life of celibacy; or,
- 2) each man legitimately marries one woman only, while keeping a secret mistress from amongst those women unable to find a husband; or,
- 3) all or most of the good honest men marry more than one wife, thus providing all those good women with an opportunity to be married.

With their publications entitled 'One Wife is Not Enough' and 'Multiple Wives or Multiple Mistresses', 'Imad Addeen Hussein⁷¹ and Khashi' Haqqi⁷² respectively repeat the same point in defence of all those women who, in their view, would be reduced to the roles of illicit mistresses and prostitutes if polygamy were to be limited.

The pro-polygamy views of the late Muslim thinker Muhammad Mutawalli Al Sha'rawi in *Ahkam al zawaj wa al talaq wa al khul'* (Rules for Marriage Divorce and Repudiation) are quoted as follows:⁷³

- 1) a wife's infertility is a valid reason for her husband to polygamously seek another;⁷⁴
- 2) her inability to satisfy her husband's physical needs may also be a valid reason for this. Sha'rawi does not offer an equivalent solution for the wife/wives facing a similar dilemma;
- 3) the potential second wife may be a widow or a divorcee related to the husband; in marrying her, the husband will be providing her

- with a home, an income, and protection from possibly straying in pursuit of the fulfilment of her natural, physical needs;
- 4) the potential wife may be a young widow whose needs are not being fulfilled because of the *shahada* (death in Jihad war) of her late husband;
 - 5) we may be experiencing a time where the number of females exceeds the number of males; the only way to deal with this excess is through the channelling of polygamy;
 - 6) other valid reasons calling for polygamy include the need for a connection between two families, or to strengthen the relationship between a ruler and his people;
 - 7) following periods of war, the number of women will naturally exceed the number of men; the only means of preventing the spread of illicit relationships will then be through polygamy.

In reply to the celebrated anti-polygamy views of the earlier reform movements in Egypt,⁷⁵ Sha'rawi tackles them one by one, as follows:

- 1) some argue that the presence of co-wives in one home can create tension, but the defence to this accusation is that misunderstandings are commonplace in every home, and provided the husband is diligent in his equal treatment towards all his wives, this argument is invalidated;
- 2) the argument about polygamy creating inequality in the relationship of the husband with his wife/wives is tainted by Western ideas that have infiltrated into our societies, the Qur'anic licence regarding male polygamy is clear and cannot be argued against.

Sha'rawi continues in defence of polygamy, joining his voice to the many other pro-polygamy Muslim writers of the twentieth century: 'A second or subsequent wife has only accepted such a position because she was unable to secure herself the position of a first wife; therefore, her choice was made willingly. If there hadn't been excess in the number of females versus males, would there have been polygamy in the first place? This is proof that there is excess in numbers.'⁷⁶ To ignore them (by abstaining from polygamy) 'would lead to one of two possible outcomes':

- 1) either a woman chooses to remain honourable but ends up frustrated and hating every other married woman; or
- 2) she gives up her honour and fulfils her needs illegally.

Sha'rawi did not mention the soaring problem of the thousands of male bachelors in Egypt who, due to economic hardship, and without a practical solution, remain unable to set up a marital home with one of these women who, in his view, remain destined to polygamy with married men who can afford it, or to the *hadd* (criminal offence) of *zina* (fornication).

Sha'rawi reiterates the classic biological argument: 'It is an established fact that a man's physical needs exceed those of a woman, and, provided he can financially afford to accommodate the needs of two or more wives, would he be expected to refrain from remarriage, and choose to violate other people's honour instead? These Western influenced thinkers prefer the illegal to that which is legal.'⁷⁷ Although Sha'rawi was not a polygamist himself, his views accommodated the wishes of many of his now polygamous followers in Saudi Arabia. He is known to have remained single by choice following his widowhood from his long-term monogamous union.⁷⁸

Abdur Rahman Doi,⁷⁹ university professor and Islamic legal writer of Indian origin, begins by reiterating the need for equality between co-wives in the matter of food, residence and clothing and, wherever possible, in sexual relationships, before a man can embark on polygamy. Any man who doubts his ability to fulfil these requirements should stick to one wife only. Situations calling for the practice of polygamy, viewed by Doi as 'the best solution', concern cases where there is a discrepancy of a physical nature, such as when:⁸⁰

- 1) the wife is suffering from a serious or a contagious disease, and the presence of another wife to look after the husband, the home and the children, will help the first wife;
- 2) the wife has been medically proven to be barren;
- 3) she is of unsound mind;
- 4) she has reached old age, and has as a result become weak and infirm.

Whether a bad case of flu or chickenpox suffered by an existing wife will suffice, or whether the requirement is something more serious such as

tuberculosis or leprosy, is not specified. As to which action should be taken in cases where the husband but not the wife is the sufferer of barrenness and old age is a matter left to the good judgement of the reader. Another set of situations calling for the polygamous 'solution' deal directly with the behaviour or character of an existing wife, such as where:

- 1) a wife has a bad character that cannot be reformed by the husband;
- 2) she has become disobedient and has left the husband's house (against his will). No solution is suggested by the academic legal writer advising wives for cases where the situation is reversed. The reasons justifying the male polygamous indulgence are not generally applicable to wives facing the same situation. Women living with elderly, schizophrenic or HIV-infected husbands are usually advised to work around their situation;⁸¹
- 3) there are areas in the world where people are physically very virile and cannot be satisfied with one wife; a man should take a second wife to satisfy his natural desires, provided he has the means to support her.

Again, there is no mention by Mr Doi here as to whether these geographically induced physical excesses occur only in the male descendants of these nations, or whether they curse the females equally while failing to provide them with a religiously viable release.

In his comparative study between Islamic jurisprudence (*shari'ah*) and the laws regarding personal status in Egypt, Abdul Fattah Muhammad About 'Aynayn, an Islamic law professor at the Mansouriya branch of Cairo University, goes further in his argument in favour of polygamy to claim that:

- 1) Polygamy in Islam can cure the illness of Westernised, masculine behaviour in the first wife, thus improving her haughty attitude towards her husband. The writer reminisces about the days when wives were satisfied with a drink of water and a crumb of dry bread, because their hearts were filled with *iman* (religious belief) that going along with their husband's wishes was an assured way into eternal bliss. He compares marital life in those days to a peacefully sailing boat, up until the arrival of these 'mannish, masculine women

of the feminist movement' who blew their unsettling winds and shook the peaceful boat.⁸²

- 2) Polygamy removes widows from the cold and loneliness, giving them back the lost hope of marital bliss.
- 3) Polygamy is the best prevention against the Aids virus.

Although Professor Abu Al 'Aynayn offers no specific explanation for this last statement, he is presumably playing on the assumption that polygamy is a preventive measure against unprotected illicit sexual practices which could result in the spread of the Aids virus. Research in Africa aimed at containing the spread of HIV has found that polygamy was a contributing factor towards the spread of the disease, with the infected husband spreading it to his different partners.⁸³

Sayyid Qutb, the Egyptian Islamic radicalist and reformist, based his pro-polygamy argument on the biological differences between men and women. He believed in polygamy as part of a divine wisdom:

'Biological factors dictate that while a woman can become pregnant only once at a time and as a result of the agency of one man, the latter can in the meantime procreate with three additional women. For Islam allows a man up to a maximum of four wives. Moreover, the fertility of a man extends to the age of seventy or beyond, whereas that of a woman ceases at the age of fifty or thereabouts. There are at average twenty-five more years of reproductive potential in the life of a man when compared to that of a woman.'⁸⁴

Another voice reiterating most of the justifications put forward by the previously mentioned writers is that of Ibrahim Al Ni'mah, the Imam of Al Makhyoul Mosque in Mosul, Iraq.⁸⁵ He admires the good Muslim who is willing to accept the words and command of God in their totality: 'If the Prophet had wanted Muslim men to have but one wife each, he would have asked them to give up all their pre-Islamic wives and choose but one.' Following the revelation of verse 4:3, however, 'the Prophet asked his companions to give up all but four of their wives to adhere to the new Islamic rules'. To prove his point about the need for polygamy today, the imam relies on a quotation of some statistics published in Germany and the United Kingdom at the end of First World War, to justify his claim of a current excess in the numbers of women in relation to men.⁸⁶ The learned imam proceeds through the next classic

argument, listing female defects ranging from barrenness to repulsive and contagious illnesses, until he reaches the unnatural requirement expected of the husband of abstaining from intercourse with his wife during a fortnight of menstruation each month, together with the forty days post-natal period after the birth of each of their children, until (all in one breath) ‘the wife reaches the age of fifty years by then becoming sexually useless in a terminal way’. Al Ni’mah concludes by questioning how those minds influenced by the West can expect a healthy man of sufficient financial means to abstain from practising his natural needs, while continuing to steer away from sin?⁸⁷

Despite the emphasis placed by writers on the above-mentioned justifications for polygamy, such as a wife’s infertility or illness, Amina Wadud, an Islamic Studies Professor in the Department of Philosophy and Religious Studies at Virginia Commonwealth University, highlights the fact that none of these points are mentioned in the Qur’an.⁸⁸

Yaseen goes a step further in dismissing the argument regarding polygamy as a licence in cases of infertility of the wife, relying on verses 42:50–51 in the Qur’an: ‘To God belongs the kingdom of the heavens and earth. He creates whatsoever He wills, bestows daughters on whosoever He will, and gives sons to whom He chooses. On some He bestows both sons and daughters, and some he leaves infertile. He is all-knowing and all-powerful.’

Dr Shiyma Al-Sarraf, a female Muslim lawyer of Iraqi origin, views polygamy as an Islamic legal rule like any other, created to fulfil a human need. She admits the possibility of injustice but views it as stemming from the human abuse of the legal licence as opposed to being a result of the practice of polygamy per se. Just like any other legal rule, if applied correctly it can yet serve a useful purpose.⁸⁹

The Islamic Discourse of Reluctant Acceptance

Part of the argument in favour of polygamy may, alternatively, come across as an acceptance of a *fait accompli*, a compromise to be used as a last recourse only in order to avoid a worse alternative. This is a form of submissive acceptance of polygamy as an Islamic licence, which goes on to highlight the possible deterrents as a warning to those planning to embark on the marriage without a full understanding of the realistic consequences they are bound to face as a result.⁹⁰ I quote: ‘Most Muslims accept the argument that monogamy should be the norm but remain

unwilling to underwrite a total prohibition of polygamous arrangements, perhaps because this would require the toleration of extramarital relations for men in a number of situations. The so-called Western solution for male promiscuity, freely allowing unmarried cohabitation, is seen as a dishonest legal fiction that merely maintains the façade of monogamy.⁹¹

The Islamic Discourse against Polygamy

As mentioned above,⁹² there are those who believe that polygamy in early Islamic society was sanctioned to deal with the surplus female population following wars, since many Muslim women were widowed following the death of their husbands in the battle of Uhud in 625 AD. It was at this point that the Qur'anic verses were revealed, encouraging the surviving Muslim men to marry these war widows who could not return to their non-Muslim clans in Mecca for support.⁹³ Polygamy then continued as an agrarian necessity in rural areas where extra labour was needed.

Muslim feminist legal writers argue that the mere presence of a disagreement on this point by Muslim jurists points to the fact that 'the unchallenged right to polygyny is not an eternal social precept of the Qur'an'.⁹⁴ They believe that the licence to practise polygamy was dependent on specific circumstances being present (namely large numbers of destitute widows and orphans following war and battle) and that it does not extend to situations where these specific circumstances are not present or have been rendered obsolete in modern-day life. These writers additionally rely on the fact that the interpreted *shari'ah* (Islamic jurisprudence) has traditionally reflected the patriarchal cultural norms of the interpreters.

Through her re-interpretation of some verses of the Qur'an, Amina Wadud, Professor of Islamic Law, bases her anti-polygamy argument on the distinction between the early Islamic perspectives of marriage as a way for a female to be financially provided for by a male and the current situation of many financially self-sufficient women.⁹⁵ She understands the verse quoted as permitting polygamy as being mainly concerned with the mistreatment of orphans. One solution suggested to counteract the possible mismanagement of the entrusted funds of the female orphans was to marry them, and thus the financial responsibility of supporting a wife would counterbalance the responsibility of financial mismanagement. The Qur'anic verse 'Ye are never able to be fair and just as between women, even if that were your ardent desire'⁹⁶ is, in her opinion, clearly

concerned with doing justice to the orphans. She adds that the only concern of most proponents of polygamy with the concept of justice between co-wives is material. This, in her view, 'is an extension of the archaic concept of marriages of subjugation, because fairness is not based on quality of time, affection, intellectual or moral support'.

She maintains that:

- 1) in view of today's financial and economic situation, it is becoming unusual for women to be viewed as financial burdens, incapable of financially supporting themselves;
- 2) the rationale for a husband to take another wife is not being matched with a solution for the wife whose husband is sterile. In a world of war and famine, she suggests that childless couples could look after orphans desperately needing families;
- 3) the current sanctioning of men's unbridled lust means doing away with the Qur'anic principles of self-constraint, modesty and fidelity: 'As these values are required at the onset for the wife, is it that the Qur'an does not stress a high, civilised level for women while leaving men to interact with others at the basest level.'⁹⁷

The Turkish female writer Halide Edib Adivar, in her account describing her experience of polygamy both as a child and, later, as a first wife, says in response to the argument that since:

'there is informal polygamy and man is polygamous by nature, why not have the sanction of the law? ... Whatever theories people may hold as to what should or should not be the ideal tendencies as regards the family constitution, there remains one irrefutable fact about the human heart, to whichever sex it may belong. It is almost organic in us to suffer when we have to share the object of our love, whether that love be sexual or otherwise ... On my own childhood, polygamy and its results produced a very ugly and distressing impression. The constant tension in our home made every simple family ceremony seem like a physical pain, and the consciousness of it hardly ever left me.'⁹⁸

The Moroccan feminist academic Fatima Mernissi finds that the conjugal unit is weakened by polygamy. She views polygamy as a direct attempt to prevent emotional growth in the marriage unit. Men make themselves valuable, not by perfecting themselves, but simply by creating

a competitive situation between many females. The polygamous husband needs to make less of an emotional investment in any one wife. Even in economically plagued modern Muslim societies where polygamy is not so common, the constant threat made by husbands (of bringing in another wife) is a very real one, even in monogamous households.⁹⁹

Haleh Afshar, quoted by Leila Ahmed, spoke of one of the results of the re-instatement of polygamy in Iran as ‘an epidemic of often short-lived, polygamous marriages; frequently between older men taking a younger bride for a fling and retaining the old one for work’.¹⁰⁰

The Post-Independence Indian Judge Dhaven J. in the court decision *Atwari v. Ashgari*, 1960,¹⁰¹ taking into account changes in social circumstances and conditioning, defined the polygamous husband’s action of taking another wife as amounting to cruelty towards his first wife. He explained the refusal of the court to grant the husband his call for the restitution of conjugal rights with his first wife following the polygamy on the basis that:

‘Formerly, a Muslim husband could bring a second wife into the household without necessarily meaning any insult to the first wife. Occasionally, a second marriage took place with the consent or even the suggestion of the first wife. Habits have now changed; the husband who takes a second wife these days cannot pretend he did not realize the likely effect of his action on the health and feelings of his first wife. Under the law, the husband will be presumed to intend the natural consequences of his own conduct.’

Dr Fawzia al Atiyah, Professor of Sociology in Baghdad University, views the re-introduction of polygamy into Iraqi society, due to wars and public policy, as having a disintegrating effect on family structure and values. It comes as a result of the decrease in male presence due to wars and emigration in search of work.¹⁰²

The Saudi lawyer Abdullah Mar’i Bin Mahfouz cites the Qur’anic verse 30:21 (Al Roum), which emphasises the peaceful partnership created through marriage. He stresses that this partnership can only be achieved between two people, one husband and one wife. He describes the unpleasant lifestyle within polygamous families, including additional moral and legal responsibilities faced by the polygamous husband in comparison to those of a monogamous man, and continues: ‘The man who imagines that polygamy can provide a source of happiness is

only dreaming (in view of the added responsibilities that will befall him).’ He proceeds to criticise those who see in the Islamic acceptance of polygamy an open licence whilst ignoring the accompanying prescribed responsibilities that should naturally go along with it.¹⁰³

Ghassan ‘Ascha, Professor of Islamic Studies and Comparative Religions at the University of Utrecht in the Netherlands, in his critical analysis of the interpretations of the laws relating to marriage, divorce and polygamy in the Muslim world, suggests that since concubinage (which is viewed as a male right, permitted in the same verse [4:3]¹⁰⁴ which accounts for the Muslim male polygamous licence) has been successfully abolished in the twentieth century, without affecting the depth of Islamic fervour or a limitation on its practice, so could polygamy be abolished without a necessary loss of the Islamic identity.¹⁰⁵

The Revival of Polygamy in the Muslim World

Academic literature has established that the ‘revival’ of polygamy has occurred in Arab/Muslim and Middle Eastern countries, including Saudi Arabia.¹⁰⁶ The increase in polygamy is viewed as part of the political wave towards an increase in Islamic fervour. Polygamy has seen an increase in Egypt,¹⁰⁷ Jordan,¹⁰⁸ the Sudan, where the president publicly encouraged it,¹⁰⁹ Malaysia and Iran, since Imam Khomeini’s government re-instated polygamy and temporary (*mut’a*) marriages.¹¹⁰ In the words of Leila Ahmed: ‘gains made before the revolution in matters of marriage were revoked’.¹¹¹

The revival or discouragement of polygamy is observed to have often followed the views and needs of decision makers. This is illustrated by the examples given in this section.

Following the Iran–Iraq war, polygamy was encouraged indirectly since any man, whether already married or not, who married the war widow of a martyr received a financial bonus.¹¹² And, although a legal codification of the Iraqi law of personal status required a married man to obtain the consent of his existing wife before taking another wife, Saddam Hussein did not apply for a court permission when he took his second wife, and he went further by rescinding the existing law requiring first wives to give permission for their husbands to remarry.¹¹³

While previously non-existent in Mauritania, polygamy has seen a new era there, according to a television interview with a local government

official.¹¹⁴ In Algeria, it is estimated that polygamy has increased since independence.¹¹⁵ In spite of its secular civil code, which banned polygamy, Turkey is experiencing a revival in unregistered but religiously valid Muslim polygamous marriages. In order to contain the ensuing problems caused by this, the Association for Religious Men in Turkey, headed by Ahmad Bildeez, called for a licence to register valid marriages to be given to religious men and imams of mosques as it has been given to other government officials. It is reported that at least forty-two per cent of Turkish villagers still prefer a religious ceremony 'in addition to married men who choose religious marriages in order to evade penalty resulting from the ban on polygamy that does not recognize marriages conducted by a religious man'.¹¹⁶

When the reasons for the revival of polygamy in the Arab world were discussed during the course of a 'Symposium on Women and the Cinema in the Arab World', the famous Egyptian actor Nour al Sherif (who played the leading role of the successfully polygamous husband in a controversial television series dealing with polygamy) declared that the status of women as portrayed in Egyptian cinema has usually followed the policy of the ruling power. He cited films that created a turning point in favour of women's conditions that originated during the reigns of President Nasser and President Sadat (Jihan, the wife of the latter, was a strong supporter of the cause of women).¹¹⁷ He then discussed the current trends in Egyptian cinema, culminating in the series, 'Al Hajj Mutawalli', in which he was the main actor. The series portrayed the detailed events of the life of the happy polygamous family of the Hajj Mutawalli.¹¹⁸ It was broadcast through satellite television channels throughout the Arab world and caused a stir, followed by many media debates in favour of the practice of polygamy.

Despite the media and public interpretation of the message delivered by the series, Nour Al Sherif, in his attempt to create a balance between differing public reactions to the series and to appease the uproar that it had created in the 'other camp' represented by angry women's groups, declared at the end of his talk that the story was merely based on a historical portrayal 'of the way things used to be' and was not intended to represent polygamous family life today.

According to a survey conducted by the Centre for Women's Studies, a large number of unmarried women between the ages of twenty-five and forty years were reported as not being against the idea of becoming

a 'second wife'. This is said to be caused by the high rates of spinsterhood and divorce that are sweeping through Egyptian society today.¹¹⁹

In Malaysia, there are protective restrictions on polygamy laws. The Pusat Islam (Islamic Centre) falls under the Prime Minister's Department. However, as religion is a state matter, the provisions relating to polygamy underwent considerable modifications at different times. The requirement of the Act that the husband obtains his first wife's consent before contracting a second marriage was revoked after religious hardliners argued that no such provision was present in the Qur'an. The existence of national boundaries within the Malay world has also facilitated the practice of 'cross-border' polygamy, and complicated attempts to limit its practice.¹²⁰ These laws have been relaxed in the state of Perlis, which is situated 500 kilometres north of the capital Kuala Lumpur. The move is reported as a way of facing reality, given that more than 100 local men had recently taken second wives. These men had been 'sneaking' abroad to neighbouring countries where polygamy was permitted. Husbands are no longer required to obtain their first wife's written consent to engage in polygamy, and marriage registration rates have been made more affordable. The ability of a prospective polygamous husband to support two families, however, remains on the list of requirements.¹²¹

In Uganda, when parliament proposed a law, the Domestic Relations Bill, which if passed would require a husband to seek permission from his first wife before taking a second one, more than 1000 Muslims, amongst them women, demonstrated against the passing of the bill in the capital, Kampala.¹²²

The New Revival of Muslim Polygamy in Non-Polygamous Jurisdictions

According to a report by the Geneva-based United Nations Research Institute for Social Development, there is a return to polygamy in European countries amongst the local Muslim minorities and immigrants there. This revival includes migrants coming from countries from the former Soviet Union such as Kyrgyzstan, Uzbekistan and Tajikistan.

Polygamy is also reported to be practised by the immigrant population in France, despite monogamy being the law there. In the French town of Les Mureaux, in the department of Yvelines near Paris, this extends to a reported eighty polygamous families, numbering twenty

persons each, with a total of almost a thousand children. Some of these families are said to be living in government-supported housing. Second, third and fourth wives were allowed to immigrate to join their husbands in France, because they had 'French' children, meaning children of residents of France.¹²³

In Germany, the Turkish-born writer Kecla Kelek, in her book *Die fremde Brant* (The Alien Bride), charged German Chancellor Gerhard Schroeder's government with furthering the 'undignified treatment of immigrant women, including polygamy'.¹²⁴

According to the Ottawa *Citizen* newspaper, following the legalisation of homosexual marriages by Canadian legislators, the Canadian government has launched an urgent study into the social and legal ramifications of polygamy as it prepares for possible constitutional challenges from Muslim minority groups who claim their practice of polygamy as a religious right.¹²⁵

Conclusion

The origins and continued basis for the legality of polygamy from an Islamic perspective began with the marital practices of the Prophet Muhammad in the early days of Islam. This widely accepted licence was somewhat shaken by the re-interpretations of Quranic verses 4:3 and 4:29 in the light of modern-day applicability. This re-interpretation and re-adaptation of the verses continues to form the core of the arguments for reforms and codifications that restricted and/or abolished polygamy in some of the Arab/Muslim countries in the nineteenth and twentieth centuries. The anti-polygamy discourse comes as a call for *tajdid* (the modern re-reading of the verses to suit contemporary situations). The main core of the argument lies in the claim, by those who reject it, that polygamy may have represented a solution for social dilemmas at a given time in history but has become an invalid option due to the economic and social changes affecting the Muslim world in modern times. The historically acknowledged non-Islamic origins of polygamy in the region is conveniently presented by pro-polygamy writers as an argument to justify modern-day polygamy, yet any counter-argument by anti-polygamy voices is viewed as an attack on deeply embedded Islamic values. Customary justifications for the practice now form part of the overall religious debate.

A fierce retaliation against these reforms is expressed in this chapter through extracts and quotations from the defensive responses of the pro-polygamy Muslim writers. Polygamy has been turned into a nationalist, Islamic, political debate, which automatically labels any form of regulation of the practice and its management as a sign of heresy, a mark of joining in with the anti-Islamic Western conspiracy. The move has included the regressive legal tightening of women's freedoms (acquired over many centuries) in order to recreate an even more polygamously fertile environment than the one being mimicked. The regressive movement does not take into account modern consumer trends and the public policy economically induced break-up of community ties resulting from the demographic movement of the population in search of education and work. Despite the aim of protecting Islamic values, these influences, combined with blind re-creations of past ideals, result in a situation that is much harder on its targets: those polygamous partners are stripped of their bargaining powers and their offspring.

NOTES

- 1 Gordon McConville, *Genesis, World Faiths: The Old Testament*, Teach Yourself Books, Hodder & Stoughton (1996), p. 68.
- 2 The term 'unofficial polygamy' is used when referring to the state of cohabitation between one man with two or more women under circumstances where religious and social norms do not encourage it.
- 3 Gerda Lerner, *The Creation of Patriarchy*, Oxford University Press (1986), p. 113.
- 4 Lerner, *The Creation of Patriarchy*, pp. 170–71.
- 5 The Bible, Standard Text Edition, King James Version, Cambridge University Press, I Samuel, 1:2.
- 6 The First Book of Moses, called Genesis, 4:19.
- 7 Marilyn Yalom, *A History of the Wife*, Pandora (2001), quoting James E. Smith and Philip R. Kunz, 'Polygyny and Fertility in Nineteenth Century America', *Population Studies* 30 (1976), pp. 465–80.
- 8 Kerry Abrams, 'Polygamy, Prostitution, and the Federalization of Immigration Law', *Columbia Law Review*, volume 105, no. 3 (April 2005), quoting Sarah Baringer-Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth Century America* (2002), <http://www.columbialawreview.org/pdf/Abrams-Web.pdf>.
- 9 Victoria Griffin, *The Mistress: Histories, Myths and Interpretations of the 'Other Woman'*, Bloomsbury (1999), p. 136.
- 10 Griffin, *The Mistress*, p. 128, quoting HRH Princess Michael of Kent, *Cupid and the King*, published by HarperCollins (1991), p. xxii.

- 11 Griffin, *The Mistress*, pp. 127–28 and 135.
- 12 Griffin, *The Mistress*, pp. 141–42.
- 13 Including Saudi Arabia.
- 14 ‘Abdul Rahman I. Doi, *Shari’ah: The Islamic Law*, Ta Ha Publishers (1984), pp. 144–48; also in Pearl and Menski, *Muslim Family Law*, p. 237.
- 15 Dr Shiyama Al-Sarraf, *Abkam Al-Mar’ah Bayn Al-Ijtihad wa Al Taqlid* (Laws Relating to Women between Diligence and Custom), published by Al Qalam (2001), p. 64.
- 16 Events of year 8, quoted in Al-Sarraf, *Abkam Al-Marrah Bayn Al-Ijtihad wa Al-Taqlid*, p. 64.
- 17 Judith Romney Wegner, ‘The Status of Women in Jewish and Islamic Marriage and Divorce Law’, *Harvard Law Journal* volume 5, no. 1 (1982), pp. 1–33, as quoted in Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate*, Women’s Studies/Middle East Studies, Yale University Press (1992), p. 256.
- 18 Karen Armstrong, *Islam: A Short History*, published by Phoenix (2004), pp. 9–10.
- 19 Sayyid Aboul Hassan Ali Nadawi, *Muhammad the Last Prophet: A Model for all Times*, published by UK Islamic Academy (1993), pp. 69–70.
- 20 Ahmed, *Women and Gender in Islam*, p. 42; *Middle Eastern Muslim Women Speak*, edited by Elizabeth Warnock Fernea and Basima Qattan Bezirgan, published by University of Texas Press (1997), p. 27.
- 21 Aisha was the daughter of his trusted friend, Abu Bakr, who later became the first caliph following the death of the prophet.
- 22 ‘Polygyny: A Divine Right or Exception to the Rule?’, www.maryams.net/articles, revised 21 April 2001.
- 23 This point forms part of an important argument in subsequent chapters.
- 24 Quoting from Al Bukhari, Al Sheikh Bakr ‘Itani, *Kitaab Al Mar’ah wa Al Islam* (The Book of Woman and Islam), published by Dar al Sadaqa, 1st edition (1996), p. 122.
- 25 The chapter on women. There is a tendency, shown by some interpreters, to read verse 4:3 separately; however, a better understanding of the context of the polygamous discourse can be achieved by reading the verses in their consecutive order: 4:2 naturally followed by 4:3 and 4:4.
- 26 Translated text in *Middle Eastern Muslim Women Speak*, edited by Fernea and Bezirgan, pp. 12–19.
- 27 <http://www.submission.org/polygamy.html>.
- 28 Ibrahim Al Ni’mah, *Al Islam wa Ta’addud Al Zawjat* (Islam and Polygamy), published by Al Dar Al Sa’udiyya Li Al Nashr wa Al Tawzee’ (1983), p. 29.
- 29 Reuben Levy, *The Social Structure of Islam*, second edition of the *Sociology of Islam*, Cambridge University Press (1969), p. 79.
- 30 Further reference to polygamous slavery is made in chapter 7, ‘The Character of the Polygamous Relationship’, pp. 167–70.
- 31 Such discussions will be encountered in later sections of this chapter. See p. 17 and note 47.
- 32 El-Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, p. 16.
- 33 This is a reference to the non-standard marriage contracts discussed in chapter 5.
- 34 The evolvment of the equality factor will be addressed in later chapters.
- 35 Jamal J. Nasir, *The Status of Women Under Islamic Law, and Under Modern Islamic Legislation*, Graham & Trotman (1990), pp. 24–25.

- 36 Nasir, *The Status of Women Under Islamic Law*, pp. 24–25.
- 37 Quoted by Taqiuddeen Nabahani, *Al Nizam Al Ijtima'i fi Al Islam* (The Social Order in Islam), published by Dar Al Umma Li Al Tiba'a wa Al Nashr (1990), p. 127; Murad Hofmann, *Islam: The Alternative*, Garnet Publishing (1993), p. 138; and Doi, *Shari'ah: The Islamic Law*, p. 147.
- 38 Doi, *Shari'ah: The Islamic Law*, p. 148.
- 39 Martin Lings, *Muhammad: His Life Based on the Earliest Sources*, published by Unwin Paperbacks (1986), p. 286.
- 40 See the translation of this verse in the section 'The Qur'an and the Sunna', p. 13.
- 41 *Middle Eastern Muslim Women Speak*, edited by Fernea and Bezirgan, p. xxvi.
- 42 John L. Esposito, *Women in Muslim Family Law*, Syracuse University Press (1982), pp. 92–94.
- 43 *Al Mar'ah Al Muslima Bayn Ijtihad Al Fukaha'a wa Mumarasat Al Muslimeen* (The Muslim Woman between Jurist Interpretations and Practice of Muslims), published by Munazama Islamiyya Li Al Tarbiya wa Al Uloum wa Al Thakafa, ISISCO (1991), p. 41. Also in Pearl and Menski, *Muslim Family Law*, p. 242.
- 44 Al-Sarraf, *Ahkam Al-Mar'ah Bayn Al-Ijtihad wa Al-Taqlid*, p. 59.
- 45 This will be covered more fully in chapter 3.
- 46 Brother Yaseen, *Is There 'Polygamy' in the Qur'an?*, www.free-minds.org/polygamy.htm, 26 May 2005.
- 47 Yaseen, *Is There 'Polygamy' in the Qur'an?*, www.free-minds.org/polygamy.htm, 17 June 2005.
- 48 Ahmed, *Women and Gender in Islam*, p. 138.
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- 50 Al Tahtahawi, Mubarak, and Muhammad 'Abdu, quoted in Ahmed, *Women and Gender in Islam*, pp. 138–40; also quoted in Nasir, *The Status of Women Under Islamic Law*, pp. 24–25; and in Esposito, *Women in Muslim Family Law*, pp. 50–51.
- 51 Muhammad 'Amara, *Al Islam wa Al-Mar'ah Fi Nazar Muhammad 'Abdu* (Islam and Women in the view of Muhammad 'Abdu) (1905), p. 44; as quoted in Al-Sarraf, *Ahkam Al-Mar'ah Bayn Al-Ijtihad wa Al-Taqlid*, pp. 53–54.
- 52 Ghassan 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam Al Ahkam Al Fiqhiya wa Tabiraaat Al Kuttub Al Muslimeen Al Mu'asireen* (Marriage, Polygamy and Repudiation in Islam, through the Jurisprudential Interpretations of Modern Muslim Writers), published by Dar Al Saqi (2004) (passage translated by the author).
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- 54 Aysel Gunes-Ayata, 'The Politics of Implementing Women's Rights in Turkey', in *Globalization, Gender and Religion: The Politics of Women's Rights in Catholic and Muslim Contexts*, edited by Jane H. Bayes and Nayerreh Tohidi, published by Palgrave (2001), p. 159; also an article by Ibrahim Ilyas from Istanbul, 'Religious Men in Turkey Demand the Right to Contract Recognised Marriages', *Al Sharq Al Awsat* newspaper, 20 August 2001.
- 55 Dorian Jones, reporting for BBC Radio's Woman's Hour, *Polygamy in Turkey: Turkey is Challenged on Its Treatment of Women as it Seeks to Join the EU*, 15 December 2004. See p. 30 for more on polygamy in Modern Turkey.
- 56 See the translation of this verse in the section 'The Qur'an and the Sunna', p. 13.

- 57 Frank E. Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia*, Studies in Islamic Law and Society, published by Brill (2000), p. 215, 218; also, Pearl and Menski, *Muslim Family Law*, p. 238, quoting Nasir, *The Status of Women Under Islamic Law*, p. 66, and Doi, *Shari'ah: The Islamic Law*, pp. 144–45.
- 58 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam Al Ahkam Al Fiqhiya wa Tabrinaat Al Kuttab Al Muslimeen Al Mu'asireen*, p. 99.
- 59 El Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, p. 239.
- 60 Vogel, *Islamic Law and Legal System*, p. 218.
- 61 John Esposito, *Islam: The Straight Path*, Oxford University Press (1994), pp. 144–45.
- 62 Doi, *Shari'ah: The Islamic Law*, pp. 150–51.
- 63 This is discussed in chapter 7, sections 'The Factors Affecting the Character of the Relationship Following Polygamy' (pp. 177–90) and 'The Negative Impact of Polygamy' (pp. 192–201).
- 64 Bader Al Ghanemi, reporting from Medina, *Intakasat Al Sa'ouada fu Intasharat al Wasta wa al Mukhadirat, Kashif Al Mastoor* (Decrease in Saudization, Increase in Drugs and Favours, Unveiling What was Hidden), *Okaz* newspaper, 14 January 2003, year 44, issue no. 13289.
- 65 Which grants her the matrimonial home provided the children remain in her care. See the section 'Legal Reforms and Codifications in Arab/Muslim Countries, Touching on Polygamy' above, p. 18.
- 66 These matters are detailed further in chapter 7, 'The Nature of the Polygamous Relationship'.
- 67 Al-Sarraf, *Ahkam Al-Marah Bayn Al-Ijtihad wa Al-Taqlid*, p. 53.
- 68 Al Ni'mah, *Al Islam wa Ta'addud al Zawjat*, p. 5.
- 69 Doi, *Shari'ah: The Islamic Law*, pp. 152–53.
- 70 'Itani, *Kitaab Al Mar'ah wa Al Islam*, p. 124.
- 71 Imad Addeen Hussein, *Zawja Wahida La Takfee, Athania, la Al Zania* (One Wife is Not Enough, a Second Wife Rather than a Fornicator), *Maktabat al Qur'an Li Al Tawzee' wa Al Nashr*, pp. 47–51 (no publication date is provided).
- 72 Khashi' Haqqi, *Ta'addud Al Zawjat am Ta'addud Al 'Asbeeqaat?* (Multiple Wives or Multiple Mistresses?), *Dar Ibn Hazm* (1997).
- 73 Muhammad Mutawalli Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'* (The Laws of Marriage, Divorce and *Khul'*), with foreword by Abdullah Haggag, *Maktabat Al Turath Al Islami*, revised by the Centre for the Service of the Book and Sunna (2002), pp. 126–27.
- 74 This reason for polygamy is without an Islamic basis, as explained in chapter 8, section 'Infertility of the Wife and/or the Husband's Desire to Increase Offspring' (p. 218).
- 75 This is discussed in section 'Legal Reforms and Codifications in Arab/Muslim Countries, Touching on Polygamy', p. 17.
- 76 This argument is continuously used in Saudi Arabia despite statistics which prove the opposite; see chapter 3, section 'Claims of the Excessive Numbers of the Female Population' (p. 58).
- 77 Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, pp. 126–40.
- 78 The mother of his sons and daughters.
- 79 Doi, *Shari'ah: The Islamic Law*, p. 147.
- 80 Doi, *Shari'ah: The Islamic Law*, p. 146.

- 81 As in the example of the wife of an infected husband who was advised to use protection during intimate encounters; *Fatawi* by Dr Nasr Farid Wasil, former Mufti of Egypt, *Sayyidaty* magazine, 3 February 2007.
- 82 Aboul 'Aynayn, Professor and Head of the Islamic *shari'ah* Section of the Law School, Mansouriya University, *Al Islam wa Al Usra, Dirasah Muqarina Fi Dhaw' Al Madbahib Al Fiqhiya wa Awaken Al Ahwal Al Shakhsiya* (Islam and the Family, a Comparative Study in the Light of the Schools of Jurisprudence and the Laws of Personal Status), published by al Maktabat al 'Alamiya, pp. 20–21 and 51–63 (no publication date is provided).
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- 84 Sayyid Qutb, *Al Islam wa Mushkilat al Hadbara* (Islam and Problems of Civilisation), 6th edition, Dar Al-Shuruq (1980/1400); as quoted in Yusuf M. Choueiri, *Islamic Fundamentalism*, revised edition (1997), pp. 132–33.
- 85 Al Ni'mah, *Al Islam wa Ta'addud Al Zawjat*, p. 5.
- 86 Al Ni'mah, *Al Islam wa Ta'addud Al Zawjat*, p. 35.
- 87 Al Ni'mah, *Al Islam wa Ta'addud Al Zawjat*, pp. 36–38.
- 88 Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, Oxford University Press (1999), pp. 82–85. Her views against polygamy are further explored in the section 'The Islamic Discourse against Polygamy', pp. 26–27.
- 89 Al-Sarraf, *Ahkam Al-Marab Bayn Al-Ijtihad wa Al-Taqlid*, p. 54.
- 90 Nabahani, *Al Nizam Al Ijtima'i fi Al Islam*, pp. 127–33.
- 91 Pearl and Menski, *Muslim Family Law*, p. 237.
- 92 In the introduction to the section 'Consideration of Arguments for and against the Practice of Islamic Polygamy', pp. 16–17.
- 93 Ahmed, *Women and Gender in Islam*, p. 52.
- 94 www.maryams.net (articles).
- 95 Wadud, *Qur'an and Woman*, p. 83.
- 96 Qur'an 4:129.
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- 98 Halide Edib Adivar, 'Excerpts from *Memoirs* and *The Turkish Ordeal* by Halide Edib Adivar, Turkish Nationalist', in *Middle Eastern Muslim Women Speak*, edited by Fernea and Bezirgan, p. 177.
- 99 Fatima Mernissi, *Beyond The Veil, Male-Female Dynamics in Muslim Society*, Al Saqi Books (1985), pp. 115–16.
- 100 Haleh Afshar, 'Women, State and Ideology in Iran', *Third World Quarterly* 7, no. 2 (1985), p. 256; quoted in Ahmed, *Women and Gender in Islam*, p. 233.
- 101 AIR, 1960 AL.684. The decision is quoted in Pearl and Menski, *Muslim Family Law*, pp. 249–50.
- 102 Al Jazeera Channel, 4 June 2003.
- 103 Abdullah Mar'i Bin Mahfouz, *Hukouk wa Kadaya Al Mar'ah fi 'Alamana Al Mu'asir* (Women's Cases and Contemporary Rights), Silsilat al Istisharat al Kanouniya wa al Muhamah, published by his Law Offices, Jeddah (1996), pp. 179–80.
- 104 See the translation of this verse in the section 'The Qur'an and the Sunna', p. 13.
- 105 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat fi Al Islam Al Ahkam Al Fiqhiya wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen*, p. 213.
- 106 Abd al Bali Halifax, Sarajevo, 'The Spreading Increase in Mut'a Marriages amongst Arabs in Bosnia', *Al Sharq Al Ausat* newspaper, 21 August 2001.

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- 109 Al Khartoum, 'Al-Basher Calling for Men Marrying Four Wives to Increase the Population', *Al Sharq Al Awsat* newspaper, 21 August 2001.
- 110 Nayereh Tohidi, 'Modernity, Islamization and Women in Iran', in *Gender and National Identity: Women and Politics in Muslim Societies*, edited by Valentine M. Moghadam, Oxford University Press for the United Nations University World Institute for Development, *Economic Research* (1994), pp. 136–37.
- 111 Ahmed, *Women and Gender in Islam*, p. 233.
- 112 Goodwin, *Price of Honor*, p. 246.
- 113 Goodwin, *Price of Honor*, p. 250.
- 114 Al Jazeera *Dayf wa Qadiyya* programme, March 2003, interview with a female former government minister who admitted that polygamy, previously non-existent in the country, was a new wave in Muslim Mauritanian society.
- 115 Fadela M'arbet, 'Excerpts from Les Algeriennes', in *Middle Eastern Muslim Women Speak*, edited by Fernea and Bezirgan, p. 325.
- 116 Ibrahim Ilyas, *Rijal Al Deen Al Atrak Yutaliboun Bi Haq 'Aqd Al Qiran Al Rasmee* (Turkish Religious Men Demand the Right to Conduct Formal Marriage Ceremonies), *Al Sharq Al Awsat* newspaper, 20 August 2001. See also Ayse Gunes-Ayata, 'The Politics of Implementing Women's Rights in Turkey', in *Globalization, Gender and Religion: The Politics of Women's Rights in Catholic and Muslim Contexts*, edited by Jane H. Bayes and Nayereh Tohidi, published by Palgrave (2001), p. 159; also an article by Ibrahim Ilyas from Istanbul, 'Religious Men in Turkey Demand the Right to Contract Recognised Marriages', *Al Sharq Al Awsat* newspaper, 20 August 2001.
- 117 The influence of First Ladies in the improvement of women's conditions during the presidency of their husbands is also noted in Tunisia's reforms in the laws of personal status during the presidency of Bourghiba, possibly with the influence of his wife Al Wasilla.
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- 119 *Al Zawja Al Thaniya Dharoura Am Rafahiyah?* (Is the Second Wife a Necessity or a Luxury?), *Iqraa* magazine, 20 March 2003, p. 48.
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THE HISTORICAL AND MODERN DEVELOPMENTS OF POLYGAMY IN SAUDI ARABIA

The historical role of the different states in encouraging or discouraging polygamy, discussed in the previous chapter, can be linked to the development of polygamy in Saudi Arabia over a period spanning approximately one century. This chapter deals with internal and external influences, including the merging of two different local practices – those of Nejd and the Hijaz – which contributed towards the change in marriage trends. Consideration is given to the current public discourse on polygamy and the causes, if any, for the Saudi state involvement in the promotion of polygamy.¹

The information used in this process is drawn partly from academic and popular literature but the chapter also makes considerable use of fieldwork interviews and the personal observations of the author. The current chapter, when read together with chapter 8, ‘The Reasons for Polygamy’, chapter 4, ‘The Social Acceptability of Polygamous Marriages’ and chapter 7, ‘The Character of the Polygamous Relationship’, offers an overall picture of polygamy in Saudi Arabia.

Social observation and a comparison of earlier and current literature shows that a decline in polygamy was followed by a re-emergence. In a 1983 study conducted for his Masters degree on marriage patterns in the Western region of Saudi Arabia, Ahmad ‘Abdel Jabbar said that although polygamy was an Islamic licence, monogamy was the natural, standard social marital pattern in the studied region also known as the Hijaz.² Along similar lines, the 1983 Minority Rights Group Report on Saudi Arabia spoke about the unlikelihood of polygamy occurring amongst the young and educated; its practice was confined to older generations, ‘particularly in the royal family’.³ In a 1990 study of social changes within the family in the capital of Saudi Arabia, Riyadh, it was found that ‘polygamy has begun to decline as people become aware that they couldn’t fulfil the stipulations related to it’.⁴

In a 1983 unpublished Masters degree conducted on the changing social values of the settlement patterns of a group in Riyadh, it was

found that the importance allotted to polygamy was linked to the level of education. The practice was more likely to occur amongst Bedouin nomads, and less likely amongst the newly urbanised sections of that society.⁵

A revival of polygamous practices amongst these previously unlikely educated groups is the result of public policy,⁶ apparently backed by the state, explained by onlookers as the Saudi government's attempt to diffuse Islamic extremism by increasing its public adherence to strict religious law and custom, and by strengthening the role of the religious police, the *mutawwa'in*. Since the Gulf War, the latter 'have been increasingly allowed to abuse women...'⁷

It is important to draw a line between the overall levels of the practice of polygamy in Saudi Arabia as a whole, and the decline followed by revival amongst the urban educated groups. However, the lack of imposition of a civil marriage registration system and the near impossibility of keeping track of unregistered divorces and of divorced couples who have resumed cohabitation before the expiry of the *'idda* (waiting period), in addition to the deliberate secrecy of many of today's non-standard polygamous marriages, makes an exact measuring of the revival of polygamy, whether amongst the focus group of this study or in Saudi Arabia in general, a nearly impossible task. The revival is acknowledged through the views and assertions of the large array of individuals living within the polygamous experience but whose parents remain monogamous. The said revival is also validated by professionals who attribute its occurrence to the religious, economic and demographic changes which altered the fabric of family values in the Hijaz.

This chapter is divided into four main sections:

- 1) 'The Historical Overview' includes a look at marriage patterns in the Hijaz and in Nejd.
- 2) 'Public Policy and Polygamy' makes a connection between the state and polygamy, discussing the link between the propagation of the practice through the religious establishment, the media, the inflated levels of spinsterhood and polygamy.
- 3) 'The Link between Spinsterhood, Polygamy and Divorce' appraises the reasons believed to be causing the current increase in the divorce rate.

- 4) 'Individual Saudi Female Arguments against Polygamy Published in the Media' deals with the current criticisms of polygamy as published in the local press.

The Historical Overview

The Kingdom of Saudi Arabia came into existence as a result of the unification of what is currently divided into thirteen provinces; each of these provinces has a capital city, and a centrally appointed Governor.⁸ Prior to the political 'unification', each region had its own traditional and ethnic variation; these were noticeable and integrated into the local customary law of the people who usually chose and practised their preferred school of thought from within the Islamic religion. These differences in tradition and custom were tolerated in all aspects of public and private life, which naturally included the institution of marriage.

However, since 1932, with the takeover of the Hijaz, part of which is today known as the Meccan region which forms the main geographical area of this research, changes in marriage and family patterns, some abrupt, others gradual, have occurred in varying degrees throughout the unified territory.

This section investigates the reasons that have encouraged an increase in polygamy amongst some groups of educated Hijazis. It examines whether these Hijazis acquired the practice from their rulers, and if so, then why this habit transfer took place now and not earlier. In order to answer this question we begin by examining some of the differences in marriage patterns between the areas of the Hijaz and the ruling Nejd.

Marriage Patterns Including Polygamy in the Hijaz

In order to reach a clear understanding of the origins and changing facets of the research problem, a survey of some of the literature dealing with marriage patterns of the Meccan region and those of the ruling Northern Province in the period preceding the unification of the country will be made. Its purpose is to highlight the background to the distinct cultural differences that exist between those provinces and to observe the patterns of change and the importance of their timing, linking them to their direct influence on the current shift in the social understanding of the purpose of the local marriage institution.

With the holy cities of Mecca and Medina at its heart, the Hijaz has always been an urban, multicultural society, open to outside influences. This was due to its strategic position amongst Muslims worldwide which generated a yearly influx of Muslim pilgrims, some of whom chose to settle there and make it either their permanent or temporary home.

In his analytical narrative of Meccan lifestyles in the late nineteenth century, Snouck Hurgonje⁹ describes the cosmopolitan, multicultural nature of the inhabitants of the city and the never-ending marriage possibilities of the single or divorced middle- to lower-class Meccan woman. These included the personally planned and stipulated marriage contracts between Meccan women and 'foreign' pilgrims who only wished to remain in the country for a few years.¹⁰ Most Meccan women 'occupy in their birthplace a peculiar independent position which they could hardly win elsewhere'.¹¹ Polygamy, according to Hurgonje, was rare in Mecca except amongst the very rich. As for people of the middle and lower classes, various practical difficulties made monogamy the rule. Hurgonje divides marriage styles into three categories according to the broadly divided social classes. The first is amongst the 'high Meccan circles' where a boy and a girl are united by their parents at a young age because of common family interests. These marriages are the most lasting. Although the husband may have 'other objects of interest', his wife remains the 'proper wife'. The second category of lasting marriages is that amongst the poorest circles because, according to the account, divorce and remarriage are financially beyond their means. It is only amongst the third category of the middle classes (as Hurgonje calls them) that the serial divorces and remarriages take place, as opposed to polygamy.¹²

According to the information gathered during the survey period of this book, going back forty years, in the era of newly introduced education and travel, the practice of polygamy amongst the city-dwelling Hijazi people of the Western Province of Saudi Arabia was not as widespread as it was in the more nomadic Northern Province of Nejd. In the Hijaz, polygamy was practised only in cases where it was considered that circumstances demanded it. The most obvious cases of polygamy amongst those 1960s generations were said to have occurred mainly in situations where:

- 1) the first wife was unable to conceive, while the husband yearned for offspring to carry his name;

- 2) the first wife had a long-term illness preventing her from fulfilling her required obligations, namely consummating the marriage and caring for her home and family;
- 3) the husband's job had 'grown' and now involved entertaining and/or frequent travelling and his 'traditional' first wife was either unable or unwilling to adapt or was judged (by him) to be unsuitable to meet his new needs.

In the first and second cases, the first wife sometimes even chose her husband's second wife. This could either be explained as a way of coming to terms with the inevitable by selecting a co-wife that she could communicate and reach a compromise with, or simply as a means of saving face in front of society. The prevailing view was that this was undeniable proof of the wife's unconditional love and dedication to her husband, whatever the circumstances.

In the third case mentioned above, the husband often chose his second wife from Egypt, Syria or Lebanon, where women had more education and were, relatively speaking, more exposed to the outside world than their Saudi counterparts. This would explain their suitability for husbands employed in the Foreign Service, for example. A distinction needs to be made between this style of marriage, to a usually cherished and respected new partner, and the travel marriages that have recently come into practice, as discussed in chapter 5, dealing with Muslim marriage contracts.

Other cases of polygamy still occurred occasionally outside these boundaries but more noticeably amongst those Hijazi families of immediate Persian, Turkish or Yemeni descent. The practice soon became noticeable amongst Hijazi men working closely with the ruling class originating from Nejd, for reasons that will become apparent in what follows.

Marriage Patterns in Nejd

Having looked at historical and contemporary marriage practices and polygamy in the Hijaz in the previous section, this section will now describe the available accounts of marital practices in Nejd at the time of the Saudi conquests.

As seen in the previous section, women in nineteenth-century Mecca, especially those from lower classes, were able to contract their own marriages sometimes using the help of go-betweens.¹³ The situation is

contrasted with that of women in Nejd during approximately the same historical period, where male guardians were entirely responsible for agreeing and contracting the marriages of women under their tutelage, including non-virgins. Any marriage contracted without a guardian's consent, including one taking place with the consent of a judge in court, was considered null and void.¹⁴ These examples enable the observer to compare the difference in independence and self-determination that were applicable to women of that period, in the two provinces, before their unification under a single rule.

The marital situation in Nejd therefore was generally quite different to that in the Hijaz. Marriage and divorce were always and continue to be viewed through a more 'pragmatic' eye. Polygamy was, and remains, more widely practised in Nejd. Equally, divorce did not carry with it the stigma which was attached to it in the Hijaz. A divorced woman who was still able to conceive had a fair chance of remarriage (although usually into another polygamous union).¹⁵ Divorced women in most families in the Hijaz today still face a more difficult social situation than their sisters in Nejd, despite the increase in polygamy there, as the research describes in a subsequent section.

From the political perspective, in a chapter entitled 'The Politics of Marriage', Madawi Al-Rasheed explains that some marriages among the Rashid emirs of Ha'il in the pre-Saudi era were 'politically meaningful acts'. She shows that polygamy was widely practised by the emirs, and that 'marriage practices are maintained, recreated, and reproduced'. She describes the immediate and long-term political functions of the marriage between paternal and maternal cousins, stresses the important political role played by maternal uncles, and discusses how the strategy also aims at retaining wealth within the same lineage.

In another publication, Al-Rasheed narrates the marital history of King Abdul Aziz Al-Sa'ud. Some of the marriages described are an extension of the political domination of groups following their military defeat: 'Ibn Sa'ud married the ex-wives and daughters of his ex-rivals and enemies ... Most women qualified for the status of *sabaya*, captives ... marriage sealed the subordination of Arabian nobility to the Al-Saoud.'¹⁶ 'These marriages were a sure sign to the world that the king was the conqueror.'¹⁷ In her conclusion Al-Rasheed explains how polygamy had enabled the ruling Saudi family to widen its control over important tribal nobility and religious circles by turning them into maternal kin, and

therefore unable to challenge Saudi rule.¹⁸ In this case polygamy was also used as a means of consolidating the new Saudi king's line of descent through an active strategy of polygamy and concubinage. The result was the production of forty-three sons and fifty daughters, an essential asset for the creation of a royal lineage. The king's polygamy and lineage had outnumbered his contemporaries in Arabia and elsewhere.¹⁹ He was, however, surpassed by his eldest son Saoud, who had fifty-three sons and fifty-four daughters.²⁰

Madawi Al-Rasheed classifies the ruling Al-Sa'ud female marriages as restricted to their cousins or to members of the same tribe, as opposed to the men's exogamous marriage habits.²¹ Men marry from amongst their cousins and tribes as well as from amongst outsiders and foreigners. From the accounts offered, women are not necessarily consulted but are passed on to their prospective husbands by their fathers or male guardians. It is common for a wife to be divorced by her husband who in turn marries her sister,²² then divorces the sister and takes back the original wife if he so wishes. The divorced wife is sometimes passed on to the ex-husband's brother, then divorced by him to return to his brother. Children are often produced as a result of these unions.²³

However, some exceptions to this rule are said to have existed.²⁴ These mainly involved the marriages of some of the daughters of King Sa'ud to commoners. One such example was the marriage of 'Abta Bint Sa'ud Bin Abdul 'Aziz who married a commoner, a medical student at the time, called Al Ghunaym. The marriage took place with the blessing of her father, then king of Saudi Arabia, and resulted in the birth of two children. It is reported through the interviews that at a later date, after her father King Sa'ud was forced to abdicate from the throne, her dissenting uncles had the marriage dissolved.

Although, until this day, a handful amongst the daughters of King Sa'ud continue to marry non-royals, including men of Lebanese and Syrian origin, many local cases are reported of commoners being sent to prison and even killed as a result of having been approached and lured into relationships with other Saudi royal princesses.²⁵

The Changing Story in the Hijaz

From the late 1970s until today, internal and external changes have occurred, influencing the newly acquired progressive pattern of Saudi Arabian society which had begun in the 1960s due to the influence of

King Faisal. A combination of economic and political events led towards a drastic resurgence of tribal values amongst the newly settled now educated nomads and also amongst the original dwellers of the developing cosmopolitan urban areas (including a return towards polygamous practice and a deteriorating status of the female in the family).

As mentioned in the earlier section, polygamy amongst the social groups studied in this research initially appeared exclusively amongst the class consisting of Hijazi technocrats who worked closely with the Nejdi ruling class. These became affected by the Nejdi way of life. Later the practice began to spread, especially amongst university professors and local Saudi hospital staff, who worked in environments where the usual segregation between the sexes was not strictly imposed.

It was observed during the course of this research that a large number of second wives currently within polygamous marriages with Hijazi husbands originate mainly from Nejd (although there are also some non-Saudis from Egypt, Syria, Lebanon and, more recently, from Morocco). One individual interviewed blamed the trend on the economic marginalisation of Hijazi citizens, which started with the beginning of the reign of King Fahd in 1980.²⁶ This, in his opinion, was directed at the destruction of local history and custom, through the government-imposed educational system²⁷ and through the systematic destruction of valuable historical and archaeological sites. This attack on historical identity takes the form of portraying life in the area as beginning with the Saudi takeover. Consistent economic favouritism had, according to the same account, applied pressure on many Hijazis to conform to a Nejdi identity, from the imitation of the royal dialect to the integration of the entire moral code and way of life, albeit with the Hijazis still remaining at a lower citizenship status. This resulted, the researcher was told, in Hijazi men aspiring to acquire a more elevated social status through marriage to Nejdi women. These usually wealthy Hijazi men, who acquired new wealth as a result of the influx of oil money in the 1970s, have in this way attempted to climb the social ladder of ultimate acceptability, that of finally establishing blood ties with the rulers and their favoured entourage. Some but not all of these Hijazi families are of non-Arab Muslim origin whose ancestors came for the pilgrimage in Mecca. They settled there for centuries and many attained stature in society and high rank in government, mainly associated with

the yearly pilgrimage to Mecca, the *hajj*.²⁸ However, these families faced prejudice from the tribal Nejdis who considered themselves superior, as being of pure Arab descent.

Nejdi women other than royalty, especially those from lesser origins (but also tribal women who have previously married and divorced), are more likely today to marry Hijazis. In the words of a Nejdi divorcee of a coveted tribal origin now polygamously married to a wealthy Hijazi commoner of non-Arab descent: 'I sought his wealth, while he sought my *nasab* (descent).'²⁹

Public Policy and Polygamy

As will be revealed throughout this section, the recent role that the Saudi state played in the promotion of polygamy cannot pass unnoticed. Reasons that traditionally incited states to promote polygamy in the past included attempts to:

- 1) increase a lagging population and provide an additional workforce;
- 2) counteract a discrepancy in the male–female ratio, usually the outcome of wars where many men were killed.

The above-mentioned traditional incentives do not apply to the current Saudi situation, however, since very few Saudi men join the army and die fighting wars today,³⁰ and national statistics show a higher male to female ratio amongst the current population.³¹ Other reasons must be sought, therefore, to understand the benefits imagined by decision-makers in promoting the expansion of polygamy. A number of factors may be considered.

Some Undisclosed Reasons for the Public Promotion of Polygamy

Having seen the pro-polygamy direction taken by the state, we will now seek to discover some viable reasons which create the driving force behind the promotion of polygamy.

The Effect of the Iranian Revolution

Following the Islamic revolution in Iran, the new Iranian Islamic Republic placed itself in competition with the government of Saudi Arabia, claiming

to be leader of the entire Muslim world. Iran challenged all aspects of the Kingdom's Islamic policies.³² In response, the Saudis began to strengthen their Islamic image, with the late King Fahd bestowing on himself the title of the Custodian of the Two Holy Mosques in 1986.³³

The observer cannot fail to notice how the post-revolutionary Iranian state's re-institution of the veil (*hejab*), the creation of the restriction against women travelling abroad without the permission of their male guardians and the renewed emphasis on *mut'a* marriages³⁴ have all been mirrored in the new Saudi gender politics.³⁵ In her account of post-revolutionary, pro-polygamy Iranian measures, Leila Ahmed accurately perceives that 'Although Iran is a Shiite country, whereas Arab Middle Eastern countries are predominantly Sunni, the differences between the two branches of establishment Islam in many matters affecting women ... are minimal.'³⁶

It is significant that in 1990 the then Iranian president Hashemi Rafsanjani made statements which promoted the re-institution of temporary marriages as an indigenous Islamic institution, providing a valuable alternative to the decadent Western practice of 'living together'.³⁷ The state-appointed Saudi religious leaders, the *'ulema*, issued a *fatwa* (religious opinion) shortly after this, legitimising *misyar* (travel) marriage.

The relevance of these Iranian developments in the Saudi context can be traced to the continued direct or indirect Iranian influence on the public promotion of polygamy in Saudi Arabia, namely the acceptance of the relatively novel *misyar* marriages as legal by the Saudi religious institution.³⁸ Their similarity to the Shi'i *mut'a* marriage³⁹ (which continues to be rejected by the Sunna Muslim scholars)⁴⁰ lies in their lack of commitment, financial and other, required from the husband towards his wife and the private as opposed to public nature of the union, but mainly in the pre-agreed length of the marriage. To make it acceptable to the Wahhabi Sunni *'ulema* one technical difference was maintained: the expected duration of the marriage, openly specified in the *mut'a* contract, must not be communicated verbally or in writing at the time of the contract. However, it was declared by the Wahhabi *'ulema* that the unspoken intention of the parties regarding the agreed length of the marriage did not represent an impediment to its validity. This open promotion of a frivolous marital understanding on a national scale could be viewed by the observer as a way of keeping up with President Rafsanjani's encouraging policy towards *mut'a* marriages.

The Creation of a Local Alternative to Travel Marriages

Bearing in mind that many Saudi men regularly use travel marriages on trips to Egypt, Lebanon and Syria, where short-term marriages are more readily available,⁴¹ the encouragement of uncontrolled polygamy could form part of current attempts to improve tourism at home and, consequently, bring back Saudi capital invested abroad.

Disguising the High Levels of Female Unemployment

With the increasing rise in unemployment amongst males and females within the population, and in view of the fact that married women do not form part of the current workforce and are not included in the national unemployment statistics, the strong emphasis on female domesticity masks the true number of potentially employable females in the official statistics of the potentially employable population. Female employment is portrayed by the media as a major cause for spinsterhood and divorce, with titles such as 'My job robbed me of motherhood'.⁴²

Public Distraction Away from Serious Economic and Political Issues

The stability of a long-term marriage contributes towards a firm basis from which the partners are in a position to reflect and become involved with difficult economic and political issues. On the other hand, adolescent-style lustful and romantic thoughts, and the emotional uncertainties associated with men and women involved in shifting marital alliances, provide a large-scale national pastime, which distracts them from an informed level of political awareness and involvement.

An Overall Religious Revival

Due to the character of the Saudi state, any mention of public policy issues will invariably include a religious element. With the movement calling for the return to Islamic values sweeping through Saudi Arabia and the Muslim world, *al sahwa al islamiyya*, in the 1970s and 1980s, new values were spread through teachings in mosques and state-owned universities, through organised lectures in the private homes of supporters of the movement, and in government-controlled women's charitable institutions. Wives interviewed by the researcher, who up until the early 1980s were still living within a monogamous culture, began to receive unexpected visits from single female university students directly expressing their wish to share their husbands with them through a

proposed polygamous marriage. The increase in polygamy that ensued is linked by the research to this religious-political element.

*The Use of Religious Portrayal as an Instrument
Carrying Forward State Policy*

Religious opinions emanating from the Saudi territory are invariably of a institutionalised, political nature, as the religious authorities are themselves government employees. Any *fatwa* or religious decision they issue has first to be notified and approved by the ruler before being publicly expressed.

State promotion of polygamy with a religious flavour is presented at various levels in the media and community. This ranges from newspaper and magazine marriage-advertisement columns, headed with relevant verses from the Qur'an, to the government-licensed imams of small local mosques (and even the Grand Mufti, the highest government-appointed religious authority in the country) offering matchmaking services. All these religiously coated sources legitimise polygamy in the name of Islamic values and the benefit of the public good (*al maslahah al 'ammah*).⁴³

Interviews with polygamous husbands confirm that the search for a new polygamous partner was often initiated through the influence of the media, its discourse leading a husband to believe that he was not getting a fair deal with his current wife and that it was his right to seek true happiness with another, more fulfilling partner. Its promotion of the image of the ideal second wife, who is capable of filling in all the gaps and failures of the first, leads the husband to believe that with the two wives he will be blessed with a state of marital completeness.

The most obviously stated reason for polygamy in Saudi Arabia lies in the propagated belief that polygamy is an uncontested God-given male right, not to be challenged, as long as food and shelter, no matter how basic, can be provided by the husband for his wives.⁴⁴

RELIGIOUS IMMUNITY AGAINST IMMORAL INFLUENCES

Polygamy is regularly portrayed by many Muslim legal writers as a protective measure against extramarital affairs, and as a means of providing immunity against venereal diseases that are contracted as a result of illicit sexual relations. Such writers express amazement at first wives who would prefer their husbands to betray them with mistresses rather than marrying polygamously in a legal way.⁴⁵ The difference to an

existing wife between her husband having a mistress versus a co-wife is illustrated on p. 167.

The claim that polygamy provided immunity against immoral influences was addressed in the research, in an attempt to establish its validity amongst the target group. Husbands were asked whether, in their experience, polygamy had proved to be the more suitable way to fulfil a man's 'natural' physical needs. Did polygamy provide them with protection against the need to seek illicit relationships outside the marriage?

The results of the interviews regarding this point were as follows: although 8 of the 15 polygamous husbands interviewed had openly quoted lack of physical fulfilment in the first marriage as an active cause for bringing in another wife, only 1 of the 15 found that the second marriage had satisfied the physical aspect in his life. 6 of the 15 polygamous husbands practised temporary travel marriages when away from home. Nearly half of the polygamous husbands interviewed (7 of the 15) who did not quote lack of sexual fulfilment as a reason for polygamy confessed to continued illicit relationships with other women, outside their two (or three) existing polygamous marriages. In the words of one husband, who admitted to the need to maintain occasional relationships outside the marriage to help break up the monotony of having regular partners: 'Once they start nagging and boredom sets in, I have to find consolation elsewhere.'

The findings of the survey point towards the fact that, even with the introduction of one or more additional wives, once the monotony of a new wife sets in, most men who are in the habit of seeking fulfilment elsewhere will continue to do so, either illicitly or under a religious guise, depending on their personal moral inclinations.

THE RELIGIOUS DIMENSION, INFLUENCE OF THE LOCAL MOSQUES

With the local mosque representing a regularly attended social meeting point for males, a growing number of Saudi-appointed imams are acting as promoters, go-betweens and matchmakers of mainly polygamous marriages amongst the locals. Organised in the form of regularly updated lists of willing potential polygamous brides and husbands to be, the process is facilitated through the comforting element of religious acceptability. The research has established that a large number of previously content monogamously married men were lured into polygamy in this way.⁴⁶

Naturally, not all mosques engage in marital networking, as one polygamous husband interviewed found just before embarking on his second marriage. In this case, the imam, a Sudanese man, cautioned the husband against burdening himself with irreversible, unforeseen problems, and warned him against putting his existing wife through undue trauma.

RELIGIOUS PROMOTION ON A NATIONAL SCALE

Religious promotion on a larger scale is represented by a *fatwa* issued in September 2001. The Grand *Mufti* of the land and head of the Committee of 'Ulema (*Hay'at Kibar Al 'Ulema*), Sheikh 'Abdul 'Aziz Aal Al-Sheikh, called on all Saudi women to accept the concept of polygamy as part and parcel of their acceptance of the Islamic faith. The purpose justifying the *fatwa* was said to be the national fight against the time bomb which is represented by the highly publicised, growing epidemic of spinsterhood. The *fatwa* was positively echoed in Egypt by the polygamous *'ulema* at Al Azhar, amongst them Taha Rayyan, a lecturer of comparative Islamic jurisprudence. Rayyan, from his learned position, confirmed the duty of Muslim women to accept the entire contents of the Qur'an, including its licensing of polygamy. He emphasised the important responsibility of the media in promoting polygamy as a positive state of affairs when it happens to Muslim women and not as a calamity.⁴⁷

The media-projected religious message continues with examples such as the Friday programme *Iftaa* which is broadcast on the Saudi first national television channel (*al Oula*), immediately following the national broadcast of the Friday sermon and prayer (*khutbat al jum'aa*). The programme is timed so as to be viewed by a mainly female audience, who pray at home while the men congregate for the Friday prayer at the mosque. The format of the programme is an assumed question and answer session; however, there is no actual audience participation. Instead, the pre-prepared questions, presumed to have been sent by the viewers, are read out by the programme's presenter Khalid Al Rimayh and answered in the style of conclusive religious advice by the highly respected Sheikh Saleh Al Lihaydan, Head of the Judicial Council and Member of the Council of the Great 'Ulema. The obviously rehearsed answers carry a strong message of polygamy. They begin with the classic dilemma of a 30-year-old unmarried (imminent spinsterhood risk) female viewer, currently living with her brother and his wife (highlighting a need for an alternative male-shelter). Although her brother has been approached on her behalf by men asking for her hand in marriage, all these men are

married. Sheikh Saleh delivered a message of compromise (on her part only). Since betrothal to a good married man endowed with the ability to provide for an additional wife, 'even if he has two or even three other wives', would provide her with an improved social status, she should embark on her new polygamous life with patience, and the expectation of being confronted with situations that will be unpleasant. The benefit for her is represented in the possibility of conceiving offspring who would care for her in old age; this should override the difficult nature of the proposed union.⁴⁸

No similarly sobering advice was viewed as necessary for the polygamous husband and no promise of romantic love or happiness was given to the prospective bride.

State Projection of Polygamy through Charitable Agencies

The all-encompassing religious element additionally features in the collaboration between the state and locally registered charities, also promoted through the media. This is implemented through the Charitable Project for Marriage (*Al Mashrou' Al Khayree Li Al Dilalah 'Ala Al Zawaj*).⁴⁹ Initially, the project was started by Sheikh Abdul Aziz Al Ghamdi, through a successful column in *Al Muslimoun* newspaper entitled 'Nisf Al Deen' (Half of Religion).⁵⁰ Following the success of the column, the project was then set up in a local mosque in Jeddah in *Al Na'eem* district before becoming a government-registered agency through its direct link with an established local charitable foundation, *Al Birr*, in Jeddah. This was only possible after its founder, Sheikh Al Ghamdi, had obtained the relevant approval from the then Governor of the Meccan region, the late Prince Majid Bin Abdul Aziz. State authorisation is an essential requirement for all activities carried out by charitable organisations in Saudi Arabia. These must be registered and must operate under the direct control of the Ministry of Social Affairs.

The continued expansion of the project is reported to have been achieved 'with the collaboration and full support' of his predecessor, the late Prince 'Abdul Majeed, the Governor of the Meccan region (*Mantiqat Makkah Al Mukarrama*).⁵¹

The Main Purpose of the Project

The project aims to:

- 1) safeguard (*tahseen*) locally resident Muslim men and women from the sin of fornication, through the use of 'methods permitted by Allah';

- 2) fight the growing wave of spinsterhood, and discourage highly priced dowries (*mahr*);
- 3) alter perceived misconceptions relating to Muslim marriage practices in existence within Saudi society (namely any remaining intolerance of polygamy).

Methods Used by the Agency for the Recruitment of Potential Female Marriage Partners

The methods of recruitment of potential brides are:

- 1) the direct approach, whereby the father or guardian of the bride visits the office of the centre seeking a husband for his unmarried daughter;
- 2) enquiries made to employment contacts and colleagues of unmarried girls;
- 3) personal investigation and location of potential candidates by the male and female collaborators of the project, referred to as *da'un* male and female *du'at*. The term is also used to describe a growing number of individual self-appointed religious preachers from the Wahhabi school who currently operate within a state-tolerated, yet unregulated framework. They offer advice and guidance to locals and encourage the conversion of non-Muslims living within the community.

Recruitment methods, according to information obtained through interviews with one divorced and one widowed working mother from Jeddah, included successive direct approaches made by members of the marriage agency, aimed at convincing these women of the benefits of accepting an arranged polygamous marriage. The requirements and expectations of the different prospective husbands were naturally varied. The choices on offer depended on the preferences of these potential brides between a marital situation where they could be financially supported and stay at home, or one where they could remain in existing employment after the marriage if they so wished. Husbands offering the latter option were usually already married to two or three wives and did not therefore plan to 'impose' too much on the existing lifestyle of a fourth wife.

The founder of the project, Sheikh 'Abdel 'Aziz Al Ghamdi, a locally recognised religious writer and authority, publicises his personal practice

in what he preaches. Having himself chosen two of his current wives from a wide selection of cases that regularly come to the offices of the agency (adding them to his existing first wife), he was, at the time of publication of the article, searching for a fourth wife.⁵²

The agency has, since its formation, enjoyed continuous state-controlled media coverage and publicity in the form of interviews in local television programmes and through regular features in the local newspaper and magazine articles.

Other Methods Available for Meeting a Saudi Bride

Apart from going through marriage agencies, a method which is traditionally still viewed as a means of last resort, the most common way for prospective marriage partners to meet each other remains that of the mother of the bridegroom choosing a bride whom she personally considers suitable for her son. The next most popular methods are to use a *khatibas* (matchmaker) or a *ma'dhoun* (licensed marriage contractor). Media-promoted methods also include the specialised marriage columns in the newspapers and magazines and, more recently, through internet websites.

According to the research interviews with Saudi men, other available methods for meeting prospective female marriage partners, as well as the traditional one, through their mothers or sisters, include meetings in shopping malls. Another modern form of meeting is through internet chat rooms.⁵³ However, due to the overwhelming double standards which separate the expected codes of behaviour of males from those of respectable, marriageable females, young men found it very difficult to envisage a relationship that began in the chat room ending in marriage, no matter how much love and attraction had developed from it. A young man explained that he would only marry such a female 'after successfully subjecting her to a rigorous test of morality first, since there was no guarantee how many other men she had previously chatted to in the same manner'.

Another newly emerging male–female meeting ground for prospective marriage partners, whether polygamous or not, that was often mentioned by members of the medical profession and their families in the interviews, was the non-segregated working environment of hospitals, and some other media-related and advertising or marketing employment sites.

The Link between Spinsterhood, Polygamy and Divorce⁵⁴

The public policy pro-polygamy campaign was preceded by an 'alarming' survey conducted by the Ministry of Planning which came up with the finding that 1.5 million Saudi Arabian women were classified as spinsters.⁵⁵

The aggressive pro-polygamy discourse came to offer a solution to the newly discovered spinsterhood problem, to prevent what is publicly described as 'the spread of vice' that this large number of unmarried females might cause. It is interesting to note the change in the media's recognition or ignorance of the natural physical needs of women, as and when the argument suits. On one hand, there is often an emphasis by writers and religious commentators on the motherly instincts of women which override their sexual desire, making it more understandable that a man needs to have more than one of them to satisfy his manly instincts.⁵⁶ Yet, following Iran's acknowledgment of female sexuality in 1990,⁵⁷ the sexual needs, mainly of second and subsequent wives who would otherwise remain as divorcees, widows or spinsters, have become high on the agenda in the pro-polygamy Saudi Arabian religious-state discourse. The observer of this situation can only wonder how the burden of the ordinary husband of satisfying the needs of more than one wife on a regular basis is never treated as a topic of importance in the literature or the media. The increased need for the regular consumption of sexual stimulants, as admitted by many polygamous husbands, could represent an answer to the issue.

Detailed 'spinsterhood' statistics were announced by the Ministry of Planning. The ages of these women were not mentioned. Their numbers were reported according to the different regional divisions, beginning with the highest, as follows: in the Meccan region, 396,248; Riyadh, 327,427; the Eastern Province, 228,093; the 'Aseer region, 130,812; Medina, 95,542; Jazaan, 84,845; Qaseem and Al Jawf, 73,209; Ha'il, 52,914; Northern Tabouk, 36,689; and the other Tabouk, 21,543.⁵⁸

However, in a one-off newspaper article, the reality of the above statistics was scientifically challenged by the Dean of the College of Social Studies at the King Saoud University in Riyadh. Professor in Human Geography, Dr Rushoud Bin Muhammad Al Khareef stated his views as follows. The number of unmarried women who have passed the age of 30 and therefore can, in his opinion, be referred to as spinsters, is as low as 64,000 and not 1,500,000. The number of 15- to 19-year-old girls, who were included in the 1.5 million, amounted to 805,000 of

this total. These girls were still pursuing secondary education and were therefore unlikely to be married. The number of unmarried women between the ages of 20 and 24 was 476,364 of the 1.5 million. Unmarried women between the ages of 15 and 24 therefore represented 85 per cent of the 1.5 million total. With the addition of the number of women from the age group of 25 to 29, a total figure of 1,449,148 is reached representing 96 per cent of women who have never married. These figures do not include women currently unmarried due to divorce or widowhood.

Dr Al Khareef criticised the motives and inaccurate representation of the statistics and the persistent referral to them to support unfounded arguments.⁵⁹ Additionally, published statistics showed that the numbers of unmarried individuals in Saudi Arabia within the ages of 20 to 24 varies between males at 90 per cent and females at 56 per cent of the population. As for the age group between 35 and 39, unmarried men represent a total of 6 per cent of the population while women represent 3 per cent. And finally statistics for the unmarried individuals in the age group ranging from 55 to 59 are 0.5 per cent for men and 0.3 per cent for women. The total numbers of unmarried men, therefore, nationally exceeds the numbers of unmarried women. According to Dr Al-Khareef, the statistics confirm the fact that the majority of the population eventually marry.⁶⁰

In view of the fact that many secret, unregistered but technically legal *misyar* marriages are widely practised, any statistics regarding marriage, divorce and spinsterhood can often be misleading. The statistical reality of spinsterhood and bachelorhood are thought to be highly masked, due to the infiltration of secret and *misyar* marriages in Saudi Arabia, and because cohabitation and other signs of marital partnership do not feature openly in these marriage arrangements, as discussed in chapter 5.⁶¹

The *United Nations Demographic Yearbook 2002* highlighted hidden aspects affecting the reliability of marriage data which are sometimes reported as 'incomplete or of unknown completeness'. The report declares that 'the legality of the union may be established by civil, religious or other means as recognized by the laws of each country'. Since data is obtained from civil registers, 'statistics are bound to be deficient to the extent that they do not include either customary unions, which are not registered even though they are considered legal and binding under customary law ... In general, lower marriage numbers over a period of years are an indication of higher incidence of customary or consensual unions.'

The above definitions cannot be closer to the reality of marriage and divorce statistics in the current Saudi Arabian context. The Family Books (*daftar al a'ila*) of husbands often remain in need of updating, as do the ID cards of many single/divorced/widowed Saudi Arabian women, upon which statistics are commonly based.⁶²

Claims of the Excessive Numbers of the Female Population

The unequal levels of males–females in the population following wars and battles have, since the early Islamic days, been counteracted by a state call for polygamy in order to bring about a rebalance and a required increase of males in a lagging population. This message is often used by the Saudi Arabian media in its pro-polygamy argument, relying in this case on the false promotion of the number of females as exceeding the number of males amongst the population. This claim carries a message of compromise for women to humbly accept this promoted reality and share the available men. Government population statistics, however, have proved this claim to be inaccurate. According to Saudi Arabian census results, the total male population in 2004 amounted to 12,557,260 while the female population amounted to 10,116,278.⁶³

It can, therefore, be concluded from these results that the number of men in Saudi Arabia exceeds the number of women, which turns polygamy into a personal choice, but not a demographic necessity.

Polygamy Links to the Wider Marital Picture: Divorce

The connection between cases of polygamy and divorce, as forming part of the same cycle, was observed in a book on divorce. Divorces were found to occur within polygamous marriages due to inner conflicts created by the jealousy and unhappiness of the co-wives, while divorced women in turn made eligible candidates as additional co-wives within polygamous marriages.⁶⁴ The unhappy state of family relationships in polygamous arrangements prevents the development of a proper sense of security, which contributes towards a possible break-up of the marriage. The second link is that divorced women in Saudi Arabia are at a disadvantaged position, faced with social stigma; they are therefore more likely to settle for a polygamous second marriage.⁶⁵

The socially imposed moral restrictions that are placed on divorcees are lifted, according to personal observation, under two circumstances: either immediately, when a 'married woman's' social status is re-imposed,

or later, when they reach old age; the latter situation is further enhanced for mothers of grown-up sons.

The dilemma of the divorcee does not, however, always end with remarriage. Family and social pressures imposed on divorced women in order to 'get rid of her' are blamed for badly matched second and subsequent marriages. These can cause further unhappiness to the women involved as they are approached from a weakened marital bargaining position.⁶⁶

This oppressive situation was highlighted by one woman who explained in an interview that her insistence on divorce following an arranged marriage to a first cousin had turned her brothers against her. After a rushed remarriage to a practical stranger very soon afterwards, this time at her instigation, she found herself forced to endure her second husband's recurring violent abuse, as he took advantage of her helplessness and fear of the repercussions that a second divorce would entail.

The research has located a possible root of the increased divorce problem – the advent of the nuclear family structure, combined with continued institutionalised sexual segregation. In this structure, husbands and wives set up home away from the extended family but lead parallel lives to each other. The minimal daily interaction between some of the married couples, unaccustomed as they were to communicating with each other, has resulted in a wide emotional distance between the partners, where the husband spends the majority of his time with male colleagues and friends outside the home, and the wife either stays at home, or works and socialises with other females. Friendship and companionship are, as a matter of habit, commonly sought from members of the same sex and not from the marriage partner, which naturally weakens the strength of the partnership aspect of the marriage and makes divorce a likely outcome.

Newspaper reported statistics on divorce show varying figures, as follows: *Okaz* reported that for the 79,595 registered marriages in 2001, there were 18,583 reported cases of divorce, amounting to 23 per cent.⁶⁷ A few months later, the same newspaper published an article estimating the divorce numbers at 24 per cent of registered marriages,⁶⁸ while *Al Watan Saudi* newspaper reported divorce rates in 2002 to have reached a close estimate to the above, at just over one quarter of the number of marriages (16,000 divorces out of 71,000 reported marriages).⁶⁹

The uncertain accuracy of these figures is perhaps due to the fact that many divorce cases remain unreported, and are sometimes even

unknown to the estranged wife herself. The current divorce registration system in Saudi Arabia is a voluntary one which is activated through the wish of the husband. The lack of a state-imposed compulsory divorce registration system continues to create legal uncertainties for estranged wives.

The researcher obtained verbal information related to Sheikh Saleh al Habad, head of the Marriage Court in the city of Jeddah (*mahkamat al ankiha*), that 1725 marriage contracts were registered with the court in 1425 Hijri year (2004–2005 AD), of which 50 per cent ended in ‘amicably’ registered divorces within the same year. The number of divorces does not reflect those, if any, that ended in dispute or those couples who remain estranged or separated without registering a divorce at the court.

Individual Saudi Female Arguments against Polygamy Published in the Media

The local Saudi *Al Medina* newspaper published an article by Haifa Ezzi, a Saudi Arabian female researcher who completed an important thesis studying cases of violence against women in Saudi Arabia. She called for a state-led campaign for the abolition of polygamy, her argument being as follows:

- 1) ‘The condition of justice between co-wives imposed on the polygamous husband by the Qur’an in Sura 3:3, is not being applied [by many of today’s husbands] resulting in the endless cases of broken homes and powerless women that abound in our society ...’
- 2) The reasons for which Islam had permitted polygamy in *Surat Al Nisa*⁷⁰ (to care for destitute widows and their children following the death of their Muslim husbands in battle) were no longer applicable in the current Saudi state. She adds that ‘If society requires women to stand by their men in times of war and accept polygamy under those circumstances, then so should men be equally required to give up their polygamy in times of peace except in cases of the utmost necessity.’
- 3) While reliable ‘statistics have shown that there is no surplus of women in comparison to men as we were led to believe’, the problem of ‘male spinsterhood’ (as she calls today’s problematic economically induced bachelorhood) remains unresolved. The original unselfish

purpose of polygamy should be applied in this case to provide a solution. Her suggested solution is that wealthy married men should offer financial help to those unable to marry to help them acquire one wife instead of the rich married men selfishly taking on second, third and fourth wives while their Muslim brothers remain unable to take one. She cites a relevant Sunna tradition to support her point. The claim of spinsterhood used as a justification for polygamy was invalid because the causes for the growing problem of delayed marriage age in Saudi Arabia are different issues which need to be addressed and treated separately. She refers to economic hardship, high male unemployment, demographic changes working against traditional marriages between relatives and members of the same community, and delayed marriage age due to female education and employment, following which women become less attractive to traditional male suitors.⁷¹

- 4) In Dr Ezzi's words, despite their polygamy, many Saudi men have not contributed towards a solution for the problem of spinsterhood, because they have either chosen to take on non-Saudi second wives or resorted to the 'selfish' *misyar* arrangement as a result of which they have escaped their marital obligations and created a new social epidemic.

In another Saudi magazine article, first/existing wives raise their voices in criticism of today's polygamous practices in Saudi Arabia as being opposed to the essence of prescribed Muslim polygamy. Describing the inequality between co-wives created by polygamous husbands, and the raised banner of 'accept your current situation or divorce', the women explained how divorce in their individual cases would represent a total loss. They explained that a wife would only give up her Islamic marital rights to a co-wife under coercion but never willingly. They compared their situations to the religious argument commonly used by husbands to justify their rejection of an existing wife, referring to the reported tradition of one of the Prophet Muhammad's elderly wives, Sawda, who offered her allotted night to her co-wife, 'Aisha, instead of opting for divorce. In her case, the women argued, she died as one of the Prophet's wives, known as the Mothers of the Believers, accordingly passing straight to heaven, as promised in the Qur'an (see p. 12). The women then asked: 'What is our incentive for giving up our marital rights, unrewarded since

our husbands are only unfair mortals?’ The women urged the authorities to set up a state-regulated judicial body in order to implement the Islamic requirements of polygamy.⁷²

Another article, published by *Okaz* newspaper, voiced the anti-polygamy arguments of another group of women. Presented with the choice of becoming second wives within a polygamous marriage, the women stated that no matter what justifications are given for polygamy, it is a home-breaker (*kharaḥ buyout*) because women are jealous by nature.⁷³

Conclusion

This chapter has set out to link the parallel yet different historical marriage patterns of two Muslim regions that were destined to be united. Internal and external influences occurred, bringing with them a religiously flavoured public policy call for men and women in Saudi Arabia to marry polygamously. This call was implemented when the state-controlled media joined forces with the state-employed religious establishment as they created an illusion of a surplus in the female population. Maritally redundant females continue to be portrayed as representing the national epidemic of spinsters and divorcees who must share the few available males in order to alleviate the otherwise imminent risk of immorality on a grand scale.

Despite the above, population statistics showing a higher number of Saudi males than females were deliberately suppressed while the government-sponsored survey on the 1.5 million unmarried spinsters was repeatedly quoted and published.

Wives who hold on to their pre-agreed monogamy are labelled as un-Islamic and selfish towards their sisters, depriving them of a share in the needed care of a man. In order to tame them and bring them into this newly imposed polygamous marital structure, women are continuously reminded of their Islamic duty of patience and docility towards even the most abusive polygamous husbands. Yet advice to men on the gentle treatment of their women, as echoed in the tradition of the Prophet Muhammad, takes a back seat in the equation. All that is on offer to women as a reward for their patience during this fabricated national calamity is the reward of a roof over their heads, and the fulfilment of the highly propagated dream, the main reason for every female’s existence: the attainment of religiously legitimate motherhood. The traditional

Islamic requirement of social security is replaced by the security of having offspring to care for them in their sickness and old age.

NOTES

- 1 State involvement in the promotion of polygamy in other Muslim countries was covered in chapter 2, section 'The Revival of Polygamy in the Muslim World' (pp. 29–31).
- 2 Ahmed Abdullah Abdul-Jabbar, *Aadat wa Taqaleed Al Zawaj bi Al Mantiqat Al Gharbiya Min Al Mamlaka Al Arabia Al Sa'udiyya* (Marriage Traditions and Customs in the Western Province in the Kingdom of Saudi Arabia), a modern anthropological case study (1983).
- 3 Robert Jamjoum, Report No. 27, *Arab Women*, Section on Saudi Arabia, edited by Ann Dearden, Minority Rights Group, revised in 1983, p. 9.
- 4 Saeed Saeed Hamdan, 'Social Change in the Saudi Family', dissertation submitted to Iowa State University, Ames, Iowa (1990), p. 116.
- 5 Ilham Muhammad Al Humaidi, *Al Istiqrar Al Hadhara wa Taghayur Al Qiyam Fi Al Mujtama' Al Arabi Al Sau'oudee (Dirasah Li 'Ayinah Min Sukkan Mantiqat Al Riyadh)*, *Risalat Majisteer Ghayr Manshourah*, *Qism Al Dirasah Al Ijtima'iyah, Quliyat Al Adaab, Jami'at Al Malik Saoud, Al Riyadh, 1410 Hijri* (corresponding to 1990 AD); quoted by Dr Muhammad Bin Ibrahim Al Saif, *Al Madkhal Ila Dirasat Al Mujtama' Al Sau'oudi, Manhaj Fi 'Ilm Al Ijtima' wa Tableel Wadbeefi Li Al Mujtama' wa Durous 'Ilmiyya Fi Al Taghayur Al Ijtima'iyah wa Al Tarbiya Al Wataniyyah* (Introduction to the Study of Saudi Arabian Society), published by Dar Al Khirayji Li Al Nashr wa Al Tawzee' (2003), pp. 185–86.
- 6 More details will follow in the following subsections of this chapter.
- 7 Anthony H. Cordesman, *Saudi Arabia: Guarding the Desert Kingdom*, CSIS Middle East Dynamic Net Assessment, published by Westview Press (1997), pp. 36–37.
- 8 <http://www.saudiembassy.net/Country/Map.asp>.
- 9 C. Snouk Hurgonje, *Mekka in the Latter Part of the 19th Century, Daily Life Customs and Learning: The Moslems of the East-Indian-Archipelago*, translated by J. H. Monahan, formerly H.B.M. Consul at Jeddah, published by Late E. J. Brill Ltd and Luzac & Co. (1931), pp. 85–86.
- 10 Hurgonje, *Mekka in the Latter Part of the 19th Century*, pp. 88–89.
- 11 Hurgonje, *Mekka in the Latter Part of the 19th Century*, p. 88.
- 12 Hurgonje, *Mekka in the Latter Part of the 19th Century*, pp. 86–87.
- 13 Hurgonje, *Mekka in the Latter Part of the 19th Century*, pp. 85–86.
- 14 Natana J. Delong-Bas, *Wahhabi Islam from Revival and Reform to Global Jihad*, I. B. Tauris, Oxford University Press (2004), p. 141.
- 15 Madawi Al-Rasheed, *A History of Saudi Arabia*, Cambridge University Press (2002), p. 79.
- 16 Al-Rasheed, *A History of Saudi Arabia*, p. 80.
- 17 Al-Rasheed, *A History of Saudi Arabia*, quoting L. McLoughlin, *Ibn Saud: Founder of a Kingdom*, Macmillan (1993), p. 123.

- 18 Al-Rasheed, *A History of Saudi Arabia*, p. 219.
- 19 'Neither King Husayn of Hijaz, nor Imam Yahya of Yemen, or the Sultan of Oman was a match', Al-Rasheed, *A History of Saudi Arabia*, p. 76, quoting J. Shamiyyah, *Al Sa'ud: madihum wa badiruhum* (Al Sa'ud: Their Past and Present), London (1986), p. 243.
- 20 Al-Rasheed, *A History of Saudi Arabia*, pp. 75–76.
- 21 Al-Rasheed, *A History of Saudi Arabia*, pp. 77–78.
- 22 Under Islamic law, polygamous marriages cannot include two sisters as co-wives at the same time but a sister can marry her sister's ex-husband following their divorce; see chapter 5, section 'A Husband Cannot Combine Marriage to Sisters at the Same Time' (p. 90).
- 23 Al-Rasheed, *A History of Saudi Arabia*, pp. 79–80.
- 24 According to the interviews with informants connected to these circles.
- 25 The most celebrated case in the media is that of the Princess Masha'el who was killed in public with her lover for attempting to elope and marry her Hijazi lover. The story was later related by the film *Death of a Princess*.
- 26 Mentioned in chapter 6, section 'Reasons for the Restrictive Elements Gaining Access to Power' (p. 138).
- 27 Part of the state-imposed secondary education curriculum includes a school topic entitled National Education (*tarbia watania*) which likens the process of the Saudi unification of the territories to the earlier Islamic conquests of the non-Islamic people.
- 28 David E. Long, *The Kingdom of Saudi Arabia*, University Press of Florida (1997), p. 19.
- 29 The term *nasab* is more commonly used in the Muslim world to refer to descendants of the Prophet Muhammad, but in this case it refers to Arab tribal purity as opposed to non-Arab descent.
- 30 Long, *The Kingdom of Saudi Arabia*, p. 119.
- 31 'Saudi Demographic Trends: The 2004 Census Results' in the National Commercial Bank Economics Department's *Market Review and Outlook*, Volume 15, Issue 6 (26 April 2005), pp. 5–6.
- 32 Long, *The Kingdom of Saudi Arabia*, pp. 112–13.
- 33 The point was explained in the introduction to this chapter.
- 34 Mary Elaine Hegland, 'Gender and Religion in the Middle East and South Asia: Women's Voices Rising', in *A Social History of Women and Gender in the Modern Middle East*, edited by Margaret L. Meriwether and Judith E. Tucker, The Social History of the Modern Middle East Series (1999), p. 188.
- 35 These restrictions, amongst others, are listed in chapter 6, section 'Current Judicial Practices' (pp. 139–46).
- 36 Ahmed, *Women and Gender in Islam*, p. 233.
- 37 Annelies Moors (quoting Shahla Haeri in 'Temporary Marriage: An Islamic Discourse on Female Sexuality in Iran', in *In the Eye of the Storm: Women in Post-Revolutionary Iran*, edited by Mahnaz Afkhami and Erika Friedl, London, I. B. Tauris [1994], pp. 98–115), in 'Debating Islamic Family Law: Legal Texts and Social Practices', in *A Social History of Women and Gender in the Modern Middle East*, edited by Meriwether and Tucker, p. 164.
- 38 *Mut'a* and *misyar* are discussed in more detail in chapter 5, section 'Different Styles of Marriage Contracts Currently Practised in the Muslim World' (pp. 102–11).

- 39 *Mut'a* entails a marriage contract between a man and an unmarried woman who agree, often privately, to marry each other for a specific period of time. The man is obliged to pay a dowry but has no maintenance obligations toward his wife, and the partners do not inherit from each other.
- 40 'Abdullah Kamal, *Al Da'ara Al Hallal Al Mu'assassa Al Haditha Li Al Zawaj Fi Misr wa Al Sa'udiyya wa Iran* (Legalised Prostitution, the Modern Establishment of Marriage in Egypt, Saudi Arabia and Iran), Dar al Khayyal (January 1997), p. 66.
- 41 Kamal, *Al Da'ara Al Hallal Al Mu'assassa al Haditha Lil Zawaj Fi Misr wa Al Sa'udiyya wa Iran*, p. 66.
- 42 'Abeer Al Barqawee, *Fatayaat Yuhawilna Izabat Sakhrat Al 'Unousa* (Girls Attempting to Remove the Rock of Spinsterhood), *Al Nadwah* newspaper, issue number 13475, 17 February 2003.
- 43 The religious connection between the law and the concept of the public good as decided and implemented by the state is explained in chapter 6, section 'The Making of Restrictive Laws in Saudi Arabia Today' (pp. 137–38).
- 44 See chapter 7, section 'The Effect of the Attitude of the Polygamous Husband Towards his Existing Wives' (pp. 180–82).
- 45 The views of pro-polygamy writers were discussed in chapter 2, section 'The Islamic Discourse in Favour of Polygamy' (pp. 19–25).
- 46 The foreword mentions the interviews with the imams; chapter 3, section 'Religious Promotion on a National Scale' (pp. 52–53) describes how acceptance of polygamy is being promoted as equal to acceptance of the Islamic religion; chapter 3, section 'The Use of Religious Portrayal as an Instrument Carrying Forward State Policy' (pp. 50–53) and chapter 3, section 'Methods Used by the Agency for the Recruitment of Potential Female Marriage Partners' (pp. 54–55) describes media coverage which encourages polygamy.
- 47 *Al Watan* Saudi newspaper report by Hazim 'Abdu, quoting from an article in *Deen wa Dunya* newspaper, *Ba'da Da'wat Al Mufti Li Al Su'oudiyyaat Bitaqaboul Al Ta'addud, Al Watan Taftiah Malaf Ta'addud Al Zawjat* (Following the call by His Eminence, the Mufti on Saudi Women to Accept Polygamy, Al-Watan Re-Opens the Polygamy File), published on 11 September 2001, issue 347, first edition, first year, p. 25.
- 48 *Al Qana al Oula*, First Channel, Saudi Arabian Television: *Al Iftaa* programme prepared and presented by Khalid Al Rima'yh, 29 April 2005.
- 49 There are similar agencies in other parts of Saudi Arabia; this is the one known to exist in the area of the research.
- 50 This is based on a saying from the *Sunna* of the Prophet Muhammad referring to marriage as the completion of half of the Muslim man's religion, as it keeps him from being lured into illicit relationships leading to *zina* (fornication).
- 51 Information obtained from an article reported by Jamal 'Abdul Khaliq, Al Sheikh Abdul Aziz Al-Ghamdi to Al Jadidah, *Rub' Nisaa' Al Saoudiyyah Yunasiboumani Al 'Addaa'* (One Quarter of Saudi Women are Hostile to Men), *Al Jadidah* magazine, issue 865, 22 January 2003, pp. 20–21. Prince 'Abdul Majeed passed away in 2007.
- 52 *Al Jadidah* magazine, Abdul Khalid, issue 865, 22 January 2003.
- 53 This chat room trend accounts for the *fatwa* prohibiting women from using the internet without the presence of a male *mahram*; see chapter 6, section 'Male and Female Autonomy' (p. 143).
- 54 Divorce issues are further explored in chapter 5, section 'Divorce' (pp. 97–99).

- 55 The term spinster, *'anis*, is new. Unmarried women, whatever their age, were previously referred to as *'azba*, comparable to the term *'azib* which is used for male bachelors.
- 56 As seen in the pro-polygamy arguments in chapter 2, section 'The Islamic Discourse in Favour of Polygamy' (pp. 19–25).
- 57 Annelies Moors (quoting Haeri in 'Temporary Marriage: An Islamic Discourse on Female Sexuality in Iran', in *In The Eye of the Storm: Women in Post-Revolutionary Iran*, edited by Afkhami and Friedl, pp. 98–115), 'Debating Islamic Family Law: Legal Texts and Social Practices', in *Women and Gender in the Modern Middle East*, edited by Meriwether and Tucker, pp. 164–65.
- 58 *'Adad Al Mutallaqaat Fi Jeddah Yu'aadil 5 Adh'aaq Al Mutazaweejaat, Ihsa'iyah Rasmiiyah Tu'akkid: Million wa Nisf Million Saoudiyyah Tajawazna Sin Al Zawaj* (The Number of Divorcees exceeds that of Married Women five times in Jeddah, Formal Statistics Confirming that One and a Half Million Saudi Women have Passed the Age of Marriage), *Al Watan* Saudi newspaper, issue 93, 15 May 2002.
- 59 *Dr Rushoud Al Khareef Li Al Riyadh, Al Awanis Fi Al Mamlaka La Yatajawazna 46 Alfian wa Al Akthar Yuraji'ha Ila Al Maddah* (Dr Rushood Al Khareef Speaks to Al Riyadh Newspaper: The Number of Spinsters in the Kingdom does Not Exceed 46 Thousands Mostly for Financial Reasons), *Al Riyadh* newspaper, issue 12674, 7 March 2003.
- 60 *Dr Rushoud Al Khareef Li Al Riyadh*, 7 March 2003.
- 61 Report by Ni'maty Khalifa, *Al Zawaj Al Sirri Burkan Mustatir Tabta Fatha Ma'touba* (Secret Marriages: A Hidden Volcano Under a Fractured Opening), *Donya* newspaper, first year, no. 30, 24 December 2003, p. 3.
- 62 Chapter 6, sections 'Women's Proof of Identity in a Saudi Court' (p. 142) and 'The Family ID Card' (pp. 143–44) explain the national identification requirements.
- 63 'Saudi Demographic Trends: The 2004 Census Results' in the National Commercial Bank Economics Department's *Market Review and Outlook*, Volume 15, Issue 6 (26 April 2005), pp. 5–6.
- 64 Najlaa Mahfouz, *Al Talaq Almashakil. Alholoul* (Divorce: The Problems and the Answers), published by Aldar Almisriya Al Loubnaniya (1998); and Najlaa Mahfouz, *I'tirafat Nisa' Nisa' Bila Rijaal* (Women's Confessions: Women Without Men), published by Aldar Almisriya Al Loubnaniya (1998).
- 65 Badraddeen Al Siba'ii, *Mushkilat Al Mar'ah Al 'Aamil Al Tarikhi* (Woman's Problems from the Historical Perspective), published by Dar al Jamaheer (1985), p. 105.
- 66 Badi'a Hassan, *Mujbarat 'Ala Al Zawaj Al Thani Amam Nazrat Mujtama'* *Mujhafu Yasrahna Dhil Rajul wa la Dhil Hayt* (Forced into a Second Marriage Due to a Prejudiced Society Screaming: Shadow of a Man not the Shadow of a Wall), *Okaz* newspaper, 31 July 2003, p. 15.
- 67 'Aadil Ba Saqr, Jeddah, *Abghadh Al Halal, Mushkilah Am Hal* (The Least Favourable Permission, a Problem or a Solution), *Okaz* newspaper, issue 13352, 18 March 2003.
- 68 'Adman Al Shibrawi, *Rub' Halat Zawajana Yantabi Bil Talaq ... Hal Min Huloul?* (One Quarter of Our Marriages End in Divorce: Are there Any Solutions?), *Okaz* newspaper, 25 July 2003, p. 9.
- 69 Abdul Ilaah Al Khaleefee, *Halaat Al Talaq Tartafi' Illa 16000 Fi Al Saoudiyyah Khilal Al 'Aam Al Munsarim* (Divorce Cases Increased to 16000 In Saudi Arabia During the Past Year), *Al Watan* newspaper, issue 888, 6 March 2003.

- 70 This Qur'anic verse was covered in chapter 2, section 'Consideration of Arguments for and against the Practice of Islamic Polygamy' (pp. 16–17). Although widows were not included in the verse, their case is extensively used by interpreters.
- 71 Haifa Bahaa Ezzi, *Al Unousa wa Al Ta'adud ... Madha Yarbit Baynahuma?* (Spinsterhood and Polygamy ... What is the Link Between Them?), *Al Medina* newspaper, issue 14761, 22 September 2003.
- 72 *Meezan Al Ta'addud, 'Adel Al Rijaal wa Sabr Al Nisaa'* (The Equilibrium of Polygamy, The Justice of Men Versus the Patience of Women), *Al Usrah* magazine, issue 113, tenth year, 13 Sha'baan 1423 Hijri Calendar (2003), pp. 38–39.
- 73 Fathiyya Al Shareef (Makkah Al Mukarrama), *Okaz* newspaper, 24 July 2003, p. 19 (section on women's issues).

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THE SOCIAL ACCEPTABILITY OF POLYGAMOUS MARRIAGES

In the period between the 1960s and the end of the 1970s, there was a marked difference between the acceptability of polygamy in Saudi Arabia at large, and its lack of acceptability amongst a distinct, emerging educated social group in the urbanised part of the Hijaz (otherwise politically known as the Western region), the group that forms the focus of this research.

Different divisions need to be made when approaching the subject of the acceptability of polygamy in Saudi Arabia. This is due to the variations that exist between the historical and the current practice, but also to the original differences in lifestyle and family structure coexisting within the different regions of the country.¹ The rapid pace of social change (instigated by the influx of oil wealth) and the resulting exposure to external influences had, in its early stages, mainly affected the urban, educated newly created group of technocrats, but eventually encompassed all the social groups within the country. This educational, urban influence has gradually brought about with it an observed decline in polygamous marriages in Saudi society.² It is important therefore to acknowledge the existence of other groups and geographical areas within Saudi Arabia, which continue to experience a non-fluctuating, continuous form of acceptability of polygamy. These groups must, in turn, be separated from the urban groups of individuals who had originally outgrown, rejected and looked down on the practice as obsolete, before being won over and generally overtaken by the influence of the first (rural) group mentioned above.

Although the existence of polygamous marriages amongst educated *Hijazis* is a current reality, observation has shown that this does not necessarily imply an increased acceptability of the practice. The overall public call for acceptability has not yet fully and consciously materialised amongst this group. Setting aside the growing numbers of polygamous marriages, this chapter will address the subjective and objective levels of the social acceptability of polygamy.

In view of the relative novelty of the resurgence of polygamy amongst the researched group, the legalised ability to indulge and satisfy a desire is considered separately from a deep-rooted conviction or a subconscious approval of the results of such an indulgence. This point is confirmed by the observed lack of outward social acceptability, in some cases amongst individuals who in private are actively involved in the practice, while their public attitude often amounts to a denial of it. This observation applies to both men and women from within the target group.

Some main issues need to be borne in mind when considering the levels of acceptability of polygamy in Saudi Arabia. They are:

- 1) the difference between the continuous, non-fluctuating acceptability of polygamous marriages in the tribal-rural areas of Saudi Arabia compared to the increase in their numbers amongst the relatively non-accepting urban Hijazi groups presently dealt with in this research;
- 2) the distinction between what constitutes true acceptability, teamed with a strong conviction of the overall fairness of the practice experienced by individuals practising polygamy, and a fluctuating sense of guilt, defensiveness and denial, despite a direct involvement with polygamy;
- 3) the connection between the public policy promotion of this acceptability and the forced resignation to the practice (mainly for material, financial or other reasons) by the women involved in it, their legal guardians, and/or their immediate family.

The historical aspect of this topic was tackled in the first section of chapter 3, dealing with the development of polygamy in Saudi Arabia. This chapter will briefly consider:

- the historical acceptability of polygamy in the Muslim world in general;
- the current acceptability in Saudi Arabia from the public perspective;
- the subjective acceptability amongst the individuals in the researched target group, their extended families and their immediate social circles;
- the effect of the material influence on the issue of acceptability amongst the surrounding social group.

Historical Background of the Issue of Acceptability

Throughout the Muslim world, academic literature makes a distinction between the acceptability of polygamy amongst the rural-tribal populations on the one hand and the rejection of it amongst the urban-merchants on the other, in what forms a continuous historical pattern. A look at marriage stipulations documented in court archives dating back to the seventeenth century in Ottoman Egypt shows that wealthy brides from local merchant families stipulated against polygamy in their marriage contracts although polygamy was legitimised by the *shari'ah*.³ On a similar note, although polygamy constituted an Islamic religious licence, it was not widely practised in Hijazi circles historically.⁴

The above lack of acceptability is to be contrasted with the more widespread practice of polygamy within rural areas (as also in Egypt) and tribal circles in Saudi Arabia and countries in the Arab Gulf region in general. Tribal families, past and present, freely gave their daughters into marriage within the polygamous context. Although the economic aspect of polygamy, in providing more working hands, has been widely propagated by the relevant literature, there are also examples of this acceptability within wealthy tribal families, including those living within an urban context. This applies, to a certain extent, to some sections of the current ruling Al Sa'ud family.⁵

The Public Acceptability of Polygamy in Saudi Arabia

The acceptability of polygamy in Saudi Arabia is openly displayed on different levels, beginning with the religious voice and its importance in bestowing a cloak of reverence on every issue at hand. The influence of the media cannot be underestimated; there are instances where it plays an independent role and others where it is joined to the religious voice.

Acceptability is in this way being injected into public opinion through the means of the media, from light entertainment programmes to the more serious religious discourse.⁶

Public Acceptability Promotion in the Religious Sphere

There are a number of ways in which the religious authorities promote polygamy: these are covered in chapter 6. The most prominent religious public call for the acceptability of polygamy is represented in the *fatwa* equating Saudi women's acceptance of polygamy with their overall

acceptance of Islam, as represented by the rules of the Qur'an. According to this *fatwa*, being a polygamous second or third wife, married to a morally and socially worthy man who already has a wife, is a far better state of affairs than becoming or remaining a spinster. The negative images attributed to polygamy are not related to God's law, but to the way in which some men have handled it wrongly.⁷

Distinction between the Acceptability of Standard Polygamy Versus Acceptability of Polygamy within a Misyar Marriage

The mere existence of the often polygamous version of *misyar* marriages can in itself be viewed as a confirmation of the continued lack of acceptability of polygamy. In his newspaper column, *Ra'y akhar* (Another Point of View), the Saudi writer 'Abdullah Aboul Samh described polygamous *misyar* marriages as an attempt to bypass the still unacceptable hurdle of standard polygamous marriages.⁸

Media-promoted Acceptability Related to Consumer-oriented Social Tendencies

Sharing a fraction of a wealthy married man (who is able financially to support several wives) is being portrayed through the media as more socially viable than marrying a single man of limited means. A Saudi female university graduate confirmed in the course of an interview that she would prefer to enter into a polygamous marriage with an established 'older' man, than to struggle to build a future with a 'poor' single man who is very likely to turn their monogamous marriage into a polygamous one as soon as he becomes financially able. Her fears would appear to be confirmed through a media example where a young man, having entered into a competition organised by a Saudi-based company to win one million American dollars, was asked on an Al Jazeera satellite television advertisement feature⁹ what he would do if he won the first prize. His answer was: 'I will marry four wives.' In this particular case, when the winners' results were finally drawn, the young man's name was not amongst them.

The Lack of Acceptability amongst Certain Social Groups Can Act as a Deterrent

Despite the lack of any legal or religious restrictions on the practice of

polygamy in Saudi Arabia, the reactions of the Western-influenced mixed social circles (described below) can act as a valid deterrent against husbands engaging in polygamy. Sharp-tongued comments towards polygamous men and women have turned polygamy into a shameful practice amongst individuals mixing within these circles.¹⁰

Social Acceptability of Polygamy

External, social influences encouraging polygamous marriages play an important role in promoting individual acceptability or at least a licensed indulgence of the practice even if, as in some cases observed during the interviews, such indulgence is not fully without remorse.

The interviews provided a comparison between what is promoted as acceptable by the media and what is psychologically seen as acceptable to those individuals who practise polygamy. The survey questionnaire contained some common questions for all segments of the researched group:

- Is there social acceptance of your polygamous marriage?
- Did you face encouragement or rejection from your immediate family, your extended family and your work environment and social circle?

Acceptability as experienced by men can differ from acceptability as it is experienced in female circles, and can also differ within the socially mixed gatherings which, although less prevalent in Saudi Arabia today than they were one or two decades ago, still occur among some of the focus group. Men are, in any case, subject to different influences in the formation of their attitudes. Men interviewed spoke of the promotion of polygamy that they were exposed to within male-only social circles. An American study revealed that monogamous men are generally inhibited from discussing their monogamy amongst male friends lest they be viewed as boring or incapable. Monogamy is generally considered, in male circles, as promoting a non-macho image, while the usual pattern is for men to discuss their female conquests amongst each other.¹¹ There is therefore a general difference between male-only social circles and female and mixed circles.

Acceptability from the Husband's Perspective

Acceptability naturally depends on the social class, the existence of polygamy within the family or social scene in question, and the presence of one or more of the main justifications for polygamy, such as the illness or infertility of an existing wife.

The relationship and status of the siblings of the husband or wife can also play a role in the acceptability or lack of it. One polygamous husband stated, when asked about the reaction of his first wife's family regarding his polygamy, that: 'It is nobody's business what I do with my life. My in-laws [the family of his first wife] can't complain since I continue to treat their daughter better than any of her sisters gets treated by their monogamous husbands.'

This remark highlights the cultural link attached to acceptability or the lack of it: what is commonly practised becomes the acceptable norm as opposed to what is viewed subjectively as right or wrong. Marriage expectations are affected by those practised within a bride's immediate community. The polygamous remarriage of a sister's husband can affect the security and status of her other sister within her own monogamous marriage. The following response, as observed during fieldwork, illustrates this point: a husband who was reproached by his first wife's relatives and friends for taking a second wife defensively replied that: 'I did not bring the practice from far; her own father had discarded her mother and taken another wife: the father therefore can't reproach others for actions that he has allowed for himself.'

When one brother in a large family or a friend amongst a group takes a second wife, a number of them usually follow suit. One husband amongst those interviewed referred to his polygamy as having 'broken the ice' on behalf of his friends.

Difference between the Promotion and the Reality of Acceptability of Polygamy as Experienced by Husbands

Some husbands who live within Western-influenced mixed social circles, as opposed to the more segregated ones legally imposed by the religious police in Saudi Arabia, mentioned a number of regularly organised male-only gatherings of a social or a religious nature that attempted to portray polygamy as an acceptable means of renewal of youth, and as a sign of courage and manliness. These groups promoted a superior manly image

of a polygamous husband who had managed to satisfy both, or more, sets of family and had kept them successfully under control.

The reality of the matter, however, according to men who belong to this mixed social circle, is more in tune with the following answer received:

‘Following the public announcement of my remarriage, I have been excluded from the social circle where my first wife and I used to go, mainly by the other wives, as I am considered to be a potential bad influence on their husbands. The family of my first wife have excluded me totally; they refused to even speak to me since I took my second wife ten years ago. They are constantly talking my first wife into leaving me. However, in men-only gatherings I am considered brave and manly.’

Such answers confirm that acceptability depends on the social circle: in male-only society, polygamy is considered a bonus, since the female influence is not represented, whereas the different nature and atmosphere of mixed social gatherings cannot accept the polygamous intrusion as it conflicts with the essence of this couple-oriented social scene.

Achieving Acceptability amongst Mixed Circles

It is noticeable that apart from cases where polygamy consists of a preferred wife and a rejected or a secret co-wife, socialising as a couple becomes mainly limited to family gatherings. Several husbands who formed part of the mixed society circle before polygamy ended up withdrawing from that circle as they no longer fitted in. They now either embraced a new circle with the new wife or simply concentrated on male-only gatherings, or a mixed social life that ‘respectable’ wives did not attend.

Acceptability from the First Wives’ Perspective

First wives and their immediate entourage are less likely to accept the advent of polygamy into their lives unless they conform to one of the classically quoted justifications for the practice, such as infertility or long-term illness. When asked about the reaction of those around her following her husband’s polygamy, one wife put it: ‘I don’t sense an acceptability concerning my husband’s remarriage, instead I experience other people pitying me, either trying to “search” for the fault in me which

made my husband look for an alternative, or, trying to reassure me that I am flawless, and that they can't understand how this could have happened to me.'

There are initial fault-finding attempts in all cases of unacceptability. This is a usual way of giving male members of society the chance to justify an otherwise unacceptable polygamous move by the husband with regards to a socially approved first wife. The beauty, accomplishment, wealth, status and known obedience of the first wife to her husband and love of her in-laws, or the lack of all the above, all form determining factors in whether the polygamous marriage will be accepted. The choice of the second wife and all her qualities, when compared to the first wife, also play an important role in the shifting nature of acceptability of polygamous marriages within the focus group.

First wives are faced with constant questioning regarding their possible previous lack of attentiveness towards their now polygamous husbands or any other failing which could shift the responsibility of the polygamy on to the first wife, thus bringing the husband's behaviour back into the realms of acceptability.

The extended families of newly polygamous husbands share a social sense of guilt and reproach extended through their brother/son, in the same way that the families of the first wife are pitied and thoroughly questioned about any possible misbehaviour on the part of the now disadvantaged first wife. Following denial of any failure, the guilt is shifted back on to the husband and his family.

As a result of the deterioration in her social and financial position resulting from her husband's polygamy, possibly a mark of the acceptability of his polygamy by the relevant social entourage, one first wife complained: 'I have lost my previous self-confidence; I am blamed by many for not being "clever" enough to handle my husband successfully.'

The Fluctuating Face of Social Acceptability

The constant fluctuating nature of acceptability, or lack of it, is illustrated in the words of a first wife who sought and obtained divorce following her husband's polygamy. The resulting social reactions that she faced were multifaceted and fluctuating: some accused her of thinking herself better than other first wives who chose to stay within polygamous marriages; others blamed her for breaking up the family home and separating the children. Another first wife who reluctantly decided to stay was accused

by the same social group of being a coward and not standing up for her rights.

Once the polygamy becomes public, the husbands and wives involved are subjected to a continuous public scrutiny. Acceptability in these circumstances can be described as a subjective reflection of their own inner sense by those displaying it.

Acceptability amongst Second/Subsequent Wives

Second wives interviewed had entered into the marriage either after having been through an earlier marital experience, or, in the case of two second wives, after reaching the age of twenty-six and twenty-eight years respectively (the assumption amongst the group interviewed was that an unmarried woman has become a spinster from the age of twenty-four).¹²

Even in the case of a previously divorced woman embarking on a second polygamous marriage, her mother, herself a first wife within a polygamous union, was not in favour of her daughter getting involved in such a union: ‘When she found out about my plan to remarry a currently married man, my mother called his first wife and warned her against me.’

Another second wife found an initial lack of acceptance of her polygamous marriage amongst her work colleagues despite being a previously divorced mother: ‘My work colleagues were shocked when they heard about my decision to enter into a polygamous union; they were aware of the other possibilities of marriage that had come my way in the past when I had refused. However, they now accept my decision and do not question it.’

A divorced woman embarking on a second polygamous marriage with a man who had been separated from his first wife for several years described the lack of social acceptance that she encountered despite his separation: ‘On my wedding day, people were calling me, criticising me, trying to make me feel guilty; I almost called the marriage off. Until my husband said: will you allow them to stand in the way of our happiness?’

Feelings of guilt due to the social outcry against what was generally viewed as her intrusion on her husband’s first family sent one previously loved and respected divorced woman into seclusion: ‘I prefer to keep to myself than to hear painful criticism and remarks. I have stopped my previous social life on a grand scale; I now only mix with close friends.’

It must be emphasised however, that being a second or subsequent wife within a polygamous marriage in Saudi Arabia is legally, socially and religiously a more acceptable status than that of being a mere mistress.

Social Denial by Some Individuals Practising Polygamy

The author came across a few cases where the existence of polygamy is strongly denied and referred to with disdain by the husband, although the reality known to those closely associated with these individuals is that a silent but consummated second marriage exists. The reasons for this public denial include fear of upsetting the preferred or stronger wife, or the fact that the husband associates through his work or socially with circles where polygamy is not in practice and is even looked down upon.

Financial Rewards Buying Acceptability

It is generally agreed that financial rewards can bring about or facilitate the acceptability of behaviour or actions which would otherwise be socially disapproved of. This naturally applies to the acceptability of polygamy within societies where it is not generally looked at favourably. A husband can in certain circumstances buy luxuries for his young second wife and her extended family, thus buying their acceptability.

Children's acceptability can be bought in a similar fashion. A polygamous father's unexpected increasing of the amount of his children's spending money can deter them from defending the rights of their mother, as the repercussions of making their father angry will then appear to be too risky. The usual pattern is for them to keep quiet and enjoy the new spending power while it lasts. And it usually dwindles following the increased acquisition of power and status by the new stepmother. Once the new and favoured co-wife begins to have children of her own, a drastic change in attitude will usually occur in the father's attitude towards the children of the first marriage, but by now it is too late for them to complain about the unfair division, and the novelty of the polygamy will have passed its expiry date.

Money will also buy a dependent first wife's silence and that of her financially motivated extended family. There are multiple cases where a 'thoughtful' husband compensates his existing wife for her patience by

offering her expensive presents in a way he never used to do, to buy her smile, calm his sense of guilt, and regain his peace of mind. He can organise holidays for her, their children, her extended family and her (women) friends so that they may keep her company while he indulges himself in his new experience.

The same criteria can equally apply to a general social acceptability. People will nod with the understanding that under such exceptional circumstances, an offer of marriage, despite being polygamous, cannot be refused. Even in the case of a selfish rich polygamous husband, society will not criticise his rejection of his first wife in his presence lest they lose future favours from him.

Conclusion

Although the research began with the hypothetical assumption that there was an increased social acceptability of polygamous marriages amongst the educated classes in the Hijazi region of Saudi Arabia, the findings confirm that although there is an observed increase in polygamous marriages,¹³ their acceptability, in many social circles, still remains very questionable.

Money and financial gain can in many cases be used to lend a false cloak of acceptability that remains easy to see through from the outside.

The length of the polygamous marriage and a good number of resulting offspring often contribute favourably towards the gaining of acceptability, despite any lack of acceptability that might have been faced at the outset.

All polygamous husbands and all of the second wives interviewed had experienced some form of social and family disapproval to varying degrees. Contrary to the original assumption, the research can now confirm that although there may be an increased acceptability of polygamy amongst the husbands and second/subsequent wives who embark on it, there is not necessarily an increase in acceptability in the wider social group and, indeed, there is a lack of it in particular amongst first wives.

Divorced first wives are observed to be more accepting than second wives of polygamy in a new marriage situation. Examples of marriage contract stipulations have shown how the Ottoman-Egyptians introduced clauses restricting polygamy in their daughters' and sisters' marriage contracts while they personally continued to indulge in it. Along the same lines, it can be concluded from the findings of this study that

acceptability is a useful coin that can be flipped back and forth to suit an individual's immediate needs.

NOTES

- 1 This issue was covered in chapter 3, 'The Historical and Modern Developments of Polygamy in Saudi Arabia'.
- 2 Jabbar, *Aadat wa Taqaleed Al Zawaj Bi Al Mantiqat Al Gharbiyya Bi Al Mamlakah Al Arabiyah Al Saoudiyah Dirasaah Midaniyyah Anthropolgiyyah Hadeethab* (Marriage Customs and Habits in the Western Region of the Kingdom of Saudi Arabia), *Fieldwork in Modern Anthropological Study Methods* (1983), p. 132.
- 3 Abdal-Rahim Abdel-Rahman Abdal-Rahim, 'The Family and Gender Laws in Egypt during the Ottoman Period', in *Women, the Family, and Divorce Laws in Islamic History*, edited by Amira el Azhary Sonbol, Contemporary Issues in the Middle East, published by Syracuse University Press (1996), p. 107.
- 4 Hurgonje, *Mekka in the Latter Part of the 19th Century*, pp. 86–87.
- 5 Al-Rasheed, *A History of Saudi Arabia*, pp. 79–80.
- 6 This issue has been discussed in detail in chapter 3, sections 'The Use of Religious Portrayal as an Instrument Carrying Forward State Policy' (pp. 50–53) and 'Religious Promotion on a National Scale' (pp. 52–53).
- 7 Taha Rayan, *Kuboul Al Ta'addud Shart Imaan Al Mar'ah Al Muslima Bi Al Qur'an* (Acceptance of Polygamy is a Condition Linked to the Muslim Woman's Belief in the Qur'an), *Al Watan* newspaper, issue 347, first year, 11 September 2001, p. 25.
- 8 A detailed description and definition of *misyar* marriages can be seen in chapter 5, section 'The *Misyar* Marriage as Practised in the Gulf Region' (pp. 106–110).
- 9 This commercial feature was advertised several times per day for several weeks beginning in January 2002.
- 10 Faiz Saleh Jamal, *Hunaak Irtibaat Bayn Al Unousa wa Al Ta'addud* (There is a Link Between Polygamy and Spinsterhood), *Al Medina* newspaper, issue 14768, 29 September 2003.
- 11 Alexandra Penny, *How to Keep Your Man Monogamous*, published by Bantam Books (1989), p. 23.
- 12 The important relationship between divorce and polygamy, and spinsterhood and polygamy can be viewed in chapter 3, section 'The Link between Spinsterhood, Polygamy and Divorce' (pp. 56–60), and chapter 5, section 'Divorce' (pp. 97–99).
- 13 The author was unable to access any relevant statistics in view of the secret nature of some of these marriages and the lack of state imposition (despite its availability) of civil marriage registration.

**THE MUSLIM MARRIAGE CONTRACT,
ITS TERMS AND CONDITIONS AND MODERN VARIATIONS**

Although there is general agreement amongst each of the four main Sunni schools of thought and the Shi'i Muslim sect regarding the main elements of the marriage contract, constituted by the offer and acceptance, there are other legal discrepancies related to its validity. This state of affairs, together with the less conventional marriage contracts in existence in the Muslim world, has left certain grey areas regarding the form, validity and even religious and social acceptability of some of these contracts. Such conflicting issues are often left to the decision of the individual courts, as and when matters of proof of these marriages are needed.

In its first part, this chapter tackles the basic form of the Muslim marriage contract while taking into account the inseparable link between the religious and the legal forces jointly affecting it.

The second part of the chapter explores the variations of the marriage contract co-existing in the Muslim world, including those that have emerged in Saudi society in recent years. The understanding of these marriage arrangements is of great importance to the topic under discussion because a great number of them are also of a polygamous nature and because of the large number of Saudi men and women who engage in them. This chapter seeks to shed light on the social circumstances that have created a need for these 'parallel' marriages, and the extent to which these 'new' marriages have often diverged from the socio-religious understanding of the standard Muslim marriage as representing a lifelong partnership, and on the overall lack of social stability caused by this divergence.

During the period of the unification of the different regions in the Saudi jurisdiction, the courts in the Nejd part (the Northern Province) followed the teachings of Imam Ahmad Ibn Hanbal, while those in the Hijaz (the Western Province) followed the Hanafi and Shafi'i schools. As this situation led to discrepancies in decisions within the now unified jurisdiction, a legal regulation (*nizam tashkilat al mahakim al shar'iya 1927 A.D./1346 hijri calendar*) was enacted requiring the Hanbali School

of thought to become the one generally followed by the courts in the Saudi jurisdiction; however, the regulation upheld the right of the judge to resort to the laws found in other Sunni schools whenever the individual judge fears that the application of the Hanbali law would cause injustice in a specific case.¹ Locally practising Saudi lawyers further explained to the author that in some cases pertaining to the laws of personal status, priority has at times been given by judges to the views of Imam Ibn Taymiyyah (generally a disciple of Ibn Hanbal), even in cases where they contradict or differ from those adhered to by Imam Ahmad Ibn Hanbal.

Despite regulations restricting the marriage of Saudi citizens to non-Saudis, many such marriages continue to take place either with the required prior consent being obtained from the Ministry of Interior, or simply in another jurisdiction. A marriage contracted outside the Saudi jurisdiction is not dealt with in Saudi courts when problems arise, entry visas will not be issued to the partner in the capacity as a spouse, or to the children of the marriage, but the validity of the marriage itself will not otherwise be questioned by the authorities. There is also an unidentified number of unregistered secret marriages between members of the expatriate workforce and Saudi citizens, both male and female.²

This chapter mainly describes the views of the Hanbali School in relation to the marriage contract in the Saudi context, but also looks at the views of the other schools as they become more relevant when dealing with the different marriage contracts in the Muslim world in general.

The Muslim Marriage Contract

Muslim marriage is defined as a contract between two parties, a male and a female, giving rise to mutual rights and obligations between them.³ The contract gives each party the right to the (physical) enjoyment of the other party with one specific difference: that the wife may only enjoy one husband exclusively at the same time, whereas a husband may seek pleasure and enjoyment legally from up to four wives.⁴ Additionally, a husband's conjugal rights to this pleasure are continuous while those of the wife are ambiguously undefined amongst the array of jurists' opinions, as will be further discussed in later sections. According to Wahhabi interpretation, the wife, in return for her sexual duties towards her husband, and for providing him with offspring and being obedient towards

him, is entitled to continuous financial support from him throughout the duration of the marriage.⁵

Standard Requirements of the Marriage Contract

The main broad elements constituting a valid Muslim marriage contract are the offer and acceptance performed in the presence of two male witnesses with the approval of the bride's male guardian (not always essential amongst some jurists, as will be discussed later). The marriage offer (*ijab*) is usually made by the male and the acceptance (*qabul*) by the female, or their legal representatives who must all be present at the same gathering (*majlis*). Once these requirements have been met, the marriage contract is valid, despite the existence of any other discrepancies such as the lack of civil registration, which is an optional introduction advisable for the protection of future interests.⁶

The Legal Guardian of the Bride

A Saudi Arabian man, of sound mind and maturity, is capable of contracting his own marriage without the permission of a *wali* (marriage guardian). Women are reported in Islamic traditions to have initiated offers of marriage, as in the pre-Islamic case of Khadija, the first wife of the Prophet and later, in Medina, Leila Bint al Khateem who approached the Prophet with an offer of marriage which he is reported to have accepted.⁷ Despite this, differing opinions amongst jurists still exist regarding the legal capacity of a woman to represent herself. This rule relies on a *hadith* (tradition) relating that the Prophet Muhammad said '*la nikaha illa bi wali*': no marriage (is concluded) without a guardian.

The importance of the *wali* according to Hanbali jurists goes as far as his capacity to conclude a valid marriage contract directly affecting his daughter, with or without her permission. While it is preferable that a virgin bride (*bikr*) is informed, her silence is her acceptance (due to her shyness), but a non-virgin (*thayeb*) should be consulted, especially in cases where the *wali* is not her own father but an uncle or a grandfather.⁸ Under Saudi/Wahhabi law, marriage guardianship of a woman is assigned first to her father, then after his death, it passes to her brother, then to the paternal grandfather, then to the woman's son.⁹ Examples of the abuse of this power by some male guardians in Saudi Arabia include the

large numbers of women in paid employment whose legal guardians refuse every offer of marriage they receive, in order to maintain their full benefit from their dependants' salaries. This situation is linked to the resulting increase in spinsterhood amongst a large number of Saudi women in employment. Whereas, historically, marrying off their daughters represented a financial relief to their guardians, this new situation has caused a reversal whereby a guardian who agrees to the marriage of a female under his guardianship loses the income which her job brings into his control.

Importance Attached to the Guardian Being a Male Agnate

Technically, maternal relatives only have a claim to marriage guardianship if there are no paternal relatives.¹⁰ In practice however, in cases where the bride does not have a living father or other surviving male agnate, it is commonly imposed by Saudi legal practice that the marriage contract be executed in a court of law, the judge acting as the bride's guardian. This condition is applicable even if a maternal uncle, for example, or a maternal grandfather is present and willing to act as her guardian. Usually the marriage contract is a happy occasion, conducted at the home of the bride; but the bride is treated like a disconnected orphan when a judge, who is a stranger to her, takes on the role of her marriage guardian, and the event takes place in court. The situation is known to have caused unhappiness on occasions, with regard to the bride's status *vis-à-vis* her future in-laws.

Proof of Acceptance by the Bride

Under current legal practices in Saudi Arabia, the presence and agreement of a male guardian is considered sufficient proof of a bride's acceptance. In some instances, the marriage registrar, *ma'dun*, may ask to hear the bride's vocal acceptance from a nearby room or over the telephone. Proof of the vocal authenticity is not usually contested, but is merely a matter of procedure. There are reported cases of another female posing as the bride in cases of marriage under duress; however, there is no alternative solution being suggested for the time being to prevent this mishap from re-occurring. Imam Abdel Wahhab is reported to have ordered the woman who was 'wrongly' sent to the husband, to be nevertheless paid a dower before being returned to her guardian (*wali amr*). She was further entitled

to maintenance for the three months' *idda* (waiting following a divorce) period. The Imam was in this way protecting the financial rights of women in spite of errors made by the men in charge of them.¹¹

Further Requirements for the Marriage Contract

Some of the elements identified in the following subsections are considered as essential requirements affecting the validity of the marriage amongst some jurists, while they are only considered as preferable by others.

The Concept of Equality (kafa'a)

There are no Qur'anic verses or Sunna directly dealing with the topic of *kafa'a*, other than that of the required religious piety of the prospective husband. Verse 49:13 states: 'The most honoured of you for God is the most righteous of you.' The Prophet Muhammad is reported to have said: 'If you are approached by a man whose piety and morality you approve of, do give him (your daughter) in marriage. Failing to do so, will be a cause for unrest (*fitna*) and corruption (*fasad*) on earth.'¹² No mention of wealth or of ethnic origin is made as an essential requirement by the Prophet. The Prophet is reported to have approved of several marriages between free Muslim women from high-status Meccan families to recently freed Muslim male slaves.

Equality of the husband's status to that of his wife's family is of great importance according to the Hanafi School, to the extent that, failing its fulfilment, her guardian can apply to the court for dissolution of the marriage. This is, however, invalidated when the wife becomes pregnant.¹³ Equality, according to Imam Ahmad Ibn Hanbal, is reported to be a right belonging to the bride and her parents. If they accepted a husband of a lower social status, the marriage is considered valid.¹⁴ These conditions of equality are reiterated in later literature reported from a variety of jurists.¹⁵ The concept of *kafa'a* does not affect social discrepancies in a partnership where the husband is 'superior' to his wife as much as it affects the relationship the other way around, as a husband is more able to 'lift' a wife socially and financially to his level but a wife is not considered able to do so.¹⁶ An exception to this rule is one concerning the marriage to a *zania*¹⁷ (fornicator). The Qur'an states in verse 24:3, Surat al Nour: 'The adulterer may marry only an adulteress or an idolatress; and the adulteress may marry only an adulterer or an idolater.'

Equality of male status to that of a female marriage partner is, in some parts of Saudi Arabia, highly applicable in terms of the customary, tribal codes. An example is provided by Madawi al-Rasheed regarding the restriction imposed on the women in the Al-Sa'ud family who can only marry their cousins or members of the same tribe, while the men in the family can marry from amongst their cousins and tribes but equally from amongst outsiders and foreigners.¹⁸ There is a noticeable revival in the trend of forced divorces initiated by male agnates of married women on grounds of inferiority of the husband's tribal descent. The controversial case of Fatima and Mansour Al Timani was exposed by the local media; Fatima's half-brothers divorced their sister from her husband in court against his will and hers on grounds of social incompatibility. The couple were later arrested by the morality police and imprisoned, accused of spending *khalwa* time together, and their offspring were taken by social services with other illegitimate children.¹⁹ The Hanafi expiration of the licence to annul an unequal marriage as a result of the pregnancy/childbirth of the bride has not, in recent Saudi cases, prevented the courts from breaking up harmonious stable families.

It is important to mention that many but not all of the *'urfi, misyar* and secret marriages to be discussed are contracted between parties who are socially or financially incompatible, yet the validity of these marriages is acknowledged by a large group of jurists.

The Importance of the Witnesses to the Marriage

The Qur'an requires the presence of two *shuhood* (adult male witnesses), known to be of sound morality, in a contract of sale, but there is no such Qur'anic requirement in the case of a marriage contract. The requirement for the presence of witnesses to the marriage contract is therefore one of a jurisprudential nature and is considered essential by the Hanafi and Shafi'i Sunni law schools, as a consolidation of the legal nature of the marriage contract.²⁰ However, Ibn Abd al Wahhab, founder of the Wahhabi legal theory, requires two reliable male witnesses (or two females and one male) in order for the marriage to be valid.²¹ While Imam Ahmad Ibn Hanbal maintains that since nothing has been related to the Sunna of the Prophet Muhammad proving the requirement of marriage witnesses, if a bride's *wali* contracts her marriage and enough publicity ensues, then the marriage is considered valid despite the lack of witnesses.²² Cases where

women have contracted their own marriages without a *wali* in the early Islamic period are also reported.²³

The legal result of a marriage lacking in witnesses, for those who impose it, is that it can in some cases give rise to the *hadd* crime of unlawful sexual intercourse, *zina*, which is punishable by flogging (for the unmarried person)²⁴ or by stoning to death (for the married offender or one who was previously married, *muhasan*).²⁵ The Qur'an states: 'The adulterer and the adulteress shall each be given a hundred lashes. Let no pity for them cause you to disobey Allah.' A relief alleviating the liability to the punishment for *zina* (fornication) comes in the form of the doctrine of *shubha* (semblance), which arises in cases where there is a divergence of opinion among the schools or jurists regarding the marriage.²⁶ In the opinion of Abd al Wahhab, however, the couple in an irregular marriage revert to their previous unmarried status, the woman is accordingly returned to her guardian and the husband is to be cursed, bearing the responsibility for undertaking an illegal action while the woman is considered an innocent party.²⁷

The Essential Nature of the Dower (mahr)

The Qur'anic verse 4:24 is understood to make the dower of the bride an essential part of the marriage contract: 'All women ... are lawful to you provided you seek them with your wealth in modest conduct, not in fornication.'²⁸ Abdur Rahman I. Doi views the *mahr* as a gift from the husband to his bride.²⁹ The amount of the dower can be stipulated as a condition in the marriage contract. It is usually calculated according to that given to the bride's sisters and cousins; other matters taken into account are the bride's beauty, age and virginity. Historically, the dower was a material payment but could also be fulfilled by a payment in kind. The Prophet is said to have allowed a man to marry a woman after offering her 'his knowledge of the Qur'an'.³⁰

Opinions vary as to the legal importance of a full payment before the consummation of the marriage can take place.³¹ It is often agreed that the dower be both immediate, *muqadam* (at the time of the conclusion of the contract, prior to the consummation of the marriage) and/or deferred, *mu'akhar sadak*. The second instalment would only be payable on the termination of the marriage by divorce (*talaq*). The reason for stipulating the *sadak* is to prevent the husband from irrationally

repudiating his wife and to serve as a protective lump sum for the wife should the marriage end in divorce.

In cases where marriage is contracted and divorce occurs before consummation has taken place, the divorced wife has a legal right to half of the agreed amount of the dower. It has been unanimously agreed amongst the jurists that a wife has a right to full payment of her agreed dower as soon as the marriage has been consummated. Should the husband die before the marriage has been consummated, the wife has a right to full payment of her dower and she is entitled to her share in the inheritance.³² Despite the above, many non-standard Muslim marriage contracts (discussed on pp. 100–115) that are upheld as valid by some respected jurists, are consummated without proof of the payment of a dower by the husband.

In his work *The Social Structure in Islam*, the late Professor Reuben Levy of Cambridge University referred to the pre-Islamic forms of marriage by purchase, where the payment of the *mahr* was made by the husband to the father or other guardian of the bride, whereby she became the chattel of her husband. He noted the improved difference after the advent of Islam, when the *mahr* became the woman's dowry and was paid to her,³³ while in his *History of Islamic Law* the late Professor N. J. Coulson, Professor of Islamic Law at the University of London, referred to the payment of the dower in the Muslim marriage as representing a contract of sale. This, in his opinion, was the cause of the inequality in the marriage partnership; any reforms aimed at equality should eradicate this system before proceeding further.³⁴

Publicity of the Marriage

Publicity (*ish'ar*), as opposed to secrecy, is considered by the majority of jurists as an essential component for the validity of the marriage. The Prophet Muhammad is reported to have said: 'The difference between the permitted and the prohibited is the sound of the drums [announcing and celebrating] a marriage.'³⁵

Although there is no specific Qur'anic prohibition against secret marriages, provided the requirement of two male witnesses has been fulfilled, followers of the Maliki School go as far as considering such marriage as void in cases where witnesses have been asked to keep the marriage a secret. However, when His Eminence Sheikh Saleh Bin Fouzan, a member of the Committee of 'Ulema in Saudi Arabia

(followers of the Hanbali School), was asked to give a *fatwa* (religious opinion) about secret marriages, he advised that provided the parties were agreeable to the contract which was concluded in front of two male witnesses, in the presence of the bride's guardian (*wali*), and no impediments were found regarding the capacity of the parties to contract the marriage, then the marriage was valid.³⁶ This was re-iterated by Sheikh Ahmad al Mu'bi, an authorised marriage official (*mathoun*), responsible for the weekly marriage advertisement column in *Al Jadidah* magazine. Provided two male witnesses and a male guardian are present at the time of the marriage contract, the secrecy element is dissipated, allowing the validity of the marriage.³⁷

It can be observed from the above that decisions regarding the validity or the invalidity of a marriage vary depending on the social background and political inclinations of the religious authority whose *fatwa* is being sought. This situation naturally creates uncertainty and in some cases a possible manipulation of the law by one or both of the parties involved.

Obstructions to the Validity of the Marriage Contract

Specific 'obstacles' obstructing the validity of the marriage contract are either of a temporary or a lifelong nature.

Reversible Impediments Temporarily Affecting the Validity of the Marriage Contract

These are impediments which, if removed, would then render the marriage as valid. They include the following circumstances.

Marriage to a Married Woman

The invalidity of the marriage can be reversed if the woman is able to obtain a divorce from her current husband; she can, after completing her *'idda* (waiting after a divorce) period, contract a valid marriage with another. The observance of the divorce waiting period is imposed by the Qur'an to establish paternity of a possible pregnancy,³⁸ but also to maintain her original (divorcing) husband's legal prerogative of taking her back (*muraj'a*) during the *'idda* period, if he so wishes.

The Marriage of a Man to a Fifth Wife

A man who already has four wives can only validly marry a fifth woman if he divorces (by repudiation) one of his existing wives, thus keeping his number of wives at the prescribed limit of four. The husband must then wait until his repudiated wife has completed her 'idda period before marrying his new wife. The waiting period does not apply for the husband if the divorce is irrevocable, being the third time with the same wife, or in cases of a divorce by mutual consent or a judicial dissolution.³⁹

A Husband Cannot Combine Marriage to Sisters at the Same Time

There is a specific Qur'anic prohibition against a man marrying two sisters, or a niece and her aunt, at the same time: 'Do not combine between two sisters.'⁴⁰ The Prophet Muhammad is related to have said: 'Do not combine between a woman and her paternal aunt (*'amma*) and between a woman and her maternal aunt (*khala*).'⁴¹ Such marriages can, however, become valid upon the divorce or death of one of the related females. The rule includes blood ties but also applies to milk kinship, *rida'a*.⁴²

The Wife Must Adhere to a Monotheistic Faith

A Muslim man is forbidden from marrying a woman who does not belong to the Muslim, Christian or Judaic religions, referred to in the Qur'an as the People of the Book (*ahl al-Kitaab*). The rule follows the generally agreed interpretation of verse 2:221 of the Qur'an: 'Do not marry unbelieving women [idolaters], until they believe: a slave woman who believes is better than an unbelieving woman, even though she allure you. Nor marry (your girls) to unbelievers until they believe: a man slave who believes is better than an unbeliever, even though he allure you.'

Such marriage is considered invalid until the wife embraces Islam. Verse 5:5 of the Qur'an translates as follows: 'Lawful to you are the believing women and the free women from among those who were given the scriptures before you, provided that you give them their dowries and live in honour with them, neither committing fornication nor taking them as mistresses.'

There have been controversial cases where a Muslim has declared (or even in some cases *been* declared by others) that he/she no longer adheres to the Islamic religion. In these cases, some groups of people have taken it upon themselves to separate the person from his/her spouse in application of this rule. This is illustrated by the legal case brought

against Dr Nasr Abu Zaid in 1996⁴³ calling for his separation from his wife (the couple fled to the Netherlands) and by the case of Dr Nawal al-Saadawi calling for an annulment of her marriage to her Muslim husband while she was being accused of having rejected the Islamic religion, following some of her public debates and statements.⁴⁴

A Muslim Woman Can Only Marry a Muslim Man

The marriage of a Muslim woman to a non-Muslim man is invalid until he publicly embraces Islam. This relies on the Qur'anic verse 'Do not give your daughters in marriage to the atheists until they embrace Islam, a Muslim is better than an atheist no matter how much (the atheist) pleases you.'⁴⁵ Verse 5:5 quoted on p. 90 does not mention the reverse as applicable to Muslim men marrying non-Muslim women. The purpose of the distinction is explained by the legal writer Murad Hoffmann in his book *Islam the Alternative*, as stemming from the rules governing marriage in Islam, in which the father is responsible for the upbringing of the older children of the marriage. Accordingly, a Muslim woman would be unable to prevent her husband from bringing the children up in the Christian faith. While verse 2:221 (also quoted on p. 90) allowing Muslims to marry *kitabīs* (Christians or Jews) is literally applicable to both Muslim men and women, Caliph Omar is reported to have said: 'the Muslim man marries a Christian woman but a Christian man does not marry a Muslim woman'.⁴⁶ Muhammad Selim al 'Awwa maintains that the purpose of the restriction is not because of the Christian/Jewish husband's religious conviction, but because of the Islamic concept of *qawama* (the leadership position of men over women) which requires a wife to obey her husband; obedience to a non-Muslim husband can cause a Muslim woman to deviate from her Islamic duties.⁴⁷ This position is re-iterated in Saudi Arabia by a compendium of legally acknowledged *fatwas* which concludes that since the aim is to strengthen the Islamic religion, a Muslim woman is prohibited from marrying a non-Muslim man.⁴⁸ The Wahhabi prohibition is confirmed by Natana Delong-Bas in her book on ibn Abd al Wahhab, linking the imposed prohibition to the Islamic concept of equality of status (*kafā'a*).⁴⁹ He delegated the female's marriage guardian (*wali amr*) with the responsibility for verifying (amongst other conditions) that the prospective husband is a Muslim, to ensure that he will 'treat his wife justly, as well as to try to match spouses of an equal social status'.⁵⁰

In his book on Islamic law, Jamal Nasir concludes that the prohibition is unanimous under the *shari'ah* and all modern Islamic laws, both Sunni and Shi'a sects: 'a marriage of a Muslim woman to a non-Muslim man is null and void, even if it is validly solemnised according to the laws of any given non-Muslim state. For such a marriage to be valid, the man must have converted to Islam at the time of the contract.'⁵¹

It is clear from the above discourse that the overwhelming consensus on the prohibition against the marriage of a Muslim woman to a *kitabī* man, although religiously justified, stems from a cultural, sociological and patriarchal base. The parallel, tribal prohibition of women marrying outside their tribe in some parts of Saudi Arabia is explained.⁵²

Prohibition of Marriage to a Zania

A man is forbidden from marrying a *zania*⁵³ (a fornicating woman) until she repents and becomes pious (a *zani* only marries a *zania* or a non-believer and the *zania* only marries a *zani* or a non-believer).⁵⁴ Reasons given for this are that the purpose of marriage is to protect from fornication (*tabseer*), not to allow it to continue, while a *zania* (female fornicator) is likely to continue her pattern of behaviour, even possibly bringing into the marriage illegitimate offspring. According to Imam Ahmad Ibn Hanbal, if a *zania* reforms, she can marry, after waiting one cleansing cycle (*istibra'*) to ensure that she is not pregnant.⁵⁵

Permanent Impediments Affecting the Validity of the Marriage Contract

This category follows the Qur'anic prohibition in verse 4:23 dealing with marriages which cannot be validated with a change of circumstance:

'You are forbidden to take in marriage your mothers, your daughters, your sisters, your paternal and maternal aunts, the daughters of your brothers and sisters, your foster mothers, your foster sisters, the mothers of your wives, your stepdaughters who are in your charge, born of the wives with whom you have lain (it is no offence for you to marry your step-daughters if you have not consummated your marriage with their mothers), and the wives of your own begotten sons. Henceforth, you are also forbidden to take in marriage two sisters at one and the same time. Allah is forgiving and merciful.'⁵⁶

The affinity to sisters means that half-sisters sharing the same father or the same mother are outside the acceptable marriage sphere, but the prohibition does not include step-sisters related through the marriage of their parents.

The invalidity of the marriage to the above female blood/milk relatives who fall within the permanent marriage prohibition group (*mahram*) includes the corresponding male relatives who are accordingly prohibited from marrying the female equivalent to the above.

Stipulations and Conditions in a Marriage Contract

Marriage conditions provide a mirror to the issues of concern of the society from which they emanate. Today, Muslims still need to base their marriage conditions on the examples of relevant decisions that were used and considered acceptable in the early days of Islam, possibly with the addition of some relevant, modern-day adaptations. Provided that the main cornerstones to the Muslim marriage contract are present, then, as in any other contract, there is scope for a possible restructuring, according to the agreed expectations of the parties or their representatives in order to better suit the needs of the individual partners.⁵⁷ Consolidating this rule, in his famous comparative legal study on Islamic law, the Egyptian jurist Abdel Razzaq Al Sanhuuri described the connection between the two spheres: that of public law and of personal law. The personal rights and obligations arising from within the nature of the Muslim marriage contract (such as the husband's right to his wife's obedience and fidelity, and the wife's right to protection and financial maintenance from her husband) cannot be contractually altered or excluded without creating a detrimental outcome, which would affect public law and the public good.⁵⁸ As this chapter will reveal, these classic rules have been stretched and manipulated in the non-standard marriage contracts.⁵⁹

As with other legal contracts, the Hanbali School allows conditions to be introduced by the parties to the marriage contract to protect their current or future interests. Conditions are deemed valid, provided they do not alter the main purpose of the marriage contract or the basic rights naturally arising from it. Hanbali jurists insist upon the wife's right to have the marriage contract annulled should the husband fail to fulfil the agreed conditions imposed at the time of the contract. To support their argument they rely on the Qur'anic verse: 'You who believe, honour your

contracts.’⁶⁰ They also rely on a *hadith* (tradition) related to the Prophet: ‘Conditions that are most worthy to be implemented are those through which you have legalised physical intimacy.’⁶¹

Both jurists Ibn Al Qayyim and Ibn Taymiyyah, followers of Imam Ahmad Ibn Hanbal’s School (formally followed in Saudi Arabia), agree regarding the importance of adhering to agreed marriage conditions. Should any stipulated conditions be considered unacceptable by the court, only the conditions themselves will be deemed void, while the legality of the marriage itself will otherwise remain intact.

Conditions in the Saudi Arabian experience can also be imposed by mutually respected older members of the family in order to preserve the marriage, without the parties resorting to the courts. While some conditions are agreed at the time of the contract, others may be imposed at a later date by the court if one of the parties, usually the wife, makes a claim during the course of the marriage. This is in view of the fact that it is easier for the husband to impose rules and conditions within the marriage without resorting to the courts, as he naturally exercises stronger bargaining power, with divorce and discipline methods being his unchallenged right.

Some individuals enjoy the protection and peace of mind that these conditions have created for them, while others consider them to be useless. Examples of generally acceptable marriage conditions include a husband’s request that his wife does not handle his money without his permission, or that she does not admit into the marital home individuals of whom he does not approve. Equally viewed as acceptable are a wife’s conditions that her husband allows her to continue her education or that he provides her with a home separately from his family. A wife’s conditions can, however, be manipulated by the husband and their results rendered obsolete, or they can be ignored by a court of law when the need for their implementation arises. However, the husband’s strong bargaining position within the marriage extends, in the words of Muhammad Abdel Wahhab, to ‘his control over the woman’s reproductive capacities and the right to his wife’s obedience throughout the marriage’.⁶² Additional control can be exerted thanks to the husband’s power to bring in a new co-wife or to repudiate (divorce) an existing one; accordingly, a husband can introduce new conditions into the marriage without resorting to the courts.

Historical Examples of Muslim Marriage Contract Stipulations and Conditions

Relying on documentation recovered from court archives dating back to the seventeenth century in Egypt during the Ottoman rule, Abdal-Rahim Abdel-Rahman reports on information pertaining to the marriage conditions that were then used mainly by wives to protect their interests within the marriage.⁶³ These conditions included: the husband's non-absence from the marital home for a long or a specific period; his pledge not to beat his wife violently, leaving marks; his pledge not to take another wife or concubine; his agreement to reside in his wife's family home or with her family or her old mother; and his pledge not to change her residence against her will. Another very practical condition was the choice by the parties of one of the four Sunni legal schools to govern their marriage contract. This naturally made it easier to predict the outcome of the decision regarding any future dispute that might arise between them. The ability to choose this stipulation is not a possibility under current Saudi Arabian law.

Ottoman-Egyptian Conditions Restricting Polygamy

A historical point which is relevant here, on a comparative level, is to be found in documented court archives in nineteenth-century merchant family marriage contracts in Cairo; these have revealed that the majority of stipulations protecting the wife's interests were usually present in second marriages. A woman contracting her first marriage was less likely to include written stipulations into her marriage contract. This is viewed as mainly due to her lack of experience, and the assumption that nothing can go wrong.⁶⁴ Despite polygamy being legitimated by the *shari'ah*, it was obviously unacceptable in nineteenth-century Egyptian society, as is deduced from the conditions imposed by wives in their remarriage contracts, and from the fact that polygamy constituted one of the most common causes for divorce during that period. The fact that a husband wanted his divorced wife back despite her imposed conditions meant that he recognised that he had wronged her.⁶⁵

Abdel-Rahim draws the conclusion from these records that women in the Ottoman period, despite the stereotyped assumptions, had a direct role in determining their marriage conditions and also had direct access to the courts and to divorce and remarriage if they so wished.⁶⁶

Marriage Conditions in the Saudi Arabian Context

The current standard form for the Saudi Arabian marriage contract offers the opportunity for conditions to be introduced into the contract by either the husband or the wife. The form contains a blank section designated for the inclusion of stipulations by either one or both parties.

During the interviews, the legal aspects of the marriage were often addressed in the questions, such as whether conditions and stipulations had been introduced into the marriage contract and if so, the extent of their practical applicability. Other questions were: What was the prospective husband's and overall family reaction to them? Was there a social acceptability of them? Do they help in any way? Following their own experience, would they intend to include them in a daughter's future marriage contract, or even their own next marriage contract, if applicable? According to the majority of the survey interviews, it was concluded that the nature of the husband and his family (unforeseeable until the fact), together with the ability of the wife (or senior members of her family) to continue a civilised interaction, determined the outcome of the wife's marital future more actively than the existence of marriage conditions on paper.

Stipulations which include a protective financial and child custody clause, such as the payment by the husband of a large deferred dower (*mu'akhar sadak*), can in some cases induce a husband to think more carefully before indulging in polygamy. Practical issues, however, were also mentioned during the interviews, such as the deflating value of the sum of the deferred dower twenty years later, and the unlikelihood that the now ageing wife could have a new start through a career or another marriage; these can undermine the impact of the protective element of the conditions. There are also an increasing number of secretly contracted *misyar* marriages where an existing wife is unable to prove her husband's polygamy in court (to activate the divorce condition) yet can sense a negative change in her husband's attitude towards her. The silent mistreatment by the husband in some of these cases (as a result of his secret polygamy) can drive an existing wife to seek a divorce in court (without relying on the polygamy clause), thus losing all her earlier stipulated rights.

The practical application of stipulations in current marriage contracts in Saudi Arabia, according to experiences related to the author, and drawn from realities revealed through court experiences and marriage

arrangements, have proved that in some cases the enforcement of agreed conditions through the courts can be a challenging experience. Views amongst the parties taking part in the survey differed widely between those who favoured the inclusion of written conditions and those who considered them useless as, according to their experience, the husband can usually find ways to overcome the practical effect of these conditions if he sets his mind to it.

Divorce

A Muslim husband's prerogative to divorce his wife without a need to give reasons or justifications is not reciprocated by a similar right on the part of the wife. Although a wife can apply to a judge in court, giving reasons justifying her request for a divorce, the outcome remains at the judge's discretion. A wife can also acquire the right to divorce through a stipulation included into the marriage contract, provided it is accepted by the husband at the time of the marriage. This will give her an unconditional prerogative to divorce at her instigation without losing her right to her deferred dower.⁶⁷

A husband's right to take his wife back during her *'idda* period is explained below. A wife who has sought and obtained a divorce in court does not have an equal right to change her mind and instigate a return to the marital state without the husband's consent.

The 'idda (Post-Divorce Waiting) Period

As mentioned above, the Qur'anic imposition of the *'idda*, the waiting period before remarriage to another man required of widows (four months) and divorced women (three months and ten days), is not applicable to husbands. A husband may remarry up to his limit of three others, while his wife is going through her *'idda* waiting period. Similarly, a husband whose wife is deceased may marry four others immediately if he so wishes, while a widow whose husband has died must abstain for a specified *'idda* waiting period of four months and ten days. The exception to these set periods is when the wife is pregnant: her *'idda* period terminates when she gives birth to her child. This restriction is justified so as to protect the assertion of the descent of any potential offspring. The rule continues to apply to women who have passed the childbearing age.

Child Custody Following Divorce

The immediate consequences of the parents' divorce naturally spill out on to the lives of the children of the marriage. Fathers have custody of their sons from the age of seven and their daughters from the age of nine, unless the father can prove to the court the unsuitable moral character of their mother, in which case he obtains custody whatever their age. As regards travelling or registering at school, the presence or formally stamped written permission of the father (or male legal guardian) is essential even if the mother is allowed custody through a court decision. The father retains guardianship of his sons until they reach the age of twenty-one and guardianship of his daughters until they marry; their guardianship goes then to their husband for the duration of that marriage.

Divorce Procedures

While the result of a husband pronouncing divorce by repudiation is immediate and unquestioned, an application by a wife for a divorce in court is accompanied by an imposed conciliation period that the judge can cause to drag on for many years.⁶⁸ An estranged wife can wait needlessly for years, with the possibility of her remarriage to another becoming bleaker with her advancing age, while the husband engages in up to three other marriages during that period. The conciliation period is rarely imposed on a husband no matter how hasty or irresponsible his decision may be. In addition, as confirmed through interviews with divorcees, an estranged wife does not have a legally determined right to be informed whether or not she has been divorced.

The novelty of some of today's dilemmas has created even more injustice in the delivery of court decisions for divorce cases. In one case, divorce was sought by the wife, with the testimony of her seventeen-year-old son, on the grounds of excessive physical violence (supported by hospital reports), and the squandering of the family's only source of income, the salary of the wife, by her substance-addicted husband. Perhaps unfamiliar with the novel nature of substance addiction, the judge refused to grant the woman a divorce; instead, he sent her home to her husband, with the promise of heavenly rewards in the afterlife if she continued to apply her patience and obey the father of her children. The unequal right to divorce, which was put into the hands of husbands and responsible judges for the protection of the sanctity of marital ties seven centuries ago, has, in the wrong hands, been turned into a sentence for a lifetime of hardship and abuse.

*Marriages Ending in Divorce: Current Examples
from the Saudi Arabian Experience*

The unequal status between the parties to the marriage is highlighted through the example of a case currently pending in a Saudi Arabian court. The husband initially repudiated his wife in a bout of anger, while she was visiting her father's house. At the end of her *'idda* (three menstrual cycles' waiting period), he chose to take her back (*muraj'aa*). Refusing to return to him, she applied for a divorce in court, claiming mistreatment. When the repenting husband refused to divorce his wife, the judge, in agreement with him, suggested a reconciliation. With the wife continuing to insist on a divorce, the judge suggested she filed for a case of *khul'*.⁶⁹ The wife, however, had only received a token *mahr* of 50 Saudi Riyals, but the judge (who is accused by her lawyers of having an interest in the *khul'* settlement) asked for a sum of over a million Riyals to issue his final separation order. While the case is still pending, the wife remains legally under the control of her husband who, through the power of the court, has confiscated her passport and, for a period of sixteen months (at the time of writing), has prevented her from leaving the jurisdiction.

The difference between divorce and *khul'* is, briefly, as follows: in a standard divorce case in court, initiated by the wife, she retains her personal property including her marriage dower and any possessions given to her during the marriage. The concept of *khul'* relies on an incident from the tradition of the Prophet whereby a woman sought to absolve herself from a marriage to a man whom, through no fault of his, she found repulsive. The Prophet decided that in fairness to her faultless husband, she should return the plot of land (*hadika*) that her husband gave her as her dowry (*mahr*), and in return obtain an annulment of the marriage.

The concept of *khul'* has been heavily overstretched by some judges to cover many otherwise valid divorces, forcing some women to borrow and live a lifetime of hardship in order to escape living in a violent or destructive relationship. A report from the Saudi Ministry of Justice has confirmed that one third of divorce cases initiated by women in court now end as *khul'* settlements, often imposed by the judges; they are increasingly replacing the standard Islamic divorce in court available to women.⁷⁰

Different Styles of Marriage Contracts Currently Practised in the Muslim World

The main purpose of marriage in Islam is long-term cohabitation, procreation, the satisfaction of physical needs and the need for companionship that God has created within humanity.⁷¹ However, there are different types of marriage contract arrangements currently being practised in the Muslim world which do not fully comply with the standard, socially accepted Muslim marriage contract.

There may sometimes be financial, social or other factors causing a hidden element of duress that could influence one of the parties to accept a marriage contract and thereby enter into an unequal contractual relationship in order to seek salvation from a difficult situation. The effect of these concessions on the quality and essence of the marriage are detrimental; however, legally speaking, the fact that a party enters into a contract from a disadvantaged position does not render the basic contract invalid, provided that, technically, there were no obvious elements of duress.

Some Points in Common between the Non-Standard Marriages

Although these marriage arrangements may differ from each other, they have many similarities. They tend to borrow from each other, but claim to be different from one another. As ‘Abdullah Kamal puts it in his book that researches the subject: ‘These marriages have been created as an answer to unresolved social dilemmas that cannot be addressed by the requirements of the socially imposed standard marriage institution.’⁷²

The types of marriage contracts to be discussed presently are all brought about by the usual offer and acceptance, but lack one or more of the other requirements of the standard Muslim contract. They may also, but not exclusively, be socially unacceptable private arrangements. There are usually no registers or statistics created for these marriages due to their often secret nature. This makes it difficult to assess their true extent.

The following structuring is attempted as an illustration of the geographical and social distinctions present between these non-standard marriage contracts, but does not exclude the grey areas of similarities in existence amongst many, if not all of them. The relevance of these different types of non-standard marriage practices to the research at hand lies in the fact that a number of the Saudi men and women of the researched group have direct family/marital experiences with and

connections to these Arab/Muslim countries where these marriages are practised.

'Urfi Marriages in Egypt

The *'urfi* marriage contract in Egypt is considered by local jurists to be legally binding when it contains the basic requirements of the offer of marriage by one party, and the acceptance by the other, and when it is concluded in the presence of two male witnesses.⁷³ Its main divergence from the standard Egyptian marriage contract lies in its lack of registration at the marriage register. The legal implications attached to this lack of registration arise only in cases where there is a denial in court, by the husband, of the marriage contract. According to the fourth clause of Section 99 of the 1931 Judicial Court Regulations, reviewed by the 1985 law, a court in Egypt cannot hear or approve a case regarding an undocumented marriage contract claimed to have taken place after 1 August 1931, where there is a denial of the marriage by the husband. This section also applies to claims of legitimacy for the children of the marriage. The onus in these cases falls on the wife to prove that the marriage has taken place by producing the marriage contract documentation, if available.⁷⁴ Despite the above-mentioned restrictions, *'urfi* marriages are practised by a very wide range of people in Egypt from differing social, educational and economic backgrounds.⁷⁵

Some reasons presented as potentially encouraging husbands or wives to choose this form of marriage, as opposed to the standard, state-documented marriage, include the fact that according to Section 100 of the 1985 legal amendments to Section 25 of the 1929 Egyptian Law of Personal Status,⁷⁶ a prospective husband contracting a (registered) marriage must make a statement regarding his marital status. In cases where he is already married, he must supply the name(s) and residential address(es) of the existing wife (wives) who will, in turn, be notified by the court as to their husband's new marriage. An existing wife may, under this section, seek divorce from her polygamous husband within one year of her being notified of his remarriage, if such remarriage has caused her an emotional or a material loss, making it difficult for the marriage to continue between them. The above-mentioned law also gives the wife, who has custody of the children of the marriage (*hadhana*), the right to keep the marital home after the divorce. The section does not interfere with an additional right of the wife to divorce, stemming from a previous

inclusion of a marital stipulation to the effect that she may also seek divorce from her husband in court if he was to take another wife.

This explains why it is easier for a married man to marry a new wife secretly, *'urfi* style, without having to inform an existing wife and risking the possibility of divorce and loss of the matrimonial home.

Other reasons offered for choosing this type of marriage are the socially unacceptable incompatibilities of the parties, and discrepancies in their social, material or educational standards, which makes it essential for one or both parties to keep their marriage a secret. A further reason given is the fear of some potential *'urfi* wives of losing their rights to their widow pensions or other forms of social benefits that they receive, should their new marital status become known to the authorities.⁷⁷ The *'urfi* marriages amongst this category of wives are reported to have increased after the 1967 war between Egypt and Israel: secret marriages, *'urfi* style, allowed war widows to continue to receive their late husbands' pensions while, at the same time, being able to satisfy their physical needs.⁷⁸

'Urfi marriages are also practised by university students and young people, who cannot meet the financial requirements of a socially acceptable standard marriage. It is also used in media circles amongst actors and singers, who may not wish to commit to their partners on a long-term basis, yet wish to remain within religious boundaries. They are apparently also used in some cases of prostitution, where those involved wish to throw a cloak of legitimacy on their practices.⁷⁹

Mut'a Marriages Practised amongst Shi'i Muslims

The *mut'a* marriage is described as a 'temporary' marriage contract where the two parties have agreed on a specific duration for the marriage in return for an agreed sum of money to be paid by the prospective husband as a dowry to the bride. At the end of the set period, the marriage contract will naturally lapse without the need for a separation or divorce. There is also a difference in the *'idda* (waiting) period occurring after the separation, which consists of one menstrual cycle as opposed to the usual three cycles imposed on the divorcee at the end of a regular marriage contract (with the purpose of determining the paternity of any ensuing offspring).

The practice originated in the early days of Islam when men were required to go on lengthy military expeditions, leaving their wives behind. According to the historian Ibn Mas'ud:

‘We were on an expedition with the Messenger of Allah (peace be upon him) and did not have our wives with us, so we asked Allah’s Messenger (peace be upon him): “Should we not castrate ourselves?” He forbade us to do so but permitted us to contract marriages with local women for a specified period of time, giving them our cloaks as a dower (*mahr*).’⁸⁰

The licence for *mut’a* was given on that occasion out of necessity. *Mut’a* marriages were later specifically forbidden by the Prophet Muhammad on three different occasions.⁸¹ However, they have been adopted by Shi’i imams as acceptable and in some cases even as commendable at any time and under all circumstances.⁸² Nayereh Tohidi reports how Imam Khomeini’s government re-instated polygamy and temporary marriages in Iran.⁸³ Following the Iranian Revolution, legalised prostitution was abolished and an increase of ‘government backed’ *mut’a* marriage houses was introduced.⁸⁴

Mut’a marriages are viewed as detrimental to the social status and position of the women who practise them on a regular basis, even in societies where the religious elite condone them. They carry a stigma that prevents these same religious authorities from allowing their sisters and daughters from getting involved in them.⁸⁵ Some *Ithna ‘Ashari* Shi’i imams have warned virgin girls against contracting *mut’a* marriages as it could jeopardise any possible future long-term marriages and, in some cases, they imposed the condition that they can only be contracted with the permission of their fathers.⁸⁶

It is reported that in 2002 there were 20,000 classified women available for the potential practice of *mut’a* marriage in the Iranian city of Qum (the business being professionally run using mobile telephones) and hundreds of secret *mut’a* houses in the capital Tehran.⁸⁷

Mut’a marriage contracts are rejected by Sunni, Wahhabi jurists who consider that a condition explicitly expressing the time duration set for the marriage renders the marriage invalid.⁸⁸ Other types of increasingly similar non-standard marriage contracts, known by other names, are, however, gaining approval from a handful of today’s Sunni jurists, as will be seen in the following subsections.

Travel Marriages

Travel marriages, as the name suggests, are marriages contracted in a country other than that of the husband’s residence, usually with a local

wife. The practice originated in the early days of Islam when Muslim conquerors travelled to faraway lands in order to spread the new religion. They often spent long periods of time in these new territories and married from amongst the native people.

Traditionally, according to the literature, men who became established in a new country resorted to polygamy with a willing or unknowing local woman, while their first families remained back at home. The practice was valid in nineteenth-century Mecca, as reported by the historian Snouck Hurgonje, where Muslim male pilgrims, who stayed in Mecca for a limited time, sought a temporary marriage with local women.⁸⁹

The situation is repeating itself today; with the high expatriate employee presence in Saudi Arabia, travel marriages are reported (in a newspaper article) as being arranged by professional *khatibas* (marriage mediators) between Saudi Arabian women and men of Indian, Syrian and Egyptian origin. The article does not specify whether or not permission to marry a foreigner (in compliance with the Marriage Nationality regulation) is being sought, from the Ministry of Interior, in these instances.⁹⁰

According to information obtained from the survey interviews, a modern-day example of the use of this form of marriage is illustrated by one serially polygamous husband:

‘I come from a traditional background and chose my first wife, the mother of my children accordingly. My work has expanded and requires that I travel extensively leaving my family at home. Polygamy protects me from sin and venereal diseases. The women I marry are all virgins but not allowed to have children and do not come to my home town with me. I reward them and their families financially and treat them with love and kindness while we are together. When I sense that they need more than I can offer, I divorce them and let them make the life of their choice whilst allowing them to keep all the financial benefits. My first wife remains my favourite.’

Within a similar context, but with a less glamorous lifestyle on offer to his second wife, another husband explained to the author his reason for engaging in a polygamous travel marriage: ‘My job took me to another country and my first wife preferred to stay behind as she had a job and the children were still at school. I was tired of living the bachelor life again and needed a wife to look after me.’

According to information obtained through media reports, travel marriages in their modern-day context are recent adaptations but are now widely practised as a result of the newly opened economic foreign investment policy. In Syria they are humorously referred to as *mahatta* (station) marriages. Investors, usually from Arab Gulf countries, can choose to set up new homes, and start families, to accommodate their needs during their time spent in Syria (or Lebanon or Egypt). The legality of these marriages was declared acceptable, provided the wife is aware of her future husband's travelling nature, at the time of the contract, and there is no agreed time limit for the duration of the marriage, that would equate it to the Shi'i *mut'a* marriage.⁹¹ However, a warning is offered by Syrian judge Sa'dy Abu Jayb against the lack of bonding between the parties to these marriages and the possibility of ensuing social problems that could occur as a result of the husband leaving his young wife alone for regular, lengthy periods of time.⁹²

These marriages borrow their religious legality from their historical origin, so that the parties involved enjoy the peace of mind of operating within the framework of religion. Many of these marriages take place between men from Arab Gulf countries and women from lower financial backgrounds in Egypt, Lebanon and Syria. A thriving business is thus created in many countries, involving the guardians of the girls, the marriage contractors, the hotels and even the taxi drivers. Reported practices in today's travel marriages include re-occurring incidents where the prospective husband travels to the new land for the sole purpose of contracting a new marriage, while his existing wife or wives remain at home. Difficulties naturally arise when the husband returns to his country of origin leaving a pregnant wife behind. She may or may not ever hear from him again, and the same uncertainty applies to the possibility of financial maintenance for her or the children of the marriage. As these marriages are usually registered, the ensuing offspring will carry the nationality of their father which, according to the laws of some of their countries of birth (for example, Egypt), prevents them from enjoying the benefits of social services otherwise enjoyed by the locals, most importantly, that of free education.⁹³

The practice of travel marriages has also been exported outside the Arab world; there are media reports of Arab men working for relief agencies in Bosnia making use of the practice by marrying local Bosnian girls 'with the secret intent to divorce'. A marriage 'market' was thus created

by Arabs who have lived there longer, speak the language and are familiar with the required local procedures. It is reported that a local *Sheikh* (religious authority) legalised the validity of divorce by repudiation which is forwarded to the wife by email. Reasons why these marriages do not last include the husband's fear of upsetting his 'main' wife and mother of his children back home, linked with the lack of guilt towards the 'travel wife' in what is perceived by the husband as the liberal Western local social standards that tend to accept the situation of a divorced woman more easily than before.⁹⁴

The Misyar Marriage as Practised in the Gulf Region

A new form of polygamy has evolved to suit the changing needs of certain sections of Saudi Arabian society. Many but not all *misyar* marriages are polygamous. This accounts for the section being treated more substantially than the other sections on similar 'deviating' forms of marriage contracts in the Muslim world, as it relates directly to the main focus of this work. The term *misyar* originates from the Arabic word root *sara* (to walk), *yasiru* (he walks). This etymology stems from the lack of the usual marital ties and responsibility that the standard Muslim marriage entails: the husband in this type of marriage is likened to a light traveller, unburdened by luggage. Some researchers have found the word to have been used in Nejd, the Northern Province of Saudi Arabia, to describe visits by the local men to their neighbours, usually taking place in the daytime. They likened these types of visits to those a *misyar* marriage husband conducts with his *misyar* wife: occasional or regular, short visits taking place during daylight hours.⁹⁵

This type of marriage only began to appear as a Saudi Arabian and Gulf area social phenomenon during the past decade; today it has become so widely spread and propagated in newspaper and magazine advertisements, internet websites and amongst the imams of mosques that it seems to be affecting the stability of the standard marriage social scene. The novelty of the *misyar* marriage practice can be seen by looking at a research study carried out in the Western Province of Saudi Arabia, the Hijaz, in 1983, under a section entitled 'Marriage in Modern Day Saudi Society': no mention whatsoever was made of *misyar* marriages since, at that time, they had not yet been heard of or socially invented.⁹⁶

Internet websites with a religious flavour have recently contributed to a wider spread of *misyar* marriages. In return for an agreed fee, the

website introduces potential parties ‘within the limits of Islamic *shari’ah*’ but leaves the contracting of the marriage to their discretion.⁹⁷

Because *misyar* marriages are a new addition to the list of marriage contracts that diverge from the standard marriage contract under Islamic law, researchers and jurists tackling this issue have sometimes confused it with the *‘urfi* marriages practised in Egypt and with secret marriages.⁹⁸ The reasons for this confusion stem from the novelty of the concept, so that those approaching the *‘ulema* for a *fatwa* (religious opinion) on this type of marriage may pose their questions in rather different ways and thus receive differing interpretations.⁹⁹ The existence of this new-style marriage is in itself unusual in a jurisdiction that strictly follows the Sunni, Hanbali School of Islamic law, since *misyar* marriages borrow some aspects of the *mut’a* marriage, which is widely acceptable in the Shi’a, *Ithna Ashari* Islamic school of thought yet totally rejected by the ruling Wahhabi religious group in Saudi Arabia. Some *‘ulema* give *fatwas* which treat *misyar* as merely *zina* (fornication),¹⁰⁰ while others discuss its validity despite its possible drawbacks.¹⁰¹

The Egyptian Muslim scholar Sheikh Yusuf Al Qardawi¹⁰² declares the *misyar* marriage to be a valid marriage contract in which the wife has agreed to give away some of her rights, such as maintenance from her husband and the right to spend nights as opposed to days with him. These marriages, he states, are a type of polygamy as they normally take place when a married man is contracting a second or a third marriage. He also maintains that the choice of the name of the marriage arrangement, *misyar*, arises because the husband can walk all over his wife.¹⁰³ This view contradicts that of the earlier mentioned respected Egyptian jurist, Abdel Razzaq Al Sanhuuri, who considers as invalid a condition which takes away an implied Islamic marital right (see p. 93).

Sheikh Dr Al Khudayri considers the marriage to be valid despite finding it demeaning for a woman of reasonable circumstances; however, he views the arrangement as a compromise ‘for an ageing spinster or a handicapped woman’. In his opinion, stipulations which deprive the wife of her right to children or to maintenance from her husband are void but the marriage contract itself remains valid.¹⁰⁴

A judge from Mecca and member of the Committee of the Great ‘Ulema in the Kingdom of Saudi Arabia (*Hay’at Kibar al ‘Ulema*), Sheikh Abdullah bin Mune’e’, gave a list of requirements which he assumes to be present in this marriage arrangement. Accordingly, this was his given *fatwa*:

‘The *misyar* marriage contract is formed through the offer and acceptance of the parties, with the approval of a male guardian representing the female party to the contract, in the presence of two male witnesses, and the payment of the dowry as agreed between the parties. The validity of the contract naturally rests on the fitness of the parties to enter into a marriage contract.’¹⁰⁵

According to the *fatwa*, the validity of the marriage rests on the fulfilment of all the standard marital rights, such as a marital home provided by the husband, maintenance, inheritance rights in the case of death of the parties, legitimacy of the offspring of the marriage, the husband’s right to the unconditional sexual availability of his wife, the provision of unilateral divorce and the requirements of the *’idda* (waiting) period on the wife in cases of divorce or widowhood. Unfortunately, Sheikh Mune’i, while issuing the above *fatwa*, seemed unaware of the many other *misyar* marriages taking place in Saudi Arabia, without the enforcement of the Islamic marriage requirements of a dower, the wife’s right to childbearing or her implied right to maintenance from her husband and did not include relevant guidelines for them.

Further public religious acceptability of *misyar* marriages came about in an interview on Dubai Satellite Channel, when Sheikh al Kybaysi, Head of Postgraduate Studies at the University of the Emirates and Member of the Board of the Islamic University in Medina, openly expressed the lack of acceptability of polygamy. Professing to be on ‘women’s side’, he added that despite his wife’s old age and the fact that she bore five daughters but no son, he did not intend to bring another wife into the home, in the same way that he would not wish to witness the same thing happening to one of his own daughters. He explained that polygamy, in this situation, would express ingratitude in view of their long-term relationship together, yet he declared that a marriage contract with sexual fulfilment as its main purpose was an acceptable alternative. It offered a solution for the fulfilment of a man’s sexual impulses that are experienced at the sight of a beautiful woman, while keeping within the confines of Islamic law, provided that the bride’s guardian *wali amr* was agreeable to the contract and two witnesses are present.¹⁰⁶ A *fatwa* was in this manner pronounced by one of Saudi Arabia’s recognised religious authorities, introducing religious acceptability to secret *misyar* marriages. Sheikh Al Kybaysi did not specify whether or not he would be happy to

act as the favourably inclined *wali amr* to any of his own daughters if they were to indulge in secret *misyar* marriages.

The different *fatwas* relating to *misyar* did not go beyond blessing these marriages; without setting long-term working legal solutions for the dilemmas that these marriages have created, the losers of this religiously promoted situation remain the *misyar* wife and the offspring of the marriage. Social acceptability of the wives involved in these marriages is far below that available to the female partners in an open, more standard polygamous arrangement.

DESCRIPTION AND DEFINITION OF THE POSSIBLE VARIATIONS IN THE *MISYAR* MARRIAGE

Under Hanbali law, marriage conditions agreed upon at the time of the contract remain enforceable throughout the term of the marriage. The legally acknowledged definition of *misyar* marriages, as currently understood by the Saudi courts, was given to the author by a practising Saudi Arabian lawyer: *misyar* is a valid marriage contract, legitimated through the presence of two male witnesses (*shuhood*), the presence and consent of the bride's legal guardian (*wali amr*) and payment by the husband of the agreed dower (*mahr*). The only difference understood to exist between this form of *misyar* marriage contract and a standard marriage contract is that the wife is relinquishing (*tanazul*) her right to overnight stay with her husband (*mabit*). This specific waiver is automatically understood by current legal practitioners as a loss of her Islamic marital right to shelter from her husband. Provided the marriage has been registered in the local civil registry, other rights arising from a regular marriage such as inheritance are not affected.

This waiver of right is understood as emanating from Wahhabi theory. Regarding this relinquishing of right, Delong-Bas explains how Imam Abd al Wahhab allowed a woman to 'decide to give up her days or nights to another' if she so wished: 'The man had no right to seize them, even if it was to make peace with a co-wife.'¹⁰⁷ The reality of this voluntary charitable act is explained by wives who gave up their rights to a co-wife who was generally more favoured by their husbands.¹⁰⁸

To show the wide-ranging marriage styles included within the *misyar* umbrella, a newspaper report summarised other differences between a standard and a *misyar* marriage (not falling within the above-mentioned acknowledged legal definition), as follows: in a standard marriage the

husband and wife share married life in a complete manner, and the wife enjoys all her legal rights, unlike a *misyar* wife. The husband contributes his time and money towards the upbringing of his offspring while a *misyar* husband leaves the entire moral and financial responsibility of the children born to the marriage to their mother.¹⁰⁹ *Misyar* marriages can backfire by raising accusations against the couple and especially against the *misyar* wife who is wrongly seen by neighbours as secretly receiving regular visits from a 'strange' man into her home. In some of these reported cases, the husband is described as 'sneaking in like a burglar after midnight and returning to his main wife in the early hours of the morning'.¹¹⁰

Speculations are raised as to the length of *misyar* marriages, which are usually said to be short-term arrangements, nearly always ending in divorce.¹¹¹ This brings into question the argument in favour of *misyar* as presenting a solution for the rising number of spinsters and divorcees; its short life creates a new set of social problems that only time will reveal.¹¹²

Because the relationship does not involve the obligations which would normally accompany a regular Muslim polygamous marriage, the *misyar* marriage arrangement seems to fit the description of what would be known as 'an affair' in more permissive societies. Some *misyar* husbands and wives rely on their mobile telephones as the only permanent link between them. They call to arrange a meeting at a hotel room or a short-let furnished flat to consummate their marriage when it is convenient for both parties since they do not have a permanent physical basis for the marriage.¹¹³ It is clear that the stringent laws on 'morality' in existence in the area are creating a need for such marriages.

Many *misyar* wives, who begin their married lives with a lustful attachment to their polygamous husband, assume (but are later disappointed) that the numerous surreptitious, passionate moments will continue to be a feature of their relationship, making it worth giving up other traditional rights. But there are many cases where *misyar* wives were discarded by their husbands and left hanging as they waited for a divorce; the situation is still looked upon as the wife's fault for initially agreeing to sign away her Islamic rights.

REASONS WHY PARTIES CHOOSE A *MISYAR*-STYLE MARRIAGE

From the point of view of the young bachelor, *misyar* is thought to have come as a backlash to high dowers, an investment which in itself

dictates a long-term marital commitment. Although *misyar* marriages are often, but not always, polygamous, young men who do not feel ready for a full-scale marriage with home responsibilities and children opt for a *misyar* arrangement. The expensive demands currently made by the family of a prospective (standard marriage) bride, such as independent, lavishly furnished accommodation, with jewellery and a dowry, are beyond the means of many young men who find a solution in a *misyar* marriage.¹¹⁴ The arrangement is described by the Saudi media as offering men free five-star hotel treatment with food and physical gratification included, while most of these men do not contribute anything in return.¹¹⁵

The second type of *misyar* arrangement involves the married man who frequents non-polygamous social circles. This type of polygamous marriage represents a religiously safe equivalent to the extra-marital affair, and allows a husband to continue with his outward appearance of committed monogamy. It alleviates the risk of upsetting his first, main wife while providing a 'legal' answer for the male need for variety in partners without incurring any of the usual repercussions or ensuing social or financial obligations from the husband's side.¹¹⁶ In most but not all cases, the husband is not bound by the Islamic requirement of paying maintenance to his wife; this situation depends on the marital conditions pre-agreed by the parties. Cases exist where the husband, still within the locally understood *misyar* marriage context, provides his wife with a home and a luxurious lifestyle for the duration of the marriage.

From a third perspective, *misyar* is also sought by women who do not wish to take on the full responsibilities that usually accompany Saudi married life or by spinsters or divorcees who want to have children.¹¹⁷ Unmarried women who are financially independent and unable to secure a standard marriage may settle for a *misyar* marriage through fear of spinsterhood. This arrangement has been classified as a form of marriage of convenience.¹¹⁸ However, there are women fitting the above description who are willing to accept a standard polygamous marriage but not a *misyar* marriage as they consider it to be demeaning to a wife.¹¹⁹

Zawaj Al Badal (Marriage by Exchange)

As the name (*al badal*, also known as *shighaar*) suggests, this is a marriage contract that rests on an essential condition: if a man is to marry the daughter or the sister of another man, the brother or the father in question must be given the daughter or sister of this other man (the father-in-law

or brother-in-law) in marriage in exchange. The need for the husband to offer a dower to his bride is usually eliminated since the exchange in brides is of an equal basis.

These marriage arrangements have a historical tribal origin and are not of an Islamic nature. The practice of *shighaar* was expressly forbidden by the Prophet Muhammad¹²⁰ as it deprives the bride of her right to a tangible *mahr* (dower) and resembles 'picking up a woman without paying any dowry at the time of her marriage'.¹²¹ The Companions (*sahaba*) of the Prophet are reported to have separated the partners in a *shighaar* arrangement; the marriage was considered to be invalid as the bride did not receive a dower, and therefore divorce was not required. Subsequent Islamic jurists, followers of Malik and Shafii schools, have legalised *shighaar* as long as a *mahr* (even a postponed one) was agreed upon as part of the marriage contract.¹²²

Despite the religious restriction, there are media reports of cases where these marriage-exchange contracts are currently practised in different parts of Saudi Arabia. These include reports of fathers and brothers who force their daughters and sisters to marry incompatible men (up to forty years their senior or men of unequal educational standard) in order to take the new father-in-law or brother-in-law's daughter or sister as a wife. The 'exchange' element in these marriage arrangements can often go as far as causing a subsequent 'spiteful' divorce between the parallel couple should one couple's marriage end up in divorce, with all the ensuing trauma that this repudiation can cause to the 'exchanged' wife and children of that marriage.¹²³ This is an additional case of abuse by the legal guardian (*wali*) of his powers over the female entrusted under his care for life, as a result of the local interpretation of the law.¹²⁴

Misyaf Marriages in Saudi Arabia

The newest of the non-standard marriage contracts in Saudi Arabia is reported to be the *misyaf* (summer-holiday) style marriage,¹²⁵ a cross between the travel and *mut'a* marriages described in the earlier sections. The duration of the marriage in this case is pre-agreed, mainly based on the length of a specific trip or holiday. This is usually the long summer vacation, hence the name. The contract has two different arrangements, which carry the same name, depending on the gender of the initiating party. The following is a clarification of these terms:

- 1) The first type of *misayaf* marriage consists of a contract concluded between a (usually married) 'business man' and a woman who meets his specific requirements. These requirements often include intelligence, social know-how, mastery of the English language, a high level of physical beauty and the willingness to mix with his business associates without a *hijab* (Muslim women's head cover) or insistence on segregation. Following the potential husband's payment of the high dower, the *misayaf* bride will accompany him on his business trip and act as his wife and companion throughout its duration.
- 2) Another type of *misayaf* marriage is said to be used by business women in fulfilment of the local restriction that imposes the presence of a male relative (*mahram*) to enable these women to travel out of Saudi Arabia, in pursuance of their work.¹²⁶

The research distinguishes between what can be described as a luxury, for the business man requesting the legalised company of what in other cultures would come under the category of a female escort, and, in the case of the business women, as a compromise, a pragmatic solution created to bypass a legal impediment. The requirement of a male guardian to accompany a travelling Saudi female has created an otherwise insurmountable obstacle in the way of pursuing what in many cases represents the livelihood of an entire household headed by the said 'business women', or, at least, the means for professional advancement.

An article confirming the above analysis describes cases whereby the 'business woman' who initiates the marriage expressly stipulates that the *misayaf* husband leaves her alone throughout the trip, only to return with her at the end of the business trip and grant her the agreed divorce in return for the favour of having played the role of her *mahram*. Any expenses he has incurred during the trip are paid for out of her profits.

The travel restriction was imposed by the legislator with the purpose of protecting women. But since it does not provide financial solutions for these women and their dependents, it has instead made them more vulnerable. *Misayaf* is one of the most financially burdensome, legally dangerous tricks used by women since there is no legal guarantee that the acquired husband will agree to a smooth divorce in every case. However, for the business man using the *misayaf* marriage, a simple sentence uttering

the word 'divorce' will suffice to end his relationship with his 'wife', entirely at his discretion.

Secret Marriages

These are closely related to all the above yet their religious legality is often questionable, as seen in chapter 5, section 'Publicity of the Marriage' (pp. 88–90). The standard marriage contract consists of an offer and an acceptance, carried out in the presence of two male witnesses. However, according to some legal interpretations, mainly relying on the interpretation of Imam Abu Hanifa, a marriage contracted between a consenting adult male and female is considered valid even without the presence of the two witnesses.¹²⁷ Imam Ahmad Al Hanafi is reported to have said: 'I am amazed at a Hanafi man who can still manage to fornicate' (meaning to commit the crime of *zina*). He strove to relax the conditions validating 'marriage' between mature, consenting adults to help them avoid the '*hadd*' crime of fornication.¹²⁸

The secret nature of these marriages, their lack of registration and the parties' initial intention to stay away from the local courts, allows them to choose the school of law of their choice to 'legalise' their union, in this case, the Hanafi interpretation. Some Saudi men and women, who have become familiar with this practice through educational stays in Egypt or Syria where there is a Hanafi following, have brought it back with them.

Secret marriages can prove to be emotionally stressful for both parties as they constantly face the fear of being 'discovered'. They are also problematic in cases where children are born; claims of inheritance can come as a shock to a widow and her children when they are faced with another wife and children they knew nothing about.¹²⁹ There may be strong disadvantages in cases where the husband and wife lose touch with each other. The wife can become uncertain as to whether she is still married (in the religious context) or if the husband has repudiated her without informing her. The usual option available to a wife in a standard marriage contract is an application to the court for dissolution of the marriage. This solution is not a practical one for the wife in this arrangement, if the secrecy of the marriage remains of great importance to her.

Secret marriages may or may not include some of the '*urfi*' marriages and some of the '*misyar*' marriages discussed in this chapter:

the similarity exists, unless they were not contracted secretly in the first place, or until they become publicly known for whatever reason.

No statistics are available because of the secret nature of these marriages, yet a Saudi newspaper report¹³⁰ reveals the widespread nature of these marriages to the detriment, usually, of the woman. Even if the arrangement provides a needy woman with the financial support (in the form of maintenance from her husband), the secrecy element of the marriage is reported to destroy her self-esteem in the long term as, although married, socially she remains a spinster, and the husband does not provide her with the time and attention that are naturally her right as a wife.¹³¹ And the husband, despite the physical gratification that the marriage may bring to him, will suffer guilt because of his wife's suffering.¹³²

Hiba marriages

Hiba marriages originate from an incident quoted in the Qur'an¹³³ where a Muslim woman in Medina offered herself in marriage to the Prophet, in this case without the presence of a guardian (*wali*). In that specific case no dowry (*mahr*) was required on the part of the Prophet. However, it was later generally agreed that a *mahr* was required from other Muslim men embarking on *hiba* marriages. Opinions still vary as to the entitlement to a dower for the wife in a *hiba* marriage, but it is agreed that there was no entitlement to a dower from the Prophet in the incident quoted.¹³⁴

This contract can take the form of an adult woman 'offering' (*wahabtuka nafsi* as in *hiba*, offering: I offer myself to you). The marriage is completed upon the acceptance of the offer by the man to whom she has offered herself. According to the Hanafi School of thought, *hiba* marriages are considered valid even without the introduction of the two male witnesses and the publicity element. According to this rule, a woman can offer herself in marriage to a potential male partner, rather than the offer being put forward by the man. *Hiba* marriages have since been used by some to legalise the occurrence of secret marriages, as seen in the previous subsection. However, according to Ibn Taymiyyah of the Hanbali School of thought (generally followed by the courts in Saudi Arabia), this marriage, referred to as *musafaha* (spilling out), is ruled as invalid, on the basis that a woman cannot be married without the presence of her male guardian, her *wali*.¹³⁵

Conclusion

The different forms and elaborations of the Muslim marriage contract are only a reflection of the intricacies facing the societies from which they have surfaced or in which they hide. Almost all of the arrangements explored in this chapter have the common denominator of being actively or at least potentially marriages of a polygamous nature. In view of the practical ease of divorce, there is no long-term assurance nor predictability as to which direction these contracts will eventually take.

This chapter has explored the important status accorded by the majority of jurisdictions to the bride's legal guardian (*wali*). His consent and presence, and his presumed, uncontested knowledge of the bride's best interests, is contrary to some reported marriage realities today. Polygamous marriages can be coercively contracted by legal guardians (brothers or polygamous fathers) to the detriment of the women within their charge in order to satisfy a jealous/nagging wife and/or to profit from a promised employment opportunity or a large dower. Malpractices abound where the payment of the *mahr* is made directly to the guardian (*wali amr*) of the bride (for presumed safekeeping), thus depriving her of what may be her once-in-a-lifetime capital to which she is entitled according to Islamic tradition.

The traditional religious emphasis is on husbands to finance the marriage, beginning with the payment of a dower, followed by the implied duty to feed, lodge and clothe his wife throughout the marriage, in exchange for a wife's total obedience and continuous sexual availability. This traditional dower (*mahr*) payment and maintenance by the husband has, in many 'modern' cases today, either been waived or reduced to a token payment for the sake of the contract, yet remarkably this lack of financial benevolence has not been reviewed as a reason for the alteration of the superior rights enjoyed by the husband in these contracts. Even in cases where the bride (or her guardian) receives a dower, there is a publicly acknowledged trend whereby, at a later date, estranged husbands (often polygamously married to other women), in collaboration with judges in court and abusing the concept of *khul'*, demand the return of the dower payment to obtain freedom from an abusive or a sham marriage.

Some non-standard wives have less marital responsibilities in return for fewer rights, whereas most husbands in the same situation continue to enjoy the authority bestowed upon them by a traditional marriage, and most importantly continue to have the right of uncontested divorce by

repudiation, and, naturally, that of polygamy.¹³⁶ Legal/religious legislation remains unwilling to deal directly with the socio-economic changes lying behind the needs that they have created. Religious authorities are somewhat divided regarding the benefits resulting from these marriages. The majority of *fatwas* choose to throw a cloak of legality on the 'new' marriages, usually omitting to include solutions that the parties, and more realistically the wives, can fall back on if the marriages end up in separation or divorce.¹³⁷ What is declared as lawful from a strictly legal point of view may be interpreted as unlawful from a religious point of view and vice versa,¹³⁸ leaving many unresolved, grey areas. This array of what the chapter describes as non-standard marriages, many of them polygamous, all have a common denominator of compromising the Islamically implied marital rights of the female partner. Frank Vogel pointed out how the long-term results of *fatwas* are more permanent than those of court rulings in the Saudi jurisdiction. This is because, as this work has shown,¹³⁹ a court judgment can be ignored or reversed in the next similar case whereas a *fatwa* 'in its generality and abstraction, could influence many people and events'.¹⁴⁰

Examples of marriage conditions from historical and modern sources indicate the universal view of the detrimental effects of the introduction of polygamy on an initially monogamous partnership. The conditions discussed have repeatedly shown an active attempt by prospective wives and their guardians to protect themselves from a polygamous outcome to their initially monogamous marriage. Legal protection can only provide an existing wife with the right to divorce without losing her right to the agreed deferred dower (*mu'akhar sadak*), maintenance and lodging during the three cycles of the *'idda* period. After that period she no longer has a right to maintenance or lodging unless she still has custody of children from the marriage. This is not always a favourable choice for an older, financially dependent wife. This situation accounts for the reason why many existing wives refrain from enforcing these conditions when their husbands bring a co-wife into the marriage, thus increasing the numbers of polygamous marriages.¹⁴¹

As related above, the practical application of stipulations in the marriage contracts and the enforcement of agreed conditions in court can be a challenging experience. Stipulations customising a marriage can generally only improve the chances of a better partnership if there is goodwill and cooperation on both sides, as well as an efficient, realistic

and sympathetic court system. The honourable nature and extent of the commitment of the husband are usually the most important elements in the successful application and enforcement of any agreed marriage conditions.

The result of the usefulness or applicability of marriage conditions lies in the adaptability of the parties to the contract and their continued ability to negotiate and re-negotiate their terms as they go along. The success of many marriages that at the outset seemed to be heading towards failure often lies in the acquired female art of manipulation; some unions that began as secret, *misyar* or *'urfi* arrangements have ended up becoming the main or even the only marriage in the husband's life, as he decided to discard his other marital commitments to nurture and preserve what he had originally envisaged as no more than a legalised fling.

The uncertainty of the outcome of a divorce has also been a topic of concern. Estranged wives remain legally in the dark, not knowing nor having the right to be informed by a determined legal body whether or not they have been divorced or taken back (*muraj'a*) by their absent/estranged husbands. The resulting damage lies in their inability to start another marriage as they wait, while their estranged husbands can contract two, three or four new families. Additionally, this state of uncertainty in the women's marital status lays a statistical question mark on the true number of polygamous marriages.

NOTES

- 1 Ahmad bin Abdullah bin Baz, *Al Nizam Al Siyasi wa Al Dusturi li Al Mamlaka Al Arabia Al Sa'udia* (Political and Constitutional Regulations in the Kingdom of Saudi Arabia), published by Dar Al Khiraiji Li Al Nashr Wa Al Tawzee' (2000), p. 122.
- 2 Secret marriages will be discussed at length at the end of this chapter.
- 3 The rights and obligations of the husband and wife arising from the valid conclusion of this contract are covered in chapter 6.
- 4 *Surat al-Nisa*, chapter 2, 'The Religious Dimension'.
- 5 Natana J. Delong-Bas, *Wahhabi Islam From Revival and Reform to Global Jihad*, I. B. Tauris (2004), pp. 133–34. The topic of marital rights and obligations is further explored in chapter 6, 'Marital obligations' (pp. 129–30) and 'A Husband's Right to Obedience' (pp. 130–32).
- 6 Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 6.
- 7 History of Al-Tibri events of the 10th Hijri year, quoted in Dr Shiyma al-Sarraf, *Ahkam Al Mar'ah Bayna Al Ijtihad wa Al Taqlid* (Women's Laws Between the Jurisprudential and the Customary), Al Qalam Editions (2001), p. 79.
- 8 Imam Taqiuddeen Ibn Taymiyyah (Hanbali school), edited by Muhammad 'Abdelqadir 'Atta, *Ahkam Al Zawaj*, published by Dar al Kutub al 'Ilmiyya (2000), pp. 99–102.
- 9 Imam Abdel Wahhab; 1395 Hijri calendar.
- 10 Delong-Bas, *Wahhabi Islam From Revival and Reform to Global Jihad*, pp. 141–42 (quoting Abd al Wahhab).
- 11 Imam Muhammad bin Abd al Wahhab, *Kitab al Nikah* (Book of Marriage), Mu'allafat al-Shaykh al Imam Muhammad bin Abd al Wahhab: al Fiqh, vol. 2 Riyadh: Jamiat al Imam Muhammad bin Saud al Islamiyah; 1395 Hijri calendar: pp. 644–45, quoted by Delong-Bas.
- 12 Reported by Termidhi 1084 and 1085, as quoted in Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 19, translated by the author.
- 13 El Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, p. 6.
- 14 Ibn Taymiyyah, *Ahkam al Zawaj* (Laws of Marriage), Manshourat Muhammad 'Ali Baidoun li Nashr Kutub Al Sunna wa Al Jama'a, Dar Al Kutub Al 'Ilmiyya (2004), p. 111.
- 15 Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, pp. 15–16.
- 16 Delong-Bas, *Wahhabi Islam From Revival and Reform to Global Jihad*, p. 146.
- 17 Discussed in 'Prohibition of Marriage to a *Zania'*, p. 92.
- 18 These and exceptions can be found in chapter 3, 'Marriage Patterns in Nejd' (pp. 43–45).
- 19 The concept of *Khalwa* is explained in chapter 6, section 'The Random Applicability of the Concept of *Khalwa* (Unsupervised Time Alone between a Male and a Female)' (p. 149).
- 20 El Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, p. 15.
- 21 Delong-Bas, *Wahhabi Islam From Revival and Reform to Global Jihad*, p. 144.
- 22 Ibn Taymiyyah, *Ahkam al Zawaj*, p. 111.
- 23 In 'Different Styles of Marriage Contracts Currently Practised in the Muslim World', p. 115.

- 24 Qur'an 24:2.
- 25 Frank E. Vogel, 'The Rule of Law in Saudi Arabia: Exploring Contradictions and Traditions', in *The Rule of Law in the Middle East and the Islamic World, Human Rights and the Judicial Process*, edited by Eugene Cotran and Mai Yamani, I. B. Tauris, in association with The Centre of Islamic Studies and Middle Eastern Laws, School of Oriental and African Studies, University of London (2000), p. 241.
- 26 The doctrine of *shubha* was founded by Imam Abu Hanifa, founder of the *Hanafi* School in El Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, p. 12. Further examples of this lack of legal responsibility of adult females according to the Wahhabi doctrine can be observed in chapter 6, sections 'Obedience Implications' (p. 131), 'The Legal System: Treatment of Cases Involving Women in the Judiciary' (pp. 141–42) and 'Male and Female Autonomy' (pp. 142–46).
- 27 Delong-Bas, *Wahhabi Islam From Revival and Reform to Global Jihad*, p. 145.
- 28 Translation from N. J. Dawood, *The Koran*, Penguin Classics, fourth revised edition (1974), p. 369.
- 29 Doi, *Shari'ah: The Islamic Law*, p. 159.
- 30 Muhammad Mustafa Shalabi, *Abkam Al Usra Fil Islam Diras Muqarina Bayn Fiqh Al Madhabib Al Sunnia wa Al Mathhab Al Ja'fari wa Al Qanun* (Family Laws in Islam, a Comparative Study Between Sunni Law Schools and the (Shi'i) Ja'fari Sect and the Codified Laws), Dar Al Nahdha Al 'Arabiya (1977), p. 83.
- 31 Sha'rawi, *Abkam Al Zawaj wa Al Talaq wa Al Khul'*, pp. 65–67.
- 32 Sha'rawi, *Abkam Al Zawaj wa Al Talaq wa Al Khul'*, pp. 69–71.
- 33 Levy, *The Social Structure of Islam*, p. 115.
- 34 N. J. Coulson, 'Islamic Surveys 2', in *A History of Islamic Law*, Edinburgh University Press (1964), pp. 221–22.
- 35 Quoted in Sha'rawi, *Abkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 178, and in Shalabi, *Abkam Al Usra Fi Al Islam Dirasah Muqarina Bayn Fiqh Al Madhabib Al Sunnia wa Al Mathhab Al Ja'fari wa Al Qanun*, p. 106, translated by the author.
- 36 Quoted in Sha'rawi, *Abkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 178.
- 37 *Intishar Zawaj Al-Misyaf Fi Al Sa'udiyya Bayn Sayidaat Wa Rijaal Al-Amaal* (The Spread of *Misyaf* Marriages Between Business Men and Women in Saudi Arabia), <http://www.alarabiya.net/Article.aspx?v=13741#0>, 8 June 2005, second year, 107th day.
- 38 Qur'an, Sura 2:228 and Sura 65:1.
- 39 Ibn Taymiyyah, *Abkam Al Zawaj*, p. 92.
- 40 Qur'an, Surat al Nisa (4:23), translated by the author.
- 41 Related by Abu Huraira in al Bukhari (5110–5109) and in Muslim (1408), quoted by Sheikh 'Irfan bin Selim Al 'Ashaa Hasouna al Dimasqi, *Nikah Al Misyar wa Abkam Al Ankiha Al Mukarrama, Dirasah Mufassala Lima Yusamma Bizawaj Al Misyar Muqarana bi Al Ankiha Al Batilah 'Ala Dhou' Al Kitaab wa Al Sunna* (Misyar Marriage and Other Prohibited Marriages, a detailed study into what is named Misyar Marriage in Comparison to Other Invalid Marriages in the Light of the Book and the Sunna), al Maktaba al 'Asriyyah (2002), p. 27, translated by the author.
- 42 Ibn Taymiyyah, *Abkam Al Zawaj*, p. 21.
- 43 Quoted by Dr Muhammad Selim Al-'Awwa, *Al Fiqh Al Islami Fi Tareeq Al Tajdeed* (Islamic Jurisprudence On The Way To Reform), published by Al Maktab Al Islami, 2nd edition (1998), p. 155.

- 44 Andrew Hammond, *Egyptian Feminist Saadawi Still Fighting Strong*, Reuters, 27 May 2003, uk.news.yahoo.com/010527/80/brevjd.html.
- 45 Surat Al Baqara, verse (2:129).
- 46 Related by Ibn Jareer, quoted in al Tibri [378/2], quoted by Sha'rawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 25.
- 47 Al 'Awwa, *Al Fiqh Al Islami Fi Tareeq Al Tajdeed*, p. 77.
- 48 *Mausu'at Al Fiqh Al Islami Al Mu'asir* (Encyclopaedia of Contemporary Islamic Jurisprudence), volume 3, *Al Ahwaal Al Shakhsiya, Al hudud, Qadaya Mutafariqa* (Personal Status, [Islamic] Legal Punishments and Diverse Issues), edited by Dr 'Abdel Halim 'Uwais, published by Dar Al Wafaa, al Mansura (2005), p. 616; distributed in Saudi Arabia by Hay'at Kibar al Ulema, Dar Taiba al Khadra, Mecca al Mukarama.
- 49 Socially acknowledged Islamic piety bestows an elevated position that a non-Muslim man is not considered to possess.
- 50 Delong-Bas, *Wahhabi Islam from Revival and Reform to Global Jihad*, p. 43.
- 51 Nasir, *The Status of Women Under Islamic Law and Under Modern Islamic Legislation*, p. 41.
- 52 Quoting Al-Rasheed in chapter 3, 'Marriage Patterns in Nejd' (pp. 44–45).
- 53 The term *zanina* refers in this context to a paid prostitute.
- 54 Qur'an, *Surat Al Nour*, verse 24:3.
- 55 Ibn Taymiyyah, *Ahkam al Zawaj*, pp. 31–32.
- 56 Qur'an, *Surat Al Nisa*, verse 4:23, translation taken from Dawood, *The Koran*, pp. 368–69.
- 57 'Ali Ahmad 'Abdel' Al Aal Tahtahawi, *Al Zawaj Al Sa'id wa Huquq Al Zawaj wa Al Zawja* (The Happy Marriage and the Rights of Husband and Wife), published by Al Qudsi Library (2002), p. 52.
- 58 Abdel Razzaq Al Sanhuuri, *Masadir Al Haqq Fi Al Fiqh Al Islami, Dirasah Muqarina Bil Fiqh Al Gharbee* (The Origins of Truth in Islamic Jurisprudence, a Comparative Study with Western Jurisprudence), vol.1, published by Dar Al Nahdha Al 'Arabiya (1950), p. 92. Sanhuuri is the author of the monumental ten-volume work, the commentary on the Egyptian Civil Code, *Al-Wasit*. The code has influenced many other Arab jurisdictions in their drafting of their civil laws.
- 59 Explored in the subsections of 'Different Styles of Marriage Contracts Currently Practised in the Muslim World', pp. 100–115.
- 60 Surat Al Ma'ida (5:1).
- 61 Translated by the author.
- 62 Delong-Bas, *Wahhabi Islam from Revival and Reform to Global Jihad*, p. 151.
- 63 Abdal Rahim Abdel-Rahman Abdal-Rahim, 'The Family and Gender Laws in Egypt', pp. 98–103.
- 64 'Abdal-Rahim, 'The Family and Gender Laws in Egypt', pp. 109–11.
- 65 'Abdal-Rahim, 'The Family and Gender Laws in Egypt', p. 107.
- 66 'Abdel-Rahim, 'The Family and Gender Laws in Egypt', p. 111.
- 67 Nasir, *The Status of Women Under Islamic Law*, p. 14.
- 68 Conciliation and settlement of disputes is highly encouraged in Saudi courts, often to the detriment of the weaker party.
- 69 A wife who does not have a valid reason to claim for a divorce can legally buy her freedom by paying her dower (*mahr*) back to her husband.

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- 71 Mamdouh 'Azmi, *Al Zawaj Al 'Urfi* (The 'urfi Marriage), published by Dar Al Fikr Al Jami'ii (1995), p. 11.
- 72 Kamal, *Al Da'ara Al Hallal Al Mu'assassa Al Haditha li Al Zawaj Fi Misr wa Al Sa'udiyya wa Iran*, p. 108.
- 73 Sharawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 139.
- 74 'Azmi, *Al Zawaj Al 'Urfi*, p. 12.
- 75 Kamal, *Al Da'ara Al Hallal Al Mu'assassa Al Haditha li Al Zawaj Fi Misr wa Al Sa'udiyya wa Iran*, p. 105.
- 76 'Azmi, *Al Zawaj Al 'Urfi*, p. 124.
- 77 'Azmi, *Al Zawaj Al 'Urfi*, p. 15.
- 78 Dr Ra'fat 'Uwaysi (psychiatrist), *Zawaj Al Misyar wa Aatharahu Al Salbiyyah (Misyar Marriage and its Drawback Effects)*, *Okaz* newspaper, published 30 September 2003, p. 9.
- 79 Kamal, *Al Da'ara Al Hallal Al Mu'assassa Al Haditha li Al Zawaj Fi Misr wa Al Sa'udiyya wa Iran*, pp. 103–105.
- 80 Doi, *Shari'ah: the Islamic Law*, p. 155.
- 81 *Mausu'at al Fiqh al Islami al Mu'asir* (Encyclopaedia of Contemporary Islamic Jurisprudence), volume 2, *Mu'amalat and Personal Status*, edited by Abdel Halim 'Uwais, published by Dar al Wafa, first edition, Al Mansoura (2005), pp. 444–45.
- 82 Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 95–96.
- 83 Tohidi, 'Modernity, Islamisation and Women in Iran', pp. 136–37, chapter 6.
- 84 *Al Sharq Al Ausat* newspaper, 8 August 2002.
- 85 Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, p. 99.
- 86 Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 97–98.
- 87 *Beiut Al 'Iffah" Mashrou'* Lilmuhafitbeen Fi Iran Limukafahat Dhaahirat Al Radhiilah, *Ansar Al Rais Khatimi Yarfudhoun Al Mashrou' Allathii Yuqannin Zawaj Al Mu'a* ('Morality Houses': A Project of the Conservatives in Iran to Fight Vice, Supporters of President Khatimi Refuse a Project Codifying *Mu'a* Marriages), *Al Sharq Al Ausat* newspaper, London.
- 88 Delong-Bas, *Wahhabi Islam from Revival and Reform to Global Jihad*, p. 148.
- 89 Hurgonje, *Mekka in the Latter Part of the 19th Century*, pp. 88–89.
- 90 Mudhi Al Hathli interviewing Um Hussein, *Al Khatiba* (the Marriage Mediator), *Wafidoun Yutaliboun Al Zawaj Min Sa'oudiyaat* (Expatriates Seeking Marriage With Saudis), *Donya* weekly newspaper, 13 October 2004, p. 6.
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- 100 Sheikh 'Abdul Rahman Bin 'Abdullah Al Faryan (Imam of Al Faryan Mosque in Riyadh), *Okaz* newspaper, 1 October 2003.
- 101 Dr 'Abdel Aziz Al Shaawi (Lecturing Professor at the Islamic University of Imam Muhammad Bin Saoud, Al Qaseem Branch), *Okaz* newspaper, 1 October 2003.
- 102 Whose views are respected and followed by many Muslims, including Saudi Arabians.
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- 122 Ibn Taymiyyah, *Ahkam Al Zawaj*, pp. 69 and 71.
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- 124 As discussed in chapter 5, section 'The Legal Guardian of the Bride' (pp. 83–84).
- 125 *Intishar Zawaj Al Misyaf Fi Al Sa'udiya Bayn Sayyidaat wa Rijal Al A'mal* (The Spread of *Misyaf* Marriages amongst Business Men and Women in Saudi Arabia), *Al Arabiya* website, <http://www.alarabiya.net/Article.aspx?v=13741>, 8 June 2005, second year, 107th day.
- 126 The need to travel with a *mahram* is described in chapter 6, section 'Travel Only Possible with the Permission of the Legal Guardian' (pp. 150–51).
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- 130 'Ali Bin Ahmad 'Amashee, *Bayn Dhil Al Rajoul wa Dhil Al Haytah, Al Zawaj Al Sirri Hadm Al Nisa Hal Yabni Mujtama'na?* (Between the Shadow of a Man and the Shadow of the Wall, Secret Marriages Destroy Women, Will they Build Our Society?), *Okaz* newspaper, issue 13550, 2 October 2003, p. 9.
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- 133 Surat Al Ahzab, verse 37.
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- 136 The initial (*mahr*) and subsequent payment (*mu'akhar*), it has been argued, also give the husband a permanently unquestioned and unconditional right to terminate the marriage through divorce.
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- 138 Kamal, *Al Da’ara al Hallal Al Mu’assassa Al Haditha li Al Zawaj Fi Misr wa Al Sa’udiyya wa Iran*, p. 115.
- 139 See chapter 4.
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- 141 The legal and financial dependence of women are discussed in chapter 6, pp. 139–53.

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THE LEGAL FRAMEWORK AND LEGAL CHANGES

This chapter is concerned with identifying the traditional legal interpretations and the more novel legislation in Saudi Arabia which have a direct restrictive effect on women's independence, and traces the more recent legislation back to the events that led to their enactment. These new restrictions were created within an Islamic context and have in some cases eliminated some valid and actively used traditional Islamic rights and freedoms. This chapter emphasises those laws and regulations whose consequences could encourage a trend for women to accept polygamy.

The following translation of verse 3:1 in the Qur'an clearly indicates an intended equality of male and female Muslims:¹ 'O people! Be conscious of your Lord, who created you from a single being and created its mate of the same, and from these two spread many men and women.' Although this concept of human equality is repeated on many occasions within the text of the Qur'an² and the Sunna (words and deeds of the Prophet), the legal gender distinctions presented throughout this chapter are generally acknowledged as interpretations of Islamic law.

The restrictive laws treated in this section include:

- 1) laws drawn from a generally accepted current Islamic interpretation;
- 2) laws enacted by the 'Islamic' state, imposed in the name of religion, while emanating from sources other than the traditional, some even contradicting the traditional context.

This chapter deals with these two types of legal restrictions, in particular with the differences in their effect and applicability to men and women.

The Saudi Arabian Information Resource website states as follows: 'Courts/Judiciary in the Kingdom of Saudi Arabia now issues its rulings/judgments/decisions on the basis of what is stated in the Holy Qur'an and on the Sunna (practices/mode of life) of the Prophet, and is guided without being limited to the specific opinion of any one of the aforementioned schools of law.'³ However, for the sake of practical applicability,⁴ the Hanbali School of law is formally acknowledged in

the Saudi courts and is imposed even on judges following another of the Sunni schools. Despite this, locally practising lawyers confirm that there is a trend amongst some judges to follow the views of Ibn Taymiyyah concerning cases of personal status, which can contradict those of Imam Ahmad Ibn Hanbal, founder of the Hanbali School. It is also confirmed that if the interests of justice in a specific case so dictate, judges are free to adopt views from other schools in their application of the concept of *ijtihad* (personal reasoning) as long as they base these views on proper interpretive procedures from the Qur'an and Sunna.⁵ The absence of legal codification of *shari'ah* laws or a valid system of legal precedent⁶ gives the judge in court the right to base his judgment on an array of differing interpretations; he is not bound even by his own previous interpretations as each case is viewed in its own light.⁷ Some of the issues deemed relevant for this chapter are:

- 1) the origins of Islamic law;
- 2) the origins of, and methods for, the creation of law in Saudi Arabia, including events, internal or external, thought to have influenced their creation;
- 3) the judiciary and court systems in Saudi Arabia;
- 4) traditional, Islamic-based restrictions affecting women exclusively, followed by additional Saudi-created legal restrictions.

The Origins and Creation of Islamic Law in the Early Islamic Period

The main traditional elements which constitute Islamic law are, in order of importance: the *Qur'an* ('So judge between them by what God has revealed'),⁸ and the *Sunna* (practice) of the Prophet Muhammad ('Whatever the Apostle giveth you, take it, and whatsoever he forbiddeth, abstain from it'),⁹ followed by *ijma'* (consensus of Muslim scholars on an approved issue through the ages), and *qiyas* (analogical reasoning). The roots of Islamic law are in this way derived from the Qur'an and Sunna in conformity with the body of principles and methods collectively known as *usul al-fiqh* (legal methodology).¹⁰

There are four Sunni schools of law (*madhabib*): Hanafi, Maliki, Shafi'i and Hanbali. These were developed in different parts of the Muslim world (Iraq, Egypt and Medina) in the period between the seventh and

ninth centuries and named after their respective founders. Due to the cosmopolitan nature of the Meccan population, and the constant influx of pilgrims from the different Islamic jurisdictions, the laws relating to all four schools had coexisted and were taught in the Great Mosque in Mecca in distinct regular circles by qualified sheikhs. The practice of Islamic sects within the Saudi state has now become restricted, and that of non-Islamic religions prohibited. Saudi Arabia, including the Meccan region, is now ruled according to the Wahhabi interpretations.¹¹ As mentioned in the introduction to this chapter, the judge in court can base his decision on a law extracted from the Qur'an and the Sunna if he deems it essential in order to maintain justice in the case at hand.

Restrictions Affecting Women Exclusively, in Comparison to Men

Although the concept of human equality, independent of gender distinctions, is repeated on many occasions within the text of the Qur'an,¹² male–female distinctions are presented through acknowledged interpretations and applications attributed to Islamic law. This section lists a selection of relevant legal rights and restrictions applicable to women, based on existing Islamic interpretations. The list may not be conclusive regarding the topic of marriage and polygamy. Enlisting these restrictive laws is the author's attempt to convey the legislatively imposed dependence of adult women in Saudi Arabia on the presence of a husband in their lives.

Marriage

A Muslim woman can only marry one man while a Muslim man can marry up to four wives. The purpose in this case is the determination of paternity in a patrilineal society.¹³ Additionally, while a husband is legally limited to four wives, he may, at the same time, have sexual relations with as many slaves/concubines as he owns. A woman is restricted to one husband at a time and is not licensed to have sexual contact with male slaves should they be within her ownership. It is technically possible for a woman to obtain a divorce and remarry, following her *'idda* period, for an unlimited number of times.¹⁴

Marital Obligations

A husband has a continuous, unchallenged right to intimate contact with his wife at all times. A wife who refuses her husband such access is

cursed by the angels until the morning.¹⁵ It has been reported that the Prophet said: ‘When a man calls his wife to satisfy his desire, she must go to him even if she is occupied at the oven.’¹⁶ However, a husband is not expected to be on call at all times, bearing in mind that he may have obligations towards his other wives. Islamic jurists have not agreed on an acceptable frequency for such marital encounters. The right of a wife to have intimate contact with her husband varies in frequency according to the views of the different male jurists deciding on the issue. These range from as scarce as once in a lifetime, to once every six months, to once every forty days, to once every four nights.¹⁷ Although it is technically possible for a wife to petition for a divorce in court on grounds of a continuous lack of sexual contact from her husband, this drastic measure is rarely used by women in practice.¹⁸

In return, a husband is legally required to lodge, feed and clothe his wife/wives according to his ability, his financial and social standard, as set out in Sura Al Talaq (65:39): ‘Lodge them where you are lodging, according to your means and do not harm them to make (life) difficult for them ... Let the man of plenty expend out of his plenty. As for him whose provision is limited, let him expend out of what Allah has given him. Allah burdens no one beyond his means. After difficulty, Allah will soon grant relief.’¹⁹

The issue of whether housework forms part of a wife’s duty towards her husband is debatable amongst the different Sunni schools, since the only duty expressly mentioned is that of intimate relations. The wives of the Prophet are reported to have washed and cooked in their homes; the matter usually follows the customary habits of the social group to which the partners belong.²⁰

A Husband’s Right to Obedience

One of the marital duties of a wife towards her husband is her duty to obey him in all matters, provided they do not contradict the rules of the Qur’an or the Sunna. The Prophet is reported to have said: ‘If mankind had been ordered to prostrate to any one other than Allah, women would have been ordered to prostrate before their husbands.’²¹

Islam, being a monotheistic religion, emphasises that there is only one God; the above *hadith* (tradition of the Prophet) brings a husband’s status so close to that of the creator that the relationship becomes as close

to that of worship as is possible. Complete obedience is understood to be required as long as the husband's wishes do not oppose the precepts of Islam. In return, a wife is rewarded with entry to paradise, as another related *hadith* implicates: 'If a woman says her prayers, fasts her month (Ramadan), guards her private parts and obeys her husband, she may enter paradise by any door she likes.'²²

Obedience Implications on a Wife's General Freedom of Movement

A restriction linked to the husband/guardian's right to obedience includes his required presence and express permission for his wife to buy a car. This applies even when she independently pays for a car in her own name. Once a car has been purchased by the wife, using her personal funding, the husband/guardian must permit the import of a foreign male driver to drive the car while the woman owner of the car must meet the full costs of the driver's visa, salary and living expenses. The majority of the female population, who cannot afford these payments, must contend with the many difficulties posed by these transport restrictions. It is also commonly accepted that the husband/guardian meets the expenses of the car and driver, if he so wishes.

The implications of this right to obedience include the requirement of the husband's consent for his wife to leave the marital home, to travel internally or outside the jurisdiction, to stay in a hotel, and to sell her personal valuables. A husband, on the other hand, can go out and travel at will without express or implied permission from his wife/wives. It is possible for a husband (trusting in his wife's maturity) to give his wife an express, open licence to go out at certain pre-agreed times to certain pre-agreed destinations. However, this licence, like any other, can be revoked by the husband at any time.

The husband is expected by the authorities to give his written permission if his wife is to take up employment or continue her education. He also has the right to request that she quit her education/employment, even against her will.

Undefined Limitations of the Husband's Prerogative for Marital Punishment

Acting against a husband's wish will turn a wife into a disobedient *nashiz* (haughty) wife, which disqualifies her from receiving maintenance

from him.²³ The procedure for the punishment of a ‘haughty’ wife, as interpreted from the Qur’an verse 4:34, begins with a verbal warning; if this has no effect, the husband may withhold sexual contact and finally beat her, until she changes her ways:

‘Men have authority over women because Allah has made the one superior to the others, and because they spend their wealth to maintain them. Good women are obedient. They guard their unseen parts because Allah has guarded them. As for those from whom you fear disobedience, admonish them and send them to beds apart and beat them. Then if they obey you, take no further action against them. Allah is high, supreme.’²⁴

A wife does not enjoy a similar right to discipline a haughty husband, although the Maliki School allows a wife to take her case to a judge who, if satisfied with the wife’s claim, has the right to order a husband to review his manners; failing this, the judge can order him to be beaten up.²⁵ It is important to mention that the Prophet Muhammad was never quoted to have resorted to any of these disciplinary measures with his wives except on one occasion when he withdrew away from all of them and spent one month on his own, following their incessant quibbling and material demands.²⁶

It is noted that the effect of withholding of sexual contact, *hajr fi al madja*’ (desertion in bed), will naturally have more impact on the wife who is deliberately deserted by her husband, and not so much on a polygamous husband.

The Crime of Fornication

Should a Muslim man or woman commit the crime of *zina* (fornication), the purely Islamic proof of evidence required for the establishment of the crime is very strict. It is either established through the confession of the fornicator to the act, and/or the witnessing of the act in progress by four male witnesses of sound mind.²⁷

In the aftermath of the *zina*, punishment is meted out as follows. A woman found guilty of the crime is beaten with one hundred lashes and then locked up for life. This measure is meant to protect her from committing the same crime again. On the other hand, a man found guilty of fornication is also punished with a beating of one hundred lashes but does not face the further protective measure of being locked up.²⁸

Laws of Inheritance

Females receive half the portion of male siblings according to Muslim laws of inheritance: 'Allah chargeth you concerning (the provision for) your children: to the male the equivalent of two females'. Upon the death of a wife, the husband inherits half of her estate, while a wife inherits a quarter of her husband's estate. When there is offspring, the share is reduced for the husband, to a fourth, and for the wife, to an eighth:

'And unto you belongeth a half of that which your wives leave, if they have no child, but if they have a child then unto you the fourth of that which they leave, after (any payment of) any legacy they may have bequeathed, or debt. And unto them belongeth the fourth of that which ye leave if ye have no child, but if ye have a child then the eighth of that which ye leave ...'²⁹

In the case of polygamous marriages, the co-wives share the eighth of their deceased husband's estate, notwithstanding any differences in their individual contribution to the marriage financially or otherwise.³⁰ An example of the practical application of the rule in a polygamous marriage is as follows: where a husband remarries because of the infertility of his first wife after a long partnership between them, immediately following the co-wife's giving birth, the first wife sees her share of one fourth of her husband's estate reduced to one sixteenth after the new co-wife and her offspring have taken their allotted share. The rule that a male should receive double the share of the female is justified by the imposed male duty to financially maintain women who fall under his guardianship.

Testimony

The testimony of two women equals that of one man. Testimony matters allocated to women only are matters concerning childbirth, breastfeeding, mending and undergarments, proof of virginity, the elapse of the *'idda* waiting period, and menstruation. Men are not to give testimony on the above, but they do testify on matters where a woman's testimony is considered invalid, such as marriage contracts, criminal evidence, and cases of fornication.³¹ This rule is being contested by some contemporary Muslim legal writers as having become obsolete today. Women's accomplishments today in all aspects of economic and financial life qualify them to become witnesses where these matters of specialisation are concerned.³²

Meanwhile, an explanation drawn from a verse in the Qur'an (2:282) concludes the matter: 'Believers, when you contract a debt for a fixed period, put it in writing ... Call in two male witnesses from among you, but if two men cannot be found, then one man and two women whom you judge fit to act as witnesses; so that if one should forget [one of the women], the other will remind her.'³³ Qattan uses the verse to argue his point that women are generally forgetful by nature.

The Origins and Methods for the Creation of the Law in Application in the Kingdom of Saudi Arabia

Legal re-interpretations and new laws are usually enacted in answer to judicial or administrative needs, chosen and written in line with given rules of Islamic jurisprudence. In the creation of new laws, the jurisprudential concept of *maqasid al-shari'ah* (the objectives and goals of the Islamic jurisprudence) needs to be taken into account with the purpose of actively departing from the current literalism and moving more towards the understanding of the broader objectives of a given text.³⁴ It has been used in cases of new interpretations and re-adaptation of acknowledged Islamic rules to suit novel situations while remaining within an acceptable Islamic framework.

In Saudi Arabia, there is a distinction between laws descending from God, referred to as *qanun*, and man-made laws, which are referred to as regulations or *nizams*. The *'ulema*, who represent the judiciary in Saudi Arabia, only acknowledge *nizams* as valid if they are administrative or penal in nature.³⁵ The term 'law' in Saudi Arabia encompasses a wide range of legislative powers which originate from sources endowed with different capacities, including the religious, executive, legal and administrative.

Saudi laws are created as an extension of the Islamic claim of the state structure. In 1970, during the reign of King Faisal, the Saudi Ministry of Justice was established and the *'ulema* became state functionaries.³⁶ As a revival of the continuity of the state partnership formation, they were gradually and increasingly entrusted with additional key appointments and play an active role in government today. During the nineteenth century, Muhammad Ibn Abdul Wahhab (1791) revived the Hanbali doctrine in Nejd and spread it into the Hijaz.³⁷ The adherence to this one school of Sunni thought and practice was put into practice and reinforced through the alliance created between Ibn 'Abd al-Wahhab

and the Amir Ibn Sa'ud, dating from 1745. The alliance made between the Imam and the Amir continued through their respective families, the Al Shaykh and the Al Sa'ud.³⁸

The ideal of law in Saudi Arabia, and in numerous Islamic legal systems in the centuries before it, is that God rules directly through his literal words conveyed in the Qur'an. There is no written constitution in Saudi Arabia.³⁹ The situation is explained by Article 7 of the March 1992 Saudi Arabian Basic Law which declares: Rule in the Kingdom of Saudi Arabia draws its authority from the Book of God Most High and the *Sunna* of His Prophet. They are sovereign over this regulation and all regulations of the state.⁴⁰

It should be noted that Article 7, mentioned above, fails to specify the imposition of the teachings of one single school of Islamic thought, the Hanbali School, throughout the ruled region, to the exclusion of the three others.⁴¹ Despite their ardent profession of *ijtihad* and proof-evaluation theory, the Wahhabi Saudi judges today often describe themselves as Hanbali, and adhere closely to Hanbali *fiqh* rulings.⁴²

The Saudi Arabian Information Resource website contains the following:

'The Kingdom of Saudi Arabia is an example of an Islamic state governed by the Holy Qur'an. It is therefore inevitable that the 'Ulema should play a key role within the Kingdom. They play an influential part in the following fields of government: The judicial system of Saudi Arabia, the implementation of the rules of the Islamic Shari'ah, religious Guidance Group with affiliated offices all over the Kingdom, religious education, that is, Islamic legal education and theology at all levels in Saudi Arabia, religious jurisprudence, preaching and guidance throughout the nation, supervision of girls' education, religious supervision of all Mosques in the Kingdom, preaching of Islam abroad, continuous scientific and Islamic research, notaries public, the handling of legal cases in courts according to Islamic law.'⁴³

In his analysis of the different Sunni schools of law, Khan, a practising lawyer and academic of Pakistani origin, describes the Hanbali School as: 'Fundamentalist to the extreme in its rigidity in matters of ritual ... the Hanbali School did not previously enjoy the popularity of the other preceding three Sunni doctrines for a combination of reasons, among them being the exclusion of its exponents from power

and judicial office ... and their fanatic intolerance towards other doctrines.⁷⁴⁴

As mentioned in an earlier section (see p. 128), Islamic jurisprudence was originally formulated through the emergence of the four major Sunni schools of thought: Maliki, Hanafi, Shafi'i and Hanbali. The elaboration of legal methods in the Islamic 'Golden Era' and the closure of the doors of *ijtihad* (personal reasoning), and *qiyas* (analogical reasoning), have led to the current stagnation of the law.⁴⁵ The revival or re-opening of these doors has been a key element of the Wahhabi movement which is closely modelled on the teachings of an earlier follower of the Hanbali school of thought, Ibn Taymiyyah. The continued application of *ijtihad* forms a major part of his theory.

The Creation of Modern Regulations in Saudi Arabia

Until the 1970s Saudi Arabia had never experienced the Western colonisation that drastically transformed the legal system in every other Muslim country. It was only then that, due to its need to cope with Western commercial contacts, numerous decree laws or regulations (*nizams*) were created, together with specialised judicial bodies to decide on disputes arising under these regulations. These new legal institutions have never been fully acknowledged by the pre-existing legal system.⁴⁶

The Council of Ministers (*Majlis Al Wuzaraa*), headed by the King, embody both the executive and the legislative powers. This situation creates a continuous array of administrative difficulties of implementation of the various decisions issued by the Council.⁴⁷ The direct connection between the legislative, the judiciary and the administrative creates a legal system that finds itself today caught in a power struggle between influential members of the ruling family, the state-employed *ulema* (religious leaders), and the religious police, the *muttawwas*. A variety of sources are endowed with the power to create rules and regulations, either in a formal or an informal capacity. These include the King, through a decree passed and approved by the Council of Ministers, a *fatwa*, a religious opinion issued by government-appointed religious *ulema*, an order (*amr*) by a royal prince either through his ministerial capacity or in his capacity as a royal prince in his weekly gathering (*majlis*), a judge in court ruling according to his personal assessment of the case in hand, and a government minister for the purpose of regulating an issue connected to his ministerial capacity. Some laws or

regulations, randomly created by any of the above sources without adequate announcements, can remain unknown to parties until the issue of their applicability arises.

The Making of Restrictive Laws in Saudi Arabia Today

There are two main concepts of Islamic jurisprudence which are generally taken into account by the Saudi legislator when making legal public policy decisions. These are:

- 1) that the benefit of the group, *al maslahah al 'amma*, overrides the benefit of the individual.⁴⁸ Many Hanbali scholars, amongst them, al-Tufi and Ibn Taymiyyah, gave the concept of *al maslahah al 'amma* a forceful interpretation that has expanded reliance on it.⁴⁹ *Maslahah* can be religious, such as encouraging prayer, or secular, provided it is for the benefit of society as a whole and not just a few individuals;
- 2) the other legal concept, that of *sad al-thara'i* (blocking the means leading to evil). Historically this has been a useful legal tool, when used in moderation: when one individual misuses a permitted legal right, all loopholes that could conceivably lead to a repetition of the same evil need to be closed; this right can then be declared prohibited to all.⁵⁰ Situations where this concept has been used excessively by the Saudi legislator to create restrictive laws will be further explored in this chapter. This state of affairs comes about in cases where, through a *fatwa* (offered at the ruler's instigation), the *'ulema* lend the ruler a hand. The rule is later publicised as legislation.

Restrictive public policy regulations, which are drawn from these two concepts, whether applicable to either men or women, can sometimes be contradictory to Islamic requirements. However, there are instances where these two concepts have been extensively applied in law-making in modern Saudi history.

The application of these random laws and procedures (other than those issued by a royal decree), often goes unquestioned unless challenged by a more powerful opposing body, such as the Higher Court of Appeal (*mahkamat al-tamyeez*), a prince of the first degree, or finally, and most conclusively, the King.⁵¹ Additionally, it should be mentioned that laws in Saudi Arabia are not applicable to all its citizens. Some recognisable

elements are placed above the law. This is clear and apparent to any observer of the behaviour of the police force, the all-powerful religious police and all other law-enforcement authorities.

Reasons for the Restrictive Elements Gaining Access to Power

The creation of legislative restrictions began with a series of dramatic, unforeseen events. The first of these was the assassination of King Faisal by his nephew, Faisal Ibn Musa'id in 1975,⁵² and the accession to the throne by his brother Khalid, with Prince Fahd taking an active role as Crown Prince. In their analysis of the political situation at that time, following their seven-year experience in Saudi Arabia, Wilson and Graham described the situation thus: 'Khalid ruled more by consensus ... his crown prince was generally viewed as the real power behind the throne... They further evidenced a marked preference for Nejdīs, reversing Faisal's close links with Hijazīs.'⁵³ This favouritism will be referred to in later arguments as an important inducement for the later spread of polygamy amongst the focus group.

The Islamic Revolution in Iran (1978–1980)⁵⁴ followed, influencing the internal political developments and inspiring Islamic activism. The Iranian leadership openly exposed the contradictions of the Saudi regime which claimed to be Islamic while enjoying strong ties with the United States of America. This Iranian influence, allied to the original growing local discontent amongst Saudi tribes with the existing Saudi leadership, led to the attack on the Sacred Mosque in Mecca in November 1979, led by Juhaiman, a graduate of the state-run Islamic College in Medina. Aburish describes how, as a counter attack to these events and in an attempt to restore its Islamic leadership image, 'Saudi Arabia began to compete within a Muslim framework, now it was revolutionary Islam versus traditional Islam.'⁵⁵ King Fahd consolidated his Islamic authoritative position by giving himself the title of Custodian of the Two Holy Mosques in 1986 and, a point of particular relevance to this chapter, by bestowing more internal and external power on the religious *'ulema*. It is generally believed by observers that the handing over of more power to the religious element was an attempt to appease criticism and prevent additional anti-government religious upheaval. A compromise was reached whereby the *'ulema* were given a free hand to operate on women's issues while steering clear of the political scene in the country, unless expressly requested to give a specific opinion or declare a justification.

The Saudi 'Ulema (Religious Leaders)

The active presence of these government-appointed, morality enforcement, fundamental bodies has contributed to a sense of fear and helplessness among local women. The moral discipline and protection of women represent the main target of these organisations. A woman accompanied by a male *mahram* (adult male relative) is less likely to be rebuked by these individuals than a woman alone, while shopping or performing rituals in the holy mosques of Mecca or Medina.⁵⁶

The type of excesses to be suppressed include dressing in a stylish *'abaya* (veil) which, in the view of the Commission members, needs another *'abaya* to cover it,⁵⁷ attempting to speak with male shoppers and exchanging mobile telephone numbers with them. Women caught committing such excesses will be taken into custody by members of the Commission (*hay'a*), and their male guardians informed. The guardians are then reprimanded for the immorality of the women under their care, and, in order for the offenders to be released, their guardians are requested to sign an undertaking not to allow such behaviour to re-occur.

Current Judicial Practices

Very little formal information is available regarding the legal system in practice, except to the officials and practitioners who work within it.⁵⁸ There is a continuous sense of apprehension and mistrust by the responsible government bodies when a simple request is made for formal written confirmation of a regulation, even when it is common knowledge and currently in practice. The obvious withholding of legal information by the relevant government bodies makes deciphering laws the job of a private investigator rather than a legal researcher. The results are a general lack of legal information for the public, a lack of legal precedent, teamed with a random application and an inadequate enforcement of the law. The information presented in this section was therefore drawn from the limited academic literature available but also relies heavily on interviews with locally practising lawyers and on the direct experience of individuals interviewed by the author.

In the judiciary, a single judge deals with each court case. He is empowered to exercise his personal Islamic understanding and interpretation without recourse to previous decisions relating to similar cases. There are bound to be miscalculations regarding the long-term results of

these laws.⁵⁹ This is combined with the fact that specialised cases are often entrusted to non-specialist judges (specialisation in modern-day issues is not catered for in the Islamic *shari'ah* colleges from which the majority of current Saudi judges graduate).⁶⁰

Since there is no valid system of precedent in application, the outcome of possibly identical cases may vary drastically depending on the inclinations of the judge in question; a case dealing with an identical issue is dealt with very differently by a judge in Jeddah than by a judge in Qaseem or in Riyadh. This relates to the differences in interpretation and legal orientations of the judges, and geographical variations between the different politically unified regions in the Kingdom. Even this local know-how is not as easily applicable with judges being appointed from a state-chosen locality (al-Qaseem) in place of local applicants representing long-established social connections to a specific locality.⁶¹ Codification of the law under these circumstances would provide more predictability in case outcomes and would leave less room for biased personal preferences, helping to unify the court system under one jurisdiction.⁶²

Vogel explains the legal system to the Western reader thus: 'Almost all the rules applied today in Saudi Arabian courts can be found in books of *fiqh* written by medieval *'ulema*. These books record the opinions of scholars issued over a period of nearly fourteen centuries, making *fiqh* a highly complex and diverse body of law.'⁶³

The enforcement of laws and regulations in Saudi courts today is also inconsistent. Accounts of court procedures are reported by practising lawyers and members of the public as being biased, corrupt and primitive. The outcome of a case is sometimes entirely dependent on the personal views of the judge handling the case, influenced by any personal feuds that he or a member of his family might have in relation to one of the applicants. Lawyers complain that judges in general have mistrust, and often disrespect, for lawyers acting for their clients in court.

Entanglement of the Executive with the Judiciary

There are observed instances where modern practices were introduced by the government into Saudi society, through the means of requesting a *fatwa* from one of the government-employed powerful *'ulema* or from the Board of Senior 'Ulema. The result is that a near-legislative effect is achieved, with ordinary *qadis* (judges) unwilling to contradict a formal *fatwa* through the application of the usual *ijtihad* methods.⁶⁴ The Basic

Regulation of the Kingdom of Saudi Arabia, 1992, states in Article 48: 'The courts shall apply in cases brought before them the rules (*ahkam*) of the Islamic *shari'ah* in agreement of the indication [or proof] in the Book and the Sunna and the regulations issued by the ruler (*wali al-amr*) that do not contradict the Book or the Sunna.'⁶⁵

The realistic application of this article is questioned in cases in which discrepancies arise between the true spirit of Islamic law, contradicted by regulations and *fatwas* emanating from customary practice or public policy requirements. These are identified when deemed relevant.

New Justice and Litigation Regulations

Following the accession of Saudi Arabia to the World Trade Organization in November 2005 and in view of the difficulties stemming from the current lack of legal precedent,⁶⁶ a new justice and regulation law is to be applied to improve the current archaic system. The law aims to create an appeal court in each of the thirteen politically divided regions in the country (*mahkamat al tamyeez*), to replace the current two central courts. The existing system makes it very difficult for women to travel and follow their cases when an appeal referral is made there. The law will also create specialised courts to deal with the different areas of the law, a matter which implies a retraining of existing judges. Implementation of this law is informally foreseen as needing a minimum of two years, and it faces strong opposition from powerful *'ulema*. It is reported that Sheikh Saleh Al Lihaydan, Head of the Highest Judiciary Council, amongst other members of the powerful *'ulema*, is strongly opposed to these legal changes.⁶⁷ Although formally announced, implementation of the new law is yet to be seen, as it requires the re-education of current judges to fill the future specialized courts.

The Legal System: Treatment of Cases Involving Women in the Judiciary

Legal restrictions emanating from the above-mentioned different sources in Saudi Arabia are generally applicable to all women in Saudi Arabia to a certain degree; however, it has been observed that the effects of these restrictions are more openly pronounced in the lives of certain groups than in others. Simple rights and liberties that are available to free men and women in other jurisdictions are impossible for women in Saudi Arabia, unless they come via a legal male guardian (*wali amr*), a family

male member (*mahram*) or an appointed male endowed with power of attorney (*wakil*). This section draws on information obtained from the personal accounts of men and women with direct experiences in court. These include the following examples, which are only offered as samples and do not attempt to be conclusive.

Women's Proof of Identity in a Saudi Court

Despite the recent introduction of the ID card,⁶⁸ they are not acceptable for women as proof of identity in a Saudi court of law. A woman must cover her face and hands in court and produce two male witnesses of integrity to confirm her identity. This procedure is not a requirement for men. ID cards do represent an acceptable proof of identity for women in banks, but not in Saudi courts of law.

Female Experiences in the Saudi Courts

According to sources from within the court system, many judges still find the voices of female applicants offensive. They are often abruptly and harshly told to shut up and stand in a far corner, and let the men handle the course of justice. Exceptions do exist amongst some judges.

Information reported by observers revealed the existence of certain malpractices amongst some judges in the course of their employment. Some are known to have demanded promises from female divorce applicants in return for the granting of desperately needed divorces from alcoholic or drug-addicted husbands. In return for the divorce, a judge is said to have requested that the woman be required to marry the judge himself after her *'idda* period had elapsed, thus (in his opinion) remaining within the legal requirements of Islamic law. A woman who refuses such an arrangement may see her case drag on for an indefinite period of time.⁶⁹

The continued prohibition of the licensing of female lawyers, who could represent their female clients professionally in court, can only contribute to this problem.⁷⁰

Male and Female Autonomy

While the Qur'an holds all Muslims, male and female, responsible for their own actions, as soon as they have reached maturity, usually with the advent of puberty, according to national laws a Saudi Arabian woman never outgrows the need for a male guardian – her father, her husband, then her brother or son – in the advent of divorce or widowhood.

Despite the many legal and moral responsibilities imposed by the Qur'an on both men and women, a Saudi woman is legally treated as a non-person. Her male guardian is accountable for her misdeeds and even for her financial debts.⁷¹ Women who are found guilty of a legal misdeed are taken into custody until their male guardian is contacted, brought forward and reprimanded for the misbehaviour of his dependant. He is then charged with the offence and/or asked to sign an undertaking that the female dependant will not repeat her illegal action. This procedure has no Islamic basis in situations where the female in question is of full age, maturity and of sound mental capacity.

With the same protective purpose in mind, a *fatwa* was recently issued by members of the Saudi-appointed religious *'ulema*, pronouncing it illegal for women to use the internet without the active presence of their male *mahram*.⁷² The reason given for the religious pronouncement is 'the weakness of female nature in the face of temptation'. The rule is a preventive measure targeting the growing number of women who seek male acquaintances through internet chat lines.

Examples of other legal restrictions stemming from the lack of female autonomy and resulting in a legally imposed dependency on men are described in the rest of this section.

The Family ID Card

From the 1960s until the early 1980s, mature adult Saudi men and women were issued with a personal national identification green booklet called a *tab'ia*. These citizenship booklets have since been abolished, giving way to a Family Booklet for married men and their related dependants and personal ID card for mature bachelors. The Family Booklet gives details of the male head of the family, including his photograph, followed by a list of names but no photographs of his dependants, young males below the age of sixteen and female dependants of all ages. This change left adult women with no national identification (other than their passport). Women had to carry a photocopy of their guardian's Family Booklet to be used as proof of identity when required. The legal guardian of a woman is the father, until her guardianship is transferred to her husband's Family Booklet after her marriage. To address the many cases of fraud which arose as a result of this situation, a regulation was passed in 2002 allowing women to obtain their own personal identification, ID Cards, but only with the physical presence and consent

of their legal male guardian. The ID Card was initially made optional, in case a legal guardian did not wish a photograph of his female dependants to appear on a card meant to be displayed for all to see. A recent announcement (June 2005) in the local newspapers and television channel has made the card compulsory for all women in the Saudi Kingdom, in view of the identification procedures needed for the continued fight against terrorism. Implementation is still unenforceable in cases where male family members oppose the public display of the photograph of the uncovered faces of their female dependants.

*A Muslim Woman's Right to Financial Independence*⁷³ (dhima maliya)

In the early Islamic era, women are historically reported to have been appointed, by the Prophet, to hold supervisory and accountancy positions in the local market in Medina (*Okaz*), and they ran independent businesses buying and selling their goods.⁷⁴ In 2001, however, a regulation was passed preventing Saudi women from selling their valuables without the physical presence of their male guardian.

Additionally, the Saudi Ministry of Commerce created the requirement for the male representative (*wakil shar'i*), endowed with an all-encompassing power of attorney, to handle all matters dealing with businesses owned by women, from registration to bank accounts to major decision-making. The *wakil* is not required to have any relevant knowledge or training concerning the business in question, nor does he need to prove a high sense of morality or even the lack of a criminal record. The only qualifying requirement for the post is that of being a Saudi male. There are reported cases where an ex-convict has re-entered the business scene by hiding behind the goodwill of a deceived business woman.

The *wakil* does not have to be a *mahram* and continuous direct contact (*khalwa*) between the woman (the business owner) and this strange man does not seem to disturb the legislator in this particular instance. However, should the woman decide to appoint her non-Saudi husband as a *wakil*, she will be prevented from doing so (to avoid marriages of convenience) as explained in the Saudi Arabian Company Laws: 'It is not permissible for a Saudi Arabian woman to take part in the direction of the company, she is required to delegate (this power) to another, it is not permissible that she appoints her foreign husband or any other foreigners in the direction (of the company) in avoidance of marriages of convenience.'⁷⁵ A Saudi male in government employment is

also prevented from occupying the position of a *wakil*, to alleviate possible conflicts of interest.

In 2004, following severe criticism in the press, the requirement for a *wakil* for registered business purposes was legally abolished. However, according to several locally active business women,⁷⁶ approaching government agencies for licences and permissions would subject a woman to join the male-only queues at these bureaucratic establishments, consisting of men who are accustomed to segregation. A woman attempting to stand alongside these men without a male protector will be perceived as a loose woman. Although the imposition of a *wakil* has been technically abolished, it remains, according to the business women involved, an active requirement in most cases and is still expected by government officials and civil servants.⁷⁷ Implementation will take place when government agencies open separate female counters, which will provide employment opportunities for women. Implementation awaits specific legislation in order to make it possible.

Despite the express legal requirement that a power of attorney should be in force before a husband can deal in shares in the name of his wife, it is customary for the employees at the Stock Exchange to allow him to do so without restraint, and without her express permission, as part of the continued state of a husband's legal guardianship over his wife.⁷⁸ A wife, independently using her recently acquired ID card,⁷⁹ who wished to buy shares in a company without realising her husband had bought shares in the same company, was prevented from doing so as her name appeared as having recently dealt with the permitted number of shares.

This section clarifies the financial situation which reveals another reason to stay within an unhappy polygamous arrangement.

NON-SAUDI WOMEN ARE EXCLUDED FROM THE RESTRICTION

The newly formed Government Investment Authority (*Hay'at al Istithmar*) was formed to carry out the requirements of the new Foreign Investment Law. The Manager of the Jeddah branch of the centre, Muhammad Al Khushaim, and his team have express permission to issue licences and work permits directly, without a *wakil*, to non-Saudi businesswomen investors. Neither the religion nor the nationality of these women is relevant, provided they do not hold Saudi citizenship.⁸⁰ This open distinction provides yet another example of public policy restrictions which specifically aim to limit the liberties of Saudi Arabian women.

LAND ACQUISITION AND PROPERTY RIGHTS

The right to rent or buy a property for personal or commercial use must be achieved through the presence and approval of the male guardian. Once within a property, it is illegal for a telephone line with an international dialling facility to be registered in the name of a Saudi woman, even if she can show proof of her financial ability to pay her bills independently. This is in view of her lack of legal capacity: if she fails to pay the telephone bills she cannot be directly sued by Saudi Telecom.⁸¹ Along the same lines, according to the Saudi Arabian Company Law, a woman is prohibited from acting in the capacity of a director to a company even if she is the majority shareholder. The same restriction applies to her non-Saudi husband, 'as a protection against marriages of convenience'.⁸²

Saudi women seeking various licences and permissions at government offices are requested to give fingerprints in lieu of signatures. This follows a prevalent assumption by the authorities that women are illiterate. The rule is equally applicable to women writers and university professors; a request for a signature by the relevant authorities could, it is believed, place unrealistic expectations on their limited intellectual abilities.⁸³

From the above, it is not surprising to learn that the Human Development report of 2006 rated the income of women in Saudi Arabia at fifteen per cent in comparison to their male counterparts.⁸⁴

Causes and Punishment of the Crime of Fornication

In Saudi Arabia today the *hudud* penalties, including those for *zina* (fornication), 'are inflicted before huge crowds in a public square immediately following the Friday noon prayer'.⁸⁵ These laws, combined with applicable polygamous interpretations and practices,⁸⁶ reveal the higher level of moral and religious self-discipline which is inevitably imposed, perhaps inadvertently, by polygamy-condoning Muslim societies on wives married to a neglectful polygamous husband or one who continues to visit, but finds this wife physically unappealing. As mentioned in the section 'Marital Obligations' above (pp. 129–30), opinions of the different jurists vary regarding the frequency of a wife's right to intimate contact with her husband. These range from every four days to every four months to once in a lifetime.

Citizenship Restrictions of Marriage Partners (Applicable to Men and Women)

A regulation (1393 Hijri [1973], consolidated in 1423 [2002])⁸⁷ prohibits the marriage of male and female Saudi citizens to non-Saudi nationals, unless a specific permission from the Minister of Interior or from the Guardian of the Two Holy Mosques, or from other government-authorised sources, is granted.

However, the Qur'an, *Surat Al Hujurat* (the Chambers) verse 49:13, clearly encourages Muslims to mingle with each other through marriage: 'O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (Not that you may despise each other). Verily the most honoured of you in the sight of God has full knowledge and is well acquainted (with all things).'⁸⁸ The explanation given for the restriction is that Saudi men often bring back foreign wives, leaving Saudi women without available partners.⁸⁹ But extortionate dowries set by guardians as bride-price (*mahr*) for their daughters have driven Saudi men to seek wives who are financially accessible elsewhere.⁹⁰

One individual interviewed during the research survey spoke of waiting for a period of two years for permission to marry the partner of his choice, only to have that permission torn to pieces in front of him on the day it was finally issued, following some newspaper article publicised that week which negatively affected the relationship between the country of origin of the partner to be and the Saudi government. As with many other restrictions, a thriving black market has grown whereby individuals who do not enjoy high-powered social connections can 'buy' a speedy permission to marry a non-Saudi for a specified fee (SR 20,000 at the time of writing).

Some practical individuals have contented themselves with requesting renewable, short-term visitor visas for their future husbands or brides, or even employment visas.⁹¹ The *hadith* of the Prophet, advising male guardians to give their daughters in marriage to male suitors provided they are known to be pious and of good character (otherwise great *fitna* could ensue),⁹² does not seem to have been taken into account by public policy-makers in the Islamic Kingdom.

It should be noted, on a comparative level, that public policy restrictions on the nationality of marital partners existed in other jurisdictions, including Iraq, prior to the American invasion.⁹³

Transfer of Saudi Citizenship to a Spouse, a Male Prerogative

Once the marriage permission restriction is overcome, and the marriage is consummated, the chance for the non-Saudi partner to become a Saudi citizen was until recently available to the foreign wife as soon as she gave birth to a child of the marriage, or five years after the date of the marriage. Restrictions were added whereby the non-Saudi wife can still obtain Saudi citizenship on condition that she gives up her citizenship of origin.⁹⁴ However, a Saudi woman who is married to a non-Saudi does not have the option to transfer her Saudi citizenship to her husband.

Other nationality regulations pertaining to marriage are affected by gender, these include the inability of a Saudi woman who is legally married to a non-Saudi citizen to pass her Saudi citizenship to her children. As a result, these children cannot enjoy free government schooling or any public services that Saudi nationals naturally enjoy, while the children of a Saudi father can.

In a recent case, the sons and daughters of a deceased Saudi woman who died while seeking medical treatment abroad could not attend her funeral because, due to their non-Saudi citizenship, procedural matters for the renewal of their expired Saudi entry visas took longer than the three-day condolence period.

Marriage from within the Muslim Community

In addition to the restrictions listed above, a Saudi woman (under Muslim legal interpretation) is restricted to marriage with a Muslim man only.⁹⁵

Freedom of Movement,⁹⁶ Private and Public Transport Methods

Sheikh Muhammad Al Ghazali is quoted by recognised Saudi sources to have acknowledged that during the life of the Prophet Muhammad, women rode horses, donkeys and camels as a means of transportation.⁹⁷ Today, with the addition of the modern-day automobile invention, and while a Saudi male is given a licence to drive a vehicle from as early as the age of sixteen, it remains illegal for an adult woman to drive a car in Saudi Arabia.

This restriction is more prominent due to the recognised lack of safe and adequate public transportation within Saudi towns and cities. Driving restrictions were emphasised following the much-publicised

attempt to drive by 200 women in Riyadh in 1991. The women demanded the right to drive their own cars instead of paying the salaries of imported foreign male drivers to take them to their workplace every day. Severe repercussions were imposed on the women involved and their male guardians.⁹⁸ Some of them described in an interview how they were forced to leave their employment, without any redundancy payments, while the self-employed had their work permits and licences withdrawn. Their male guardians were roughly reprimanded. The previously non-existent 'religious' prohibition on women's driving was issued through a *fatwa* by the then government-employed Grand Mufti of the Land, Sheikh Abdul Aziz Bin Baz, at the instigation of Prince Salman, the Governor of Riyadh.⁹⁹ According to the *Encyclopaedia of Modern Islamic Jurisprudence*, the *fatwa* was justified through the concept of *dar' al mafasid* as an attempt to protect women from the difficulties of driving on busy roads.¹⁰⁰

The Random Applicability of the Concept of Khalwa (Unsupervised Time Alone between a Male and a Female)

The common criteria used by judges in Saudi courts of law for determining the application of the Islamic concept of *khalwa* are complex. In cases where divorce has taken place before the consummation of the marriage, the judge uses the following criteria in determining whether the divorced wife is entitled to keep part of the received marriage dowry. The judge questions the couples over whether they have spent time alone in a car. If the answer is in the affirmative, he concludes that *khalwa* (time alone) has taken place between the couple, despite their claim that the marriage has not been consummated, and the divorced fiancée is allowed to keep part of the received dowry. However, a woman sitting alone for hours every day in a car with a non-Saudi, a 'foreign' driver, is not subjected to such scrutiny. It is implied by decision-makers that if the same woman who drive cars when abroad were to drive in Saudi Arabia, only evil could ensue. The concept of *sad al thara'i* (blocking the means leading to evil) is fully stretched in this case.

The Effect of Sibling Rivalry on Public Policy Decisions

As an illustrative example of many similar contradictions affecting members of the public, in 2002 the then Crown Prince, Abdullah Bin Abdul Aziz,¹⁰¹ made a public statement promising that professional women such as

teachers and medical doctors over the age of thirty would be allowed to drive their own cars during daylight hours. A curfew would begin after sunset. The same week, his half-brother and Minister of Interior, Prince Naif Bin Abdul Aziz, gave a press conference denying and overruling the possibility. There are grave legal implications emanating from such random declarations, leaving the judiciary and legislative situation in a total state of havoc and women desperately needing a sense of mobility under continued uncertainty.¹⁰²

*Travel Only Possible with the Permission of the Legal Guardian*¹⁰³

Relying on the *Sunna* of the Prophet, when travelling caravans were subject to attacks it was advisable for women travelling on lengthy desert journeys, of a duration of a minimum of three days, to travel within a trusted group of people, as opposed to totally alone, or to be accompanied by a male *mahram*.¹⁰⁴ However, according to Imam Ibn Hanbal's school, a woman can only travel accompanied by a *mahram* at all times.

This rule was further expanded in Saudi Arabia, following the public execution of a Saudi Arabian princess¹⁰⁵ for her attempted elopement with a commoner lover. The strict requirements for establishing the *hadd* (prescribed penalty) crime of fornication as mentioned in this chapter were not applied here. The decision represents a combination of public policy and tribal issues as opposed to one relying on Islamic law. Following this event, a new regulation imposing travel restrictions on all Saudi women was created. They now need to have permission to travel from their legal guardian (*wali amr*) and to be accompanied by a male *mahram* when leaving the Saudi jurisdiction.¹⁰⁶ The rule only covers travel to destinations outside the Saudi jurisdiction, even those journeys lasting a minimum of one hour.¹⁰⁷

Despite the availability of funds, travel restrictions applicable to women who do not have a surviving male guardian have illogically prevented many women from leaving the country for purposes of business, health, education or leisure.¹⁰⁸ Ironically, for practical purposes, when all older guardians have died, a mature mother resorts to her own son to become her legal guardian (*wali amr*), provided that he has attained the age of twenty-one. He can act as her *mahram* much earlier, upon reaching puberty (*baligh*). 'Permission letters', officially stamped at the Chamber of Commerce, proving the male guardian's consent, are also needed to allow even mature enterprising women to stay at hotels at their business

destinations without a *mahram*. These need to be renewed for each separate journey. Cases where a successful business woman or a university professor was compelled to seek formal permission from an unemployed, often immature son in his capacity as her legal guardian are not far-fetched incidents. It can be understood how in many of these cases, the possibility of having a husband (polygamous or not) willing to provide essential signatures and permissions overrides the concern that he has a living wife at home. The effect of this legal restriction on the submission by Saudi women to marriages of convenience, often polygamous, is reflected in their recourse to *misyar* and *misyaf* marriages in order to secure the ability to travel.¹⁰⁹

Policy of Sexual Segregation in Education and the Workplace

Imposed segregation in the workforce¹¹⁰ makes women's role secondary in any given establishment since they cannot be present during the decision-making process carried out in the men-only sections.¹¹¹ This is contrary to the early Islamic practice of women's equal participation in learning in the mosques side by side with men and their active role in the marketplace, building the economy of the new Islamic society, and their involvement in the early defensive Islamic wars.¹¹²

Segregation has included discrimination as in the example of the male and female administrative sections of Saudi universities. The pyramid of the hierarchy is headed by the head of the male section, who has the sole and final power to make decisions. The female section, although headed by staff with an equal level of education, must seek permission from their male counterparts, depriving them of equality and self-determination.

This imposed lack of interaction with the outside world has reduced most women to a state of total financial dependence. Its consequences are most evident in cases where marriage either does not materialise,¹¹³ or ends in an unhappy state of polygamy or divorce.¹¹⁴

Education and Training

From the beginning of girls' education in 1960 until today, they were allocated a different curriculum than that set for boys, in an attempt to appease the angry religious *'ulema*. The effect of this limited scope of education must be read in conjunction with the two subsections dealing

with restrictions on employment and restrictions on financial autonomy, since they contribute directly towards keeping women under constant male dependence and control.

An article dealing with commercial assets and the involvement of women in the employment sector in Saudi Arabia specified the total number of women in the country to be at 6.9 million, constituting 49.6 per cent of the total population. Only three million amongst them are said to be employed.¹¹⁵

Employment Restrictions

While it is permissible for a woman in Saudi Arabia to practise (without being sexually segregated) the profession of journalist or medical doctor, she is forbidden from obtaining a professional licence to practise her qualifications as an architect, lawyer or accountant. Although 27 per cent of total government expenditure is on education (55 per cent of this is spent on women's education), women are still being prevented from working in most workplaces.¹¹⁶

The issuing of licences to women to practise the legal profession is prohibited by the Ministry of Justice. Despite the possibility being open for a woman to represent herself in a court of law as a plaintiff or a defendant, she is forbidden from representing a case in the same court in a formal legal capacity.¹¹⁷ In spite of this restriction, female lawyers have informally filled legal posts in privately owned legal offices for many years in Riyadh and Jeddah, but the lack of a permit naturally restricts a female lawyer's ability to perform her duties without the continuous dependence on male colleagues.¹¹⁸

A statement was made by the Minister of Justice, Dr 'Abdullah Al-Sheikh, and reported by the local press, admitting to the failings of the present judicial system in adequately handling women's issues. He spoke of the possibility of employing female administrative staff in the courts to act in a capacity similar to that of messengers between the male employees of the court and the women applicants. The granting of legal licences for existing Saudi women lawyers was not mentioned here.¹¹⁹ At this current stage, women can bring a claim or defend themselves personally as citizens in a Saudi court but are not allowed to do so in a recognised legal capacity.

Other restrictive elements affecting women include the imposition on female engineers (despite their licences) to bring a male *mahram* to

the work site.¹²⁰ Company regulations also prohibit a woman from acting in the capacity of the director or a member of the board of a public company in Saudi Arabia, notwithstanding her level of education and experience.

A small number of women-only commercial establishments have been licensed to cater exclusively for women. These tend to be totally closed up, without any windows or adequate fire exits. The main entrance door must display a visible sign with the wording 'men are forbidden from entry'. On a larger national scale, women are not allowed to work in retail; instead, salesmen are entrusted by the authorities with the responsibility of assisting veiled women in selecting their lingerie and cosmetics. There are endless cases ranging from simple discomfort and embarrassment to actual sexual harassment faced by women shoppers as a result of this imposed contact with the often unmarried expatriate male retail employees.

As mentioned earlier on in this chapter, in the early days of Islam women worked in the local markets alongside other men and women.¹²¹ This modern legal imposition is justified by the authorities as forming part of the many public policy measures aimed at protecting female employees from what they might encounter if they worked in the retail sector. In answer to the complaints by thousands of female daily shoppers, the *'ulema* recommended a solution: that each female shopper should take a male *mahram* along when shopping for cosmetics and lingerie in order to solve this dilemma.

Even if limited, the increasing visibility of women in the public sphere has led to tighter controls by the religious police. It is still common for businesses employing women, including businesses owned and managed by women, to expect sudden unwarranted raids by the *mutawwaeen* (religious police) searching for evidence of 'immoral behaviour'.¹²²

Applicability of the Muslim Laws of Inheritance in Saudi Arabia

As seen in the section 'Laws of Inheritance' above (p. 133), females receive half the portion of male siblings according to the Muslim laws of inheritance.¹²³ The rule is justified by the imposed male duty to remain financially responsible for the maintenance of women who fall under his guardianship.

This issue of the abuse of this right to half a share of inheritance was publicly raised in the 3rd National Dialogue in Medina. It was revealed

that the Saudi courts had imposed an innovative rule expressly forbidding women heiresses from coming personally to the court to collect their allotted share of the inheritance, stipulating that their legal guardian should do so on their behalf. Many cases occurred, it was reported, where these women were not given their collected share by their guardians, forever depriving them of an Islamic right.

The Imposition of Plain, Black Coloured Veils in Public Places

Neither the Qur'an nor the Sunna specify a colour requirement for women's clothing although common sense implies veils should not be coloured in a flashy bright manner.

In August 2001, a new regulation was passed prohibiting embroidered or 'fashionably designed' veils as they defeat the purpose of required modesty. Local newspapers reported raids on shops selling fashionable veils and detailing the destruction of the entire contents of 'offending shops'. Women wearing 'offensive' veils were ordered to go home when 'caught' shopping in Riyadh.¹²⁴ A *fatwa* was later delivered by Sheikh Ibn 'Uthaymeen (member of the *ulema*), warning women against the anti-Islamic campaign which promotes embroidered, designer styled veils (*abaya*). The result of giving in to the enticement to wear them would create a *fitna* (temptation). He reminded the readers that the majority of the population of hell was already composed of women who had stirred a *fitna*.¹²⁵

Conclusion

Laws and regulations are often imposed in Saudi Arabia without an attempt to offer a justification. Many are applicable even when lacking a proper judicial or legislative procedure. The reasons for this include a host of foreseen and unforeseen events which led towards a handing over of extensive, often unquestioned, judicial and legal powers to religiously trained government employees, who lack some of the most basic know-how. This seems to represent the Saudi government's solution for appeasing the rising masses who object to the obvious lack of consistency in upholding a purely Islamic way of life, as would be expected from a ruling power that has legitimised itself through religion.

By virtue of their Islamic legacy, laws and regulations issued in Saudi Arabia, which serve the individual benefits of a group of decision-makers, are marketed as religious. Any objections to them often lead to accusations of ignorance and heresy. In Saudi Arabia the terms *sufi* or *'almani* (lay person, in distinction to the clergy) have come to describe Muslims who speak in terms of the different (non-Wahhabi) voices of Islamic jurisprudential interpretations. It is also the case that an unbiased, true knowledge of the law, important to decipher the facts and a basic constitutional requirement, is generally a rare commodity amongst the local population.¹²⁶

Despite the restrictive issues discussed in this chapter, denial of the reality of the situation, through claims of Saudi Arabia's adherence to its Islamic duty of equal treatment for men and women, continues to be widely and openly propagated. In his address to a United Nations General Assembly dealing with world issues affecting the rights of women, the Saudi Arabian representative, Abdullatif Hassan Salam, confirmed the current practice of equality between men and women in Saudi Arabia. Declaring that women's rights were an extension of his country's adherence to Islamic teachings, women in Saudi Arabia were therefore naturally treated equally with men in matters of work, health care and social services. A Saudi woman, in the words of Mr Salam, enjoyed full independence in handling her property, buying, selling, creating businesses and commercial establishments including the receipt of bank loans, if needed.¹²⁷

Because of the imposed legal restrictions discussed in this chapter, women are completely dependent on men for their survival, whether outside the home or anywhere else within the jurisdiction, which makes a husband an essential requirement. Since bachelors are often financially unable to marry or unwilling to choose an older single woman (over the age of twenty-five) or a divorced woman as a first wife, the choice is limited to the available, already married men looking for variety within a legalised marital frame.

The legal position is also seen as influencing polygamously married women to remain within the marriage despite the unhappiness that this may cause them.¹²⁸ The day-to-day practical outcome of the array of restrictive laws seen throughout this chapter can be translated as follows: unable to sell or dispose of her valuables or personal property, to rent or buy or work or travel without the written consent and/or personal presence of the husband that she is attempting to leave, an unhappy

wife naturally feels a sense of total entrapment within the confines of the marriage.

These examples of previously optional restrictions on women (most of which depended on individual family or tribal custom and tradition) have more recently become imposed from a legally enacted source. These have, in many cases, influenced women to accept disadvantaged marital arrangements, in order to seek salvation from a more difficult situation such as a divorced status, spinsterhood, an unhappy family situation, financial difficulties imposed through lack of work opportunities, or a lack of financial and social independence.

The message of this chapter is to describe how, even when armed with knowledge, determination and inner strength, unmarried females in Saudi Arabia have very little room for independent manoeuvring.

NOTES

- 1 Vogel, 'The Rule of Law in Saudi Arabia', p. 135.
- 2 Wadud, *Qur'an and Woman*, p. 21.
- 3 www.saudinf.com/main/b22.htm.
- 4 As mentioned in the introduction of chapter 5, 'The Muslim Marriage Contract'.
- 5 Vogel, *Islamic Law and Legal System*, p. 10. This point is further explored in the section 'Current Judicial Practices', pp. 144–45.
- 6 Vogel, *Islamic Law and Legal System*, p. 16.
- 7 Vogel, *Islamic Law and Legal System*, pp. 14–15.
- 8 Qur'an, Surat al Maida (5:49), as quoted in Hamid Khan, *Islamic Law of Inheritance: A Comparative Study with Focus on Recent Reforms in the Muslim World*, 2nd edition, published by Pakistan Law House Platinum Publishing Ltd (1999), p. 4.
- 9 Surat al Hashr (59:7), reference in Khan, *Islamic Law of Inheritance*, p. 4.
- 10 Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, The Islamic Texts Society (2003), pp. 1–2.
- 11 As elaborated in the section 'The Origins and Methods for the Creation of Law in Application in the Kingdom of Saudi Arabia', see below. The issue of the diversity of religious interpretation was a main topic of the 2003 National Dialogue Forum on 'Excess and Moderation: A Thorough Review'. The realistic implementation of the Forum's recommendations has yet to be seen.
- 12 Qur'anic verse 3:1, as translated in the introduction to this chapter.
- 13 Hofmann, *Islam: The Alternative*, p. 138.
- 14 A more detailed description of the *'idda* can be found in chapter 5, section 'The *'Idda* (Post-Divorce Waiting) Period' (p. 97).

- 15 Muhammad Rasheed Al Ouwaid, *Min Ajl Tahrir Hakiki li Al Mar'ah* (For a True Liberation of Women), Dar Ibn Hazm, Beirut, Dar Hawwa, Kuwait, second edition (1994), p. 54.
- 16 *Sahih Muslim*, English translation, vol. 2, p. 732, no. 3368, and in *Sunan Abu Dawoud*, English translation, vol. 2, p. 574, no. 21360, both quoted in Abu Amina Bilal Philips and Jameelah Jones, *Polygamy in Islam*, published by International Islamic Publishing House, fifth edition (1996), p. 22.
- 17 Al-Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 132–38.
- 18 Sharawi, *Ahkam Al Zawaj wa Al Talaq wa Al Khul'*, p. 331.
- 19 Translation in Philips and Jones, *Polygamy in Islam*, p. 25.
- 20 Philips and Jones, *Polygamy in Islam*, pp. 115–16.
- 21 *Hadith* related to the Prophet, narrated by Abu Huraira and collected by Al Termidhi, Abu Dawoud (*Sunan Abu Dawoud*), English translation, vol. 2, p. 574, no. 2135, and Ibn Maajah and authenticated in *Sahih Sunan Al Termidhi*, vol. 1, p. 340, no. 926, as quoted by Philips and Jones, *Polygamy in Islam*, p. 20.
- 22 *Hadith* reported by Anas and collected by Abu Nu'aym in *Al-Hilyah* (Mishkat Al-Masabih), English translation, vol. 1, p. 691, and authenticated (Hassan) by Al Albaanee in *Mishkaah Al Masabih*, vol. 2, p. 971, no. 3254, fn. 1, quoted in Philips and Jones, *Polygamy in Islam*.
- 23 Explored in chapter 5, 'The Muslim Marriage Contract'.
- 24 Translated with notes by Dawood, *The Koran*, p. 370.
- 25 Ahmad Zaki Yamani, *Al Islam wa Al Mar'ah* (Islam and Women), Mu'asasat Al Furqan Li Al Turath Al Islami (2004), p. 114.
- 26 Al Ouwaid, *Min Ajl Tahrir Hakiki li Al Mar'ah*.
- 27 Al-Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 234–36.
- 28 Al Ouwaid, *Min Ajl Tahrir Hakiki li Al Mar'ah*, pp. 84–87.
- 29 Surat al Nisa (4:11–12), translation quoted from Khan, *Islamic Law of Inheritance*, pp. 23–24.
- 30 More details on the financial results of polygamy are given in chapter 7, section 'The Financial Result of Polygamy on the Existing Wife' (p. 90).
- 31 Mahfouz, *Hukouk wa Kadaya Al-Mar'ah Fi 'Alamana Al Mu'asir*, p. 130.
- 32 Wadud, *Qur'an and Woman*, p. 185.
- 33 Sheikh Ahmad Al Qattaan, *Al Mar'ah Fi Al Islam Hijabaha wa Waajibaataha Hukoukaha Al Insaniyya wa Al Siyasiyya* (Women in Islam, Veiling, Duties, Human and Political Rights), Maktabat Al Sundus, vol. 2, published by Suhaib Al Zain and Brothers (1987), p. 107.
- 34 Kamali, *Principles of Islamic Jurisprudence*, p. 515.
- 35 Vogel, 'The Rule of Law in Saudi Arabia', p. 342.
- 36 Madawi Al-Rasheed, *The Politics of Dissent*, History of Saudi Arabia, Cambridge University Press (2002), p. 124.
- 37 Hamid Khan, *Islamic Law of Inheritance: A Comparative Study with Focus on Recent Reforms in the Muslim Countries*, Pakistan Law House (1999), p. 13.
- 38 Vogel, 'The Rule of Law in Saudi Arabia', pp. 207–208, and in the Introduction of *Islamic Law and Legal System*, p. xv.
- 39 The codifications of the laws of personal status which took place in some Arab/Muslim countries (covered in chapter 3, section 'Some Undisclosed Reasons for the Public Promotion of Polygamy', pp. 47–48) did not influence the status of the law in Saudi Arabia.

- 40 The translation is quoted by Vogel, 'The Rule of Law in Saudi Arabia', pp. 128–29.
- 41 Vogel, 'The Rule of Law in Saudi Arabia', p. 305.
- 42 Vogel, 'The Rule of Law in Saudi Arabia', p. 125.
- 43 www.saudinf.com/main/b22.htm.
- 44 Khan, *Islamic Law of Inheritance*, p. 13.
- 45 'Ali Sayed Hassan, *Al Madkhal Ila 'Ilm Al Qanun, Nathariyat Al Qanun* (Introduction to Legal Knowledge), Dar Al Nahdha Al 'Arabiya (1983), p. 208.
- 46 Vogel, 'The Rule of Law in Saudi Arabia', Introduction, p. xiv.
- 47 Abdel Rahman Al Laahim, *Majlis Al Shoura wa Al Islaah Al Tashri'* (The Shoura Council and Judicial Reforms), *Al Watan* newspaper, 1 April 2002.
- 48 Vogel, 'The Rule of Law in Saudi Arabia', pp. 347–48; some decisions based on the general welfare, *maslahah 'amma*, are without textual proof or backing.
- 49 Vogel, 'The Rule of Law in Saudi Arabia', pp. 343–44.
- 50 Kamali, *Principles of Islamic Jurisprudence*, p. 397. Also in Halima Muzafar, 'National Dialogue, Why Now?', *Al Medina* newspaper, 8 August 2003.
- 51 This topic is also discussed in chapter 2, section 'Legal Reforms and Codifications in Arab/Muslim Countries, touching on Polygamy' (p. 19).
- 52 Madawi Al Rasheed, *Politics in an Arabian Oasis, The Rashidi Tribal Dynasty, Society and Culture in the Modern Middle East*, published by I. B. Taurus (1991), p. 251.
- 53 Peter W. Wilson and Douglas F. Graham, *Saudi Arabia: The Coming Storm*, published by M. E. Sharpe (1994), p. 56.
- 54 Jacob Goldberg, 'Saudi Arabia and the Iranian Revolution: The Religious Dimension', in *The Iranian Revolution and the Muslim World*, edited by David Menashari, Waterview Press, the Moshe Dayan Center for Middle Eastern and African Studies, the Shiloah Institute Tel Aviv University (1996); also in Douglas F. Graham, *Saudi Arabia Unveiled, The Kingdom's Longest-Serving Western Journalist*, Kendall/Hunt Publishing Company (1994), p. 155.
- 55 Said K. Aburish, *The Rise, Corruption and Coming Fall of the House of Saud*, Bloomsbury (1994), p. 137.
- 56 This provides yet another inducement to marry, whether polygamously or not.
- 57 The imposition of the black colour for the female public garments is covered in the section 'The Imposition of Plain, Black Coloured Veils in Public Places', p. 154.
- 58 Vogel, *Islamic Law and Legal System*, p. xi of the introduction.
- 59 These points were made by the author in a paper entitled 'The Laws which Surround Us', given to the Business Women of the Eastern Province Society on 23 April 2003.
- 60 A proposed new Justice Law was enacted; the date for its implementation is still unspecified as it will require the retraining of judges to work in specialised courts.
- 61 This information was provided through an interview with a retired local judge.
- 62 For more on this topic see the section 'New Justice and Litigation Regulations', below. Report by Fahad Al Dhiyabi, Riyadh, *Lajna Li Tadwin Al Fiqh wa Taqnin Al Ahkam Al Qada'iya* (A Commission for the Recording of Jurisprudence and Codification of Judicial Decisions), *Okaz* newspaper, issue 14784, 17 February 2007.

- 63 Vogel, 'The Rule of Law in Saudi Arabia', p. 9.
- 64 Vogel, 'The Rule of Law in Saudi Arabia', p. 124.
- 65 Translation quoted from Vogel, 'The Rule of Law in Saudi Arabia', p. 3.
- 66 Discussed above.
- 67 This new justice regulation was enacted in September 2005 (in draft form, not yet formalised); implementation is pending awaiting the slow and controversial retraining of current judges. Report by Fahad Al Dhiyabi, Riyadh, *Lajna li Tadwin Al Fiqh wa Taqin Al Ahkam Al Qada'iya* (A Commission for the Recording of Jurisprudence and Codification of Judicial Decisions), *Okaz* newspaper, issue 14784, 17 February 2007.
- 68 As explored in the section 'The Family ID Card', pp. 143–44.
- 69 The topic of divorce is detailed in chapter 5, section 'Divorce' (pp. 97–99).
- 70 Discussed further in the section 'Employment Restrictions', pp. 152–53.
- 71 Aburish, *The Rise, Corruption and Coming Fall of the House of Saud*, p. 73.
- 72 Iyalaaf-Riyadh, *Fatwa Jadidah: La Internet Lil Mar'ah Illa Ma'a Mahram* (New Fatwa For Women: No Internet Without the Presence of a Mahram), *Al-Qabas* newspaper, 12 November 2004-33rd Year, issue 11290-Kuwait.
- 73 In the sixth century, the Qur'an granted women, single or married, a new independence and freedom to handle and dispose of their own financial assets. This freedom only became available to women in England, through a series of Acts of Parliament starting in 1870 (Lord Denning; 1980, p. 200). However, this right has been heavily restricted and gradually withdrawn from Muslim Saudi women in the twenty-first century. See also Al-Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 260–61.
- 74 Al-Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, p. 259.
- 75 Saudi Arabian Company Regulations (application number 9/3 S'A/1673 dated 19/10/1396 Hijri, application number 3/9 SH/1091/10/380 dated 18/7/1397 Hijri, application number 3/3/2110 dated 6/6/1399 Hijri, application number 3/3/737 dated 17/6/1398 Hijri).
- 76 Nashwa Tahir, *Ilgha Al Wakil Al Shar'i La Yazal Hibr Ala Warak* (The Abolishment of the Legal Guardian Remains Ink on Paper), *Donya Al-Sharq* newspaper, 11 November 2006, 20-10-1427 hijri, issue 3-1335, p. 15.
- 77 Report by Sheikha Al Dawsari from Riyadh, *Al 'Ayaf: Mazina Nutalab Bi Al Wakil Al Shar'i bi Al Raghbm Min Qarar Ilgha'u, Al Hamad: Wazarat Al Tijara La Tahwi Aqsaman Nisa'iya Matalib Bitatbiq Al Qararat wa Izalat Al 'Araqil Amam Sayidat Al Amal Al Suoudiyat* (Al 'Ayaf: We Are Still Required to Produce a Legal Wakil Despite the Abolishment, Al Hamad: The Ministry of Commerce Does Not Provide Women's Sections, Calls [are made] for the Application of Decisions and the Removal of Impediments Facing Saudi Business Women), *Al Sharq Al Awsat* newspaper, issue 9900, 5 January 2006, p. 14.
- 78 The case was reported by an observing informant.
- 79 ID cards and Family Cards are discussed further in section 'The Family ID Card', pp. 143–44.
- 80 Information obtained through a personal interview with the Center Manager in Jeddah, at the Saudi Arabian General Investment Authority on 21 December 2003.
- 81 Legal responsibility is further explained in the subsection on 'Male and Female Autonomy', pp. 142–43.
- 82 Saudi Arabian Company Law (*Nizam Al Sharikat Al Sa'udi*).

- 83 Information obtained from a lecture given in November 2001 by Dr Nadia Ba'ishen, a University lecturer with a PhD in economics, who was personally subjected to the fingerprint procedure despite her obvious ability to sign a document. Another Saudi female responsible for numerous publications and a regular newspaper column was subjected to the same procedure when renewing a contract for her mobile telephone.
- 84 Report by Sakina Al Mushaikhis, Dammam, *Dakhl Al Mara'h Al Su'oudiya Al Aqal Fi Doual Al Khaleej* (Saudi Women's Income Rated the Lowest amongst Gulf Countries), *Donya Al-Sharq* newspaper, 24 January 2007, corresponding to 5-1-1428, issue 21-1353.
- 85 Vogel, 'The Rule of Law in Saudi Arabia', p. 242.
- 86 Explored throughout this work but specifically in chapters 5 and 7 (the Muslim Marriage Contract and the Character of the Polygamous Relationship).
- 87 Section two of the *Nizam Zawaj Al Sau'udi Bi Ghair Al Sa'udiyya wa Zawaj Al Sa'udiyya Bi Ghair Al Sau'udi* (Regulation [concerning] the Marriage of a [Male] Saudi to a non-Saudi [Female] and the Marriage of a Saudi [Female] to a non-Saudi [Male]). The law was publicised in the official Saudi government newspaper *Um-al-Qura* in 2002. The regulation took effect in April 2002 as an active law, ordained by the Minister of Interior, following its publication, 190/2/T on 12/8/1393 of the Hijri calendar (1973 AD).
- 88 The Holy Qur'an, text, translation and commentary by Abdullah Yusuf Ali, published by Kamil Muslim Trust for the Islamic Propagation Centre, Publications of Presidency of Islamic Courts & Affairs, State of Qatar (1946), p. 1407.
- 89 Al-Rasheed, *The Politics of Dissent*, p. 128.
- 90 Al-Rasheed, *The Politics of Dissent*, p. 128, quoting Yamani Mai, 'Cross Cultural Marriages Within Islam: Ideals and Realities', in *Cross Cultural Marriages*, edited by R. Berger and R. Hill, Berg (1998).
- 91 Umayma Khamis, *Fizat Shaghala* (Maid's Visa), *Al-Jazeera* newspaper, in Nawafidh, 2 April 2002, G. 10778:12.
- 92 Al-Sarraf, *Ahkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, p. 29. Many examples of marriages amongst different ethnic origins and financially unequal partners, contracted with the knowledge and consent of the Prophet Muhammad, are offered as illustrations for the point on pages 29–32.
- 93 Ghassan 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shari'a wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen* (Marriage, Divorce and Polygamy in Islam, Jurisprudential Rules and the Justifications of the Current Muslim Writers), Dar Al Saqi (2004), p. 79.
- 94 Fawzia Al Harbi, *Qalaq Nisa'ii Tijah Tanazul 'An Al Jinsiya Al Asliya Muqabil Al Sa'udiyya* (Worry in Female Circles Regarding the Giving Up of Original Nationality in Return for the Saudi), *Donya* Weekly newspaper, 27 October 2004, Second Year No. (73).
- 95 As detailed in chapter 5, section 'A Muslim Woman Can Only Marry a Muslim Man' (pp. 91–92).
- 96 Freedom of movement was explored in section 'Obedience Implications on a Wife's General Freedom of Movement' (p. 131).
- 97 *Mawsu'at Al Fiqh Al Islami Al Mu'asir* (Encyclopaedia of Modern Islamic Jurisdiction), vol. 3, *Personal Status, Hudud laws*, edited by Dr Abdel Halim Ouais, published by Dar Al Wafa (2005), p. 137.
- 98 Wilson and Graham, *Saudi Arabia: The Coming Storm*, pp. 65–66.

- 99 Graham, *Saudi Arabia Unveiled*.
- 100 *Mawsu'at Al Fiqh Al Islami Al Mu'asir* (2005), p. 136.
- 101 Now King Abdullah since the death of his brother Fahd in July 2005.
- 102 A further description of such 'overlapping regulations and jurisdictions' can be found in Steffen Hertog's, *Saudi Economic Reform*, and Madawi Al-Rasheed's *Royals and Society in Saudi Arabia*, both papers published in Saudi Arabia in *Balance, Political Economy, Society, Foreign Affairs*, edited by Paul Aarts and Gerd Nonneman, Hurst & Company, London (2005).
- 103 Travel restrictions were explored earlier in this chapter as part of the husband's right of obedience from his wife.
- 104 Yamani, *Al Islam wa Al Mar'ah*, p. 170.
- 105 Following the execution a new regulation was passed forbidding all Saudi women from travelling alone (without a male relative or his presence at the airport at the time of departure together with a formal signed consent) outside the jurisdiction. However, Saudi women are allowed to travel alone from one Saudi city to another regardless of the length of their journey.
- 106 Vogel, 'The Rule of Law in Saudi Arabia', p. 370, according to the Table of *hudud* penalty occurrences publicly announced as having taken place between 1981 and 1992. All *zina* (adultery) penalties concerned were punished by stoning. (Another adultery punishment through flogging is reserved for offenders who have never been married.)
- 107 The same travel restriction on women was imposed a short while earlier in Iran by the post-revolutionary government, as mentioned in chapter 3, section 'The Effect of the Iranian Revolution' (p. 48). This synchronicity by the Saudi decision-makers may or may not be a coincidence.
- 108 See *misya*f marriages in chapter 5, section 'Different Styles of Marriage Contracts Currently Practised in the Muslim World' (pp. 112–114).
- 109 See chapter 5, section 'The *Misyar* Marriage as Practised in the Gulf Region' (pp. 106–11) and chapter 5, section '*Misyaf* Marriages in Saudi Arabia' (pp. 112–114).
- 110 The Saudi Arabian Employment Regulation; only five per cent of the Saudi female population is formally employed. Statistics are obtained from a lecture in Oman by Dr Nahed Tahir, Senior Economist at the National Commercial Bank, 23 December 2003.
- 111 Muhammad Farid Al Sadiq Sayed Ahmad Umran, *Women's Political Rights: A Comparative Study*, PhD dissertation, Law Faculty in Cairo (1997).
- 112 Al-Sarraf, *Abkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 259–61.
- 113 Statistics published by the Ministry of Planning in April 2001 have revealed that 1.5 million Saudi women are classified as spinsters.
- 114 Every one in five marriages in Saudi Arabia ends in divorce within six months according to an article in the *New Yorker* by Lawrence Wright, 'The Kingdom of Silence: A Job at a Saudi News Paper Offers a Rare Look Inside a Closed Society', 5 January 2004.
- 115 *43 Miliar Riyaal Arsidah Nisaiyya Fi Al Bunouk Al Saoudiyyah* (43 Billion Riyals Constitute Women's Stakes in Saudi Banks), *Al Medina* newspaper, issue number (14482), 17 December 2002.
- 116 IMD Business forum in Dubai, Dr Nahed Taher, senior economist at the Saudi National Commercial bank Mas'ud A. Derhally, 'GCC States Need to Shape Up,

- Says Senior Saudi Economist', *Saudi News Weekly*, published by Alami Consulting, April 2005.
- 117 This point was referred to in the section 'Female Experiences in the Saudi Courts' (p. 142).
- 118 *Al Muhammadiyah Bintidar Al Mihna* (Female Lawyers Waiting for the Profession), *Al Mar'a Al Jadidah* newspaper, Friday Dhul-Qada, 24-1427 H., 15 December 2006, G. No. 14720.
- 119 *Wazarat Al 'Adl Taftah Abouabaha Li Al Mar'ah Al 'Aamila* (The Ministry of Justice Opens Its Doors to Working Women), *Donya* weekly magazine, 29 December 2004, p. 16, Second Year, issue (81).
- 120 Report by Rahma Dhiyab, *Hayat Al Muhandiseen Tadha' Khita Li Al Tasnif, Al Muhandisat Musta'at Min Talab Ihdar Mahram Li Mawqi' Al 'Amal* (Female Engineers are Unhappy about the Engineering Societies Plan Requiring the Presence of a Mahram at the Work Site), *Al Hayat* newspaper, 8 January 2007, issue 15984.
- 121 Al-Sarraf, *Abkam Al Mar'ah Bayn Al Ijtihad wa Al Taqlid*, pp. 259–61.
- 122 Details of powers bestowed on the religious police were discussed on pp. 138–39.
- 123 Sura 4:11–12.
- 124 Ahmad Al Fadil, *Al Niqab wa Al Burqu' Asbaha Masdar Fitna* (Face Covers and Face Masks Have Become a Source of Seduction), *Riyadh* newspaper, 2 April 2002.
- 125 *Fatawi* column, *Hukm Libs Al 'Aba'a Al Mutaraza* (Verdict on Wearing Ornamental Veils), *Donya* weekly newspaper, 8 September 2004, Second Year, issue 66.
- 126 As a result of the promotion of the Wahhabi Islamic element throughout the education curriculum only and the suppression of all others.
- 127 *Al Mamlaka Tu'akid An Al Islam Yamna' Al Tamyeez Dhid Al Mar'ah* (The Kingdom Reiterates the Islamic Prohibition of Discrimination Against Women), *Al Mar'ah Al 'Aamila*, *Donya* weekly newspaper, 27 October 2004, p. 3, Second Year-No. (73).
- 128 As discussed in chapter 7, section 'The Effect of Polygamy on an Existing Wife According to the Local Literature' (pp. 183–87).

THE CHARACTER OF THE POLYGAMOUS RELATIONSHIP

Marriage patterns and relationships naturally vary according to the personalities, upbringing, childhood experiences and expectations of the individuals concerned. Differences related to the social, educational and religious backgrounds of the parties involved all add to the complexities of these patterns.

Although, technically speaking, all Muslim marriages are potentially polygamous,¹ the level of the expectation of polygamy by the partners, or in some cases the lack of it, depends on the background and country of origin and the legal system of either one or both of the parties. This difference in expectation can range from one extreme where the possibility of polygamy had never crossed the minds of the marriage partners, to the other extreme where the partners had considered it as a probability from the outset. Unforeseen changes in the attitude of one of the partners (amongst those who had not expected polygamy) were observed to be on the rise amongst a growing number of individuals interviewed.²

This chapter differentiates between the relationships of different groups: the informally, potentially and currently polygamous marriage partners. It explores the differences in attachment, trust and commitment of the parties to a previously monogamous marriage following the introduction of polygamy. The chapter also discusses the wider effect of polygamy on the relationship and interaction between all family members who have been touched by the marriage, including the inevitable element of jealousy amongst co-wives and their offspring. It also recognises any positive elements experienced by the individuals interviewed.

The information provided comes directly from the interviews, since the main aim is to convey their subjective experiences within polygamy, although relevant literature concerned with the character of the polygamous relationship is also considered. Unless otherwise stated, references made to newspapers and magazines will concentrate on those published within Saudi Arabia or those focusing directly on it.

The chapter will be divided into different sections dealing with:

- 1) the existence of polygamy-like patterns within an outwardly monogamous arrangement;
- 2) the description of the relationship power structures present within the polygamous relationship;
- 3) the effect of the threat of polygamy on the monogamous relationship, including cases where the polygamy may or may not materialise;
- 4) the impact of polygamy on the various parties concerned and on the surrounding social scene;
- 5) the character of the *misyar* polygamous relationship and the differences between it and the more traditional polygamous marriage relationship.

Basic Differences between Monogamous and Polygamous Marriage Patterns; the Importance of Expectations

A distinction needs to be made between local cultural marriage patterns in the broad sense and those that are specifically related to the polygamous marriage relationship in particular. In the eyes of the author, there are three main points distinguishing the changes made to a monogamous male–female relationship through the introduction of polygamy:

- 1) From a practical point of view, the main difference between a monogamous and a polygamous marriage is that, in the first one, the partners are expected to spend most of their sleeping and a large amount of their waking time together in one home, whereas in a polygamous marriage the husband shares his nights, his emotions and his finances between his co-wives, who may or may not have separate accommodation. Each co-wife has a part-time marriage arrangement depending on the agreed (or imposed) division between the parties to the marriage.
- 2) From an ideological point of view, the equal partnership between a man and a woman, which is understood by some cultures to form the basis of the monogamous union, is eliminated through the introduction of polygamy. There is a reorganisation of the structure of the previous balance of power between the male and female original signatories to the contract, which is now replaced by the concept of equality between two or more women in relation to one man. The woman in the monogamous equation has a monopoly on her female status which she automatically loses at the onset of

polygamy. The previous competitive element which often exists between the two partners to the monogamous union is now removed, but is replaced by the birth of female competition between up to four women for the same man, thus giving him an illusion of gained superiority, and reducing these women to an inferior status in relation to their man. In this way the man automatically, and with no additional effort on his part, doubles, triples or quadruples his status within the marital equation.

- 3) From a material point of view, the element of partnership and shared ownership between a husband and his wife disappears with the introduction of a co-wife who becomes automatically entitled to inherit half of the wealth pertaining to the first wife. This includes any wealth that this first wife had previously contributed to the marriage, and the family business, unless it was directly registered in her own name. If the first wife opts for a divorce, or if her relationship with her husband deteriorates as a result of the polygamy, leading to a divorce by repudiation, she loses all her financial benefits, her right to maintenance and her right to live in her home, unless the legal ownership of the home is registered in her name.

The initial and subsequent expectations of the parties to the marriage play a key role in the overall nature of the relationship. For some the understanding is that the essence of the marriage lasts a lifetime, as prescribed in verse 30:21 of the Qur'an: 'He created *azwaj* (mate or spouse, part of a pair) for you from your own *anfus* (plural of soul or self) so that you may find rest in them.'³ This verse, in which the husband and wife are understood to provide long-term peaceful comfort to one another, will not be applicable with the introduction of a third party into the partnership. Polygamy in this case will, no doubt, cause an irreparable fracture to the original pair. However, if the marriage relationship is one that, in the words of Professor Coulson, is based on what constitutes no more than 'a contract of sale wherein the husband purchases the right of sexual union by payment of the dower', then the concept of equality and partnership will not apply. Polygamy in this case will not interfere too strongly with the structure of the relationship.⁴

The nature of a polygamous partnership is in many other ways different from that of a monogamous one, as explained by a Muslim American writer addressing Western women who are contemplating or

embarking on polygamy with a Muslim husband. She emphasises the reality that a woman entering into a polygamous marriage must understand that ‘her husband is not hers alone and will never be ... She must rise above the natural human desire to possess him for herself as he will not be at her beck and call. She may only see him as little as once, twice or thrice per week.’ A prospective polygamous wife is advised to explore the concept of sharing with her husband’s other wives elements such as love, wealth, time and hardships.⁵ A husband in turn is advised to consider, before embarking on polygamy, his ability to take care of the emotional, financial, spiritual and sexual needs of more than one woman, in addition to meeting the needs of whatever children might be had, and to develop the ability to divide his time and personality in such a way that the frustration level within his relationship with any one or all of his wives does not rise ‘beyond tolerable levels’.⁶

Extracts from historical accounts confirm that the psychological strains faced by a previously monogamous wife and her offspring following the introduction of polygamy remain applicable today. In her description of life for *Arab Women in the Middle Ages*, Shirley Guthrie reported the following:

‘Marriage for women was monogamous. Their spouses, however, were allowed serial marriages or concubines ... It would indeed be unusual if the appearance of another wife in her home did not place great psychological pressure on the repudiated wife; this would be intensified when children followed, and many would have found the strains unbearable. Sons and daughters, the extended family on both sides, even servants, would find their own loyalties confused ... A new wife and her children were all entitled to material support, as well as a share in the man’s estate, and the children of his first family would see their birth right literally diminishing before their eyes.’⁷

Legal Polygamy with a Nearly Monogamous Reality

There are many observed cases in Saudi Arabia where the polygamy is a formal arrangement, where a husband no longer lives with or consummates the marriage with one co-wife, yet he continues to be her legal guardian and is responsible for financially housing and maintaining her. The continued marriage status between them enables him to visit the children of the marriage at any time without raising questions about the possibility of immoral behaviour arising between himself and an

ex-wife. The spouses continue to have a right of inheritance from each other in the case of the death of one of them.

Monogamy with a Polygamous Reality

On the other side of the scale, there are some outwardly monogamous relationships which survive for many years while the husband discreetly or otherwise maintains extramarital affairs (or a secret legal marriage) with the knowledge of his existing wife without them becoming (openly) polygamous.⁸ The author has witnessed numerous examples whereby the wife in this arrangement publicly turns a blind eye, but often sadly at the expense of her health and her emotional wellbeing. She maintains her silence patiently, grateful that her husband has not openly married any of the other women.⁹

The trend, however, is currently more towards situations whereby husbands discreetly maintain a separate *misyar* home, where they conduct these relationships without promoting them to the level of the main home. One such husband interviewed spoke of having reassured his wife by promising that he will always come back to her bed every night no matter how late it is and never spend the entire night elsewhere. This verbal commitment means that he does not intend to take another wife whom he would treat equally.

The effect on a first wife of a husband openly practising polygamy, as opposed to his having a secret mistress, is described from a Turkish perspective by Halide Edib Adivar through her personal experience. Her words give insight into the difference, for the first wife, between polygamy and the infidelity of a husband:

‘When a woman suffers because of her husband’s secret love-affairs, the pain may be keen, but its quality is different. When a second wife enters her home and usurps half her power, she is a public martyr and feels herself an object of curiosity and pity ... The nature and consequences of the suffering of a wife, who in the same house shares a husband lawfully with a second and equal partner, differs both in kind and in degree from that of the woman who shares him with a temporary mistress.’

Slavery Old and New as an Alternative or in Addition to Monogamy

Under Muslim law, before slavery was abolished in Muslim countries following the requirements of international conventions, a man could

have sexual relations with his limit of four wives together with as many concubines as he could afford to own, provided they were not married to another male slave. The requirement for equality and justice did not apply in the case of concubines. The explanation for this is that slaves did not have rights of matrimony over their masters; their only rights were to be lodged, fed and dressed and not to be given excessive amounts of work beyond their ability.¹⁰

Traditional Styles of Polygamous Slavery

Before the abolition of slavery in Saudi Arabia by Prince (later King) Faisal in 1960, female slaves were commonly used as concubines by their master. Only the master owning the slave was entitled to this privilege and not other members of the household although there were many cases of non-compliance to this rule.

Informants from the older generation described to the author the insistence by some wives they knew in Mecca to do all the housework chores alone, refusing their husband's offer to buy a female slave to help with the housework in order to spare themselves the pain of watching their husband possibly having intimate relations with her. They spoke of cases where the husband sneaked at night into the unbearably warm basement where the female slave slept, leaving his wife in the outdoor roof terrace where the rest of the household slept in the summer nights in Mecca; the wife wept quietly, never daring to reproach her husband directly for the pain he caused her through his legally permissible behaviour. Others told of women slaves being forced to undergo dangerous abortions lest they become free by giving birth to their master's child.

It is important to note that slavery in Saudi Arabia, despite being contrary to Western concepts of human rights, was in no way as harsh or inhumane as its equivalent in the West. In his work on Saudi Arabia, David Long explains the difference between slavery as understood in the Western sense and the generally good treatment and status that slaves enjoyed in the Saudi context.¹¹

Slavery is still vividly present in the memories of adults today. Sons born to influential families, some holding key government positions today, are known to have been born as a result of 'below stairs' encounters between a female slave in the household and her master, but also possibly an encounter with a then teenage son of the family. When questioned as to the identity of the father of her newborn child, one female slave is

known to have identified the head of the household, rather than a younger irresponsible son, thus guaranteeing a better future for herself and her child.

A relevant incident which took place immediately preceding the ban on slavery in Saudi Arabia was related by a trusted informer. A polygamous husband who had three wives but also kept several slaves in his household paid a quick visit to one of his female slaves before going up to spend the rest of the night with his third wife. Still a young bride and proudly pregnant with her first child, the latter was hurt and furious. When he reached her living quarters, she threw his mattress down through the window and into the courtyard for the entire household to witness. The humiliated husband is said to have walked out, never to return to her again. However, she remained his wife until he died, and brought up her son within his household. Her fate was reportedly better than if she had been divorced and sent back to her father. It was also easier for a proud and jealous wife like her to become free from the romantic element of the relationship; her life became more peaceful once she was not one of several women in her husband's life. Observers can draw their own conclusions following this example on the quality of life that was on offer both for the free women and for the slaves within this type of household.

One of the men interviewed for the purpose of this book remarked that, in his opinion, the abolition of slavery in Saudi Arabia in 1960 (following international pressure) was an important reason for the increase in polygamy in Saudi households, since this created a gap in the sexual variety available within the home. However, new forms of slavery seem to have followed, as is illustrated in the following section.

New Forms of Polygamous Slavery

The continued practice of some men of means to acquire the services of women of an unequal social or financial status to theirs is portrayed in the words of an observing expatriate writer:

‘According to a locally researched publication, most Saudis with mistresses use the sexual services of an Asian or African house servant, maintain a Western mistress outside Saudi Arabia, or, as the ultra rich do, staff their private airplanes with a whole crew of beautiful girls. Much of any wife's attitude about “other women” depends largely on whether or not she maintains her position of respect in her husband's household.’¹²

This reality was experienced by one wife amongst the group interviewed who, although aware that her husband was having regular relations with the house maid on the marital bed, felt unable to reveal this situation to her family lest he get angry and divorce her. Her only consolation lies in the unlikelihood that he will ever marry the maid and her hope that he will eventually send her back to her country after he tires of her. The likelihood of this happening is not as distant as she believes, partly due to the legal restrictions on the marriage of Saudi citizens to non-Saudi nationals. It is not uncommon today for Saudi men to secretly bring a foreign wife into the country under the disguised employment visa of a housemaid or a nanny and keep her at home as her sponsor for as long as the marriage lasts. These foreign wives are sometimes persuaded that this situation is only of a temporary nature until a pending application for permission to marry a non-Saudi, launched with the Ministry of Interior, materialises.¹³

The Apprehension of Impending Polygamy can Influence the Character of a Monogamous Marriage

A noticeably common occurrence amongst Saudi couples is for a husband to threaten, in jest or not, to take another wife. The reaction of existing wives varies from angrily answering back to complacently not giving away their inner fears. Some wives jokingly say that a man who talks about it publicly does not do it realistically, a point often proved untrue in practice.¹⁴ The apprehension created by the threat of polygamy can markedly change the attitude of a partner and the level of their commitment towards the marriage. What was considered to be a lifelong partnership could become an uncertain, risky venture that may alter or end at any time.¹⁵ Saving funds and long-term planning as a couple becomes out of the question, and making the most out of a present opportunity becomes a priority.

The Moroccan academic writer Fatima Mernissi explains how even in economically plagued modern Muslim societies where polygamy is not so common, the constant threat made by husbands (of bringing in another wife) is enough to keep the assumption alive even in monogamous households.¹⁶

It was noted during the course of the research for this book that the apprehension of additional polygamy was also applicable in the case of a

preferred second or subsequent wife within a polygamous relationship. The fear that her husband will seek a new wife is as real in this case as it is for a first wife in a monogamous marriage dreading the reality of polygamy. The reason for this fear is that the existence of a first wife was present in the equation at the time of the marriage; it was understood that there were gaps in the emotional and physical aspects of the husband's life that his second or subsequent wife was hoping to fill successfully. The introduction of a new wife causes an imbalance in the secured position of this second wife who now experiences a similar sense of failure and inadequacy to that initially faced by the first wife upon the introduction of polygamy into her previously monogamous marriage. The first wife in this case suffers but to a lesser degree than her relatively more novel co-wife. There is an observed noticeable pattern whereby a third wife, in the early days of her polygamous marriage, is befriended and guided by the first wife.

Power Structures within the Polygamous Relationship

Different patterns and classifications of co-wife status and interaction can exist within different social structures and classes. This is seen on a global level, and research of polygamous societies generally has established what is described as the 'various grades of co-wives'.¹⁷ The same situation is also very apparent within the focus group of the research undertaken for this book. It reveals how polygamous structures can vary from one family to another. Their complexity is presented in the form of extracts taken from the interviews; these are used only as samples of the wide array of polygamous lifestyles that exist amongst the focus group. The status of co-wives can range from the height of that of the revered mother of successful grown-up sons to as low as the secretly married, mistress-style *misyar* wife.¹⁸

Many factors will determine this variable status grading such as the age, personal status, and family and social background of the co-wives. Offspring and specifically sons, but also today daughters who have either married well or become successful in their work, can also contribute towards a shift in the status of their co-wife mother.

Polygamous relationships tend to be broadly divided into two different patterns:

- 1) where the first-main wife remains essential to the husband and the extended family, and the subsequent wife/wives come and go, taking a back seat in the arrangement;
- 2) where the first wife is either suddenly or gradually rejected while the subsequent wife gains more power over the entire situation. This balance of power may shift forwards and backwards depending on various factors, such as the arrival or lack of male or female offspring, and the relationship with in-laws.

These broad categories refer to marriages where there are two main wives. The balance shifts in cases where a third wife is introduced into the marriage.

But the true power in a polygamous marriage invariably rests with the husband who can legally keep, repudiate or discipline his wives without, in practical terms, being questioned by a specific body or authority. Therefore a co-wife's ability to attract and maintain the husband's affections is in some observed cases all that is needed to tame any outside opposition.

The Main Components of the Polygamous Relationship

Although each marriage has its own unique set-up, there are some characteristics that are common to every polygamous union. These revolve around the relationship between equality and jealousy between co-wives and their offspring, teamed with the husband's and wife's sense of guilt. All of these are tentatively controlled through a religious framework. In cases where the polygamy is undisclosed, there is an additional element of deceit and betrayal forming part of the 'silent' polygamy.

Jealousy amongst Co-Wives and Offspring

Jealousy between co-wives is an inevitable result of the polygamous marriage. Jealousy and its management can be a conclusive determinant of the survival of the polygamous relationship.

The Qur'an imposed a condition on a polygamous husband to treat his co-wives equally; however, despite being overemphasised by modern polygamy writers, this is only applied in rare cases in the modern version of polygamy.¹⁹ Since there are no known cases of the Prophet's Sunna which indicate that he interfered with a husband's unequal treatment of his co-wives, there is no legal Islamic precedent for outside interference.²⁰

Jealousy remains a constituting element of polygamy even in the most unlikely cases. The author observed a case where a first wife had personally initiated polygamy in her marriage to relieve herself of the duty of accompanying her husband on his endless business trips, and another case of a wife who approached a second wife on behalf of her husband to spare herself his excessive sexual demands. Yet despite their initiation of their husband's polygamy, both of these wives later felt marginalised and hurt by the shift in attachment and loss of emotional exclusivity with their husbands.

These situations of jealousy can be traced back historically as far as biblical stories, such as the case of Sarah's jealousy of her husband's love for Hagar and her son, despite the fact that it was she (Sarah), who had initially offered her slave to her husband (Genesis 16 and 21).

The Element of Guilt Forms a Component of the Polygamous Relationship

The element of guilt is invariably present amongst husbands of polygamous marriages. Husbands who have a loving relationship with their first wives, but who become polygamous as a result of outside pressure, suffer from guilt as they watch the suffering they have caused to a first wife who, according to them, never failed in her marital duties.²¹

In an internet article by a Muslim convert of Western origin who was a first wife, the writer expresses a sense of self-doubt, guilt and low self-esteem at what she perceives as her own inadequacy for not being able to fulfil all of his needs, for not being his true partner and inspiring his work, and for ignoring him when she was busy or tired.²²

Patterns of Interaction between Co-Wives

The majority of accounts emphasise negative feelings between co-wives in polygamous marriages. In some cultures negative feelings are so prevalent they have been incorporated into songs, sayings and practices. The term co-wife in Bedouin Arab society also means 'trouble' or 'problem'.²³

The memoirs of a child living within a polygamous household in Turkey observed how the tension between the co-wives sharing the same home was bottled up while being diplomatically concealed from each other and from the rest of the household: 'The wives never quarrelled, and they were always externally polite, but one felt a deep and mutual hatred accumulating in their hearts, to which they gave vent only when each was alone with father.'²⁴

Another Turkish experience, going back into Ottoman history, is described as follows: 'Favourite wives and their infant sons were murdered because an earlier wife could not bear the humiliation of being replaced, or did not want to see her son's position in the line of ascension displaced.'²⁵

A Saudi Arabian book full of advice on the practical aspects of polygamy reports how co-wives will curiously seek information about each other and take advantage of the other's failings or arguments with her husband to put her down and demean her in his eyes in order to appear superior to her.²⁶ Co-wives living within polygamous marriages rarely experience the sense of security in their marriages that is often associated with monogamous partnerships. This is caused by constant intrigue and competition from the co-wife, and their husband's split loyalties between two camps, which makes their position a vulnerable one.

Fieldwork observations revealed extreme cases of tension between co-wives where they resorted to harmful methods to eliminate one another from their husband's life; one incident involved a co-wife with thinning, limp hair who in the middle of the night quietly smothered hair-removing crème on her co-wife's thick long hair with the result that it all fell out by morning.

The use of magic, prohibited by Islam, to influence a husband to love one co-wife more than the other(s) or to hate or turn against a co-wife and possibly divorce her, to cause a wife to have lengthy menstrual periods thus driving a husband towards spending more intimate times with her co-wife instead of her, has created a thriving black market amongst Black African, Moroccan, Egyptian and Far Eastern illegally practising magicians.²⁷ Despite the practice of this type of magic or other forms of amulet-induced protection being illegal in Saudi Arabia,²⁸ it remains widely available, as the financial benefits makes the risk of being caught worthwhile.

Outwardly simple occurrences, such as an invitation to a big wedding or any other social event, can potentially cause tension between co-wives. The reason for this is that such invitations are (a reminder of the outwardly prevailing monogamous culture of the focus group) often addressed to 'the wife of so and so' (*Haram Al Ustadh Fulaan*), and an invitation addressed in this fashion to an exciting event could be contested by each wife as being meant for her.

Not all is belligerence between competitive co-wives, however. Interviews have revealed the existence of moments when the arms can

be put down for short periods of time, on occasions to the detriment of the husband. Despite other disagreements they may have had in their everyday interaction, the young co-wives living in one household agreed on some points, unknown to their oppressive older husband. They occasionally slipped a sleeping pill into his cup of tea after dinner; while he slept peacefully, they went out partying together (naturally, to women-only gatherings).²⁹

Individual Incidents Associated with the Issue of Shared Accommodation

Tension and intrigue are reported to be constantly present in households where co-wives coexist, more than amongst co-wives who live independently from one another. The varying degrees of shared and independent living include:

- 1) living within the same household;
- 2) living in separate apartments within the same building;
- 3) living in a different building;
- 4) the more interactive pattern of co-wives socialising together, sharing shopping and outings in the same car as their husband;
- 5) co-wives whose common contact is limited only to formal meetings at family weddings and funerals;
- 6) co-wives who have never met or seen each other.

Co-Wives within the Same Household

In the case of the co-wives residing within the same household, a list of points is often agreed to avoid potential conflict, dealing with issues such as shared housework and cooking responsibilities, and the care and interaction between the children of the marriage or those brought in from a previous marriage including bedtime and other discipline issues such as the level of noise and times of rest of the different members sharing the household. Other issues may include the use of communal reception areas and kitchen (if these are shared), times and frequency for receiving guests or family of one of them, and the attitude and behaviour of each co-wife with her husband in the presence of the other. Even within these arrangements, it was explained to the author, the patterns could change several times as the parties established their boundaries and achieved an arrangement to suit all.

The will of all concerned to live peacefully together can be a bonus in these circumstances, whereas the lack of it can cause much pain to

the others. One co-wife in an interview spoke about the way in which her co-wife deliberately caused her discomfort as she acted intimately with her husband while they all watched television in the shared family room; she dressed inappropriately in a revealing manner in front of her co-wife, the servants and teenage sons of the marriage. She often went out and even travelled with the husband leaving her small children in the care of the burdened first wife. The co-wife said that although the mother left the children with a servant, she felt sorry for them and needed to supervise their safety and wellbeing.

Co-wives in Separate Apartments

Three of the polygamous wives interviewed were initially sharing the same house or apartment as a co-wife but later insisted on separate living accommodation as they found the experience to be emotionally draining. Many have separate apartments within the same building to make it easier for the husband to maintain his responsibilities towards all his dependents. But even these relatively separate arrangements can lead to intrigue, as one younger third wife complained during an interview that she was often secretly followed by the children of the second co-wife who then accused her in front of her husband of having an illicit relationship with a local trader, causing immense upheaval to all concerned.

Another co-wife complained to the author that after her allotted nights with her husband, as she got up to go to work in the morning, her co-wife would come down from her own apartment and get into her bed with the husband, later telling her she had enjoyed her space while it was still warm. Another first wife heard her co-wife laughing loudly and suggestively on her allotted night with her husband; the co-wife even sometimes came running out of the bedroom with her clothes partly torn, still laughing, as the rest of the household, including the first wife and children, watched on.

The tension created through co-wives sharing the same household, even if within separate quarters, was recognised by Jordanian law-makers who prohibited the accommodation of co-wives within a single dwelling except with their consent.³⁰

On a happier note, one case was noted where the co-wives, with the supervision and fair treatment of their common husband, had managed to sort out a code of behaviour which they adhered to. On one wife's allotted night with her husband, the co-wife would take over the care of

all the children of the marriage so that the couple could have a quiet time together. For an onlooker, it was even hard to guess which of the children belonged to each co-wife.³¹

Following the above extracts of competitive incidents amongst co-wives, it is not surprising to observe that some husbands who had remarried in the hope of becoming doubly pampered and looked after are faced instead with unbearable bickering and fighting. As a result these husbands seek refuge away from both homes to get away from these polygamy-induced problems.³² The husband's practice of justice amongst his co-wives and his exercise of self-restraint in refusing to show a marked preference towards one wife has proved in many instances to be of the utmost importance in cases of shared accommodation.

To highlight the universality of this unhappy co-wife experience, the research draws on tensions experienced within the Mormon polygamous household, as described in a book edited by Jennie Anderson Froiseth: 'The house was a perfect hell, and every polygamous household is ... I have never known a polygamous family where hatred and discord did not exist.'³³

The painful sight of her husband loving another women in her own home finally led Frontie, an ex-polygamous wife, to leave the marriage and start an organisation in Utah to fight against the practice. As she explains: 'It was painful watching two people getting to know each other and falling in love, consummating their marriage under my roof, the man being my husband ... It was hard to leave, I had nowhere to go, part of the process of indoctrinating wives is to separate them from their families ... I was a piece of property that he owned, that was getting away from him.'³⁴

The Factors Affecting the Character of the Relationship Following Polygamy

As mentioned in the introduction to this chapter, changes within the relationship will naturally depend on many factors: the initial closeness of the partners; the length of the marriage; whether the marriage was initially contracted as monogamous, later becoming polygamous or polygamous from the outset (as in cases of second or subsequent marriages occurring with the full knowledge and understanding of the parties involved); the surrounding social expectations or stigma attached to polygamy; and,

most importantly, the behaviour and attitude of the husband towards his existing wife/wives.

The research found that first wives who rejected the polygamy very strongly were those whose marriages were based on mutual love, and those who had fought against family and social pressures to make the marriage happen.³⁵ These were the wives who had set their expectations on a lifetime of monogamy. Marriage expectations are therefore an important determining factor of the future success and acceptability of a newly introduced polygamous marriage.

The Influence of the Initial Marriage Expectations of the Parties on the Outcome of Polygamy

Expectations seem to play an important role in the ultimate success or failure of the polygamous marriage. Researching marriage expectations and motivations has highlighted the reasons why polygamy has worked well in some cases on a practical level, but caused severe disruption in others.

The reasons first wives find polygamy very painful is because their expectations were for a monogamous partnership. This explanation accounts for the fact that these same first wives who later divorce and sometimes remarry in a different polygamous partnership find it easier to cope because this time their expectations were for a polygamous union from the outset. The interviews bear witness to this: five out of twelve second/subsequent wives interviewed had previously experienced marriage (to another man) as first wives. Experiencing polygamy as a first wife and finding it unbearable does not seem to be a lifelong deterrent from engaging in a future polygamous relationship as a second wife. Additionally, the expectations of individuals who originate from within a polygamous environment are different from those of individuals living within social circles where polygamy is considered to be backward or old-fashioned.

Some of the questions in the survey questionnaire concentrated on the expectations of the parties of the potential marriage partner and whether these expectations were met in realistic terms after the marriage.

The Outcome of Pre-Polygamous Expectations amongst the Target Group

The subjective views of previously monogamous husbands on the reality of their polygamy in comparison with their initial expectations of it

were raised as follows: if you could go back in time, and see the future (the present situation) would you still choose to take the same path? Six out of fifteen polygamous husbands involved said that they would still go ahead with the polygamous marriage while eight (more than one half) said that if they had foreseen the outcome of their polygamy they would have refrained from it. The last husband refrained from commenting. From these results it can be seen that polygamy did not meet up to its perceived image for the majority of the husbands in this selected group.

First wives within polygamous marriages were asked the following question: if you had foreseen that your monogamous marriage was to become polygamous, that your husband was going to remarry, would you have married him in the first place? Nine out of the twenty first wives (just under half) gave a definite no to the question, while the remaining eleven said they would have married the same husbands anyway, but some mentioned they would have handled the relationship differently from the beginning if they had known its outcome. They would not have given in to the husband's whims or to unreasonable demands by his extended family as often as they had, and they would have put themselves first more often.

These answers give a glimpse of the altered sense of dedication and commitment present within a monogamous relationship turned polygamous from the subjective experiences of this group of first wives. It also confirms the difference in attitude and commitment experienced by the partners in a monogamous versus polygamous marriage relationship.

Twelve second wives were asked if they would have taken the polygamy route if they had foreseen its reality in advance. Only three of them (one quarter) said no. The remaining nine (three quarters) said that despite their failed expectations, they would have married the men anyway. This result shows the difficult reality faced by adult, single women in their restrictive environment, to which the majority of this group of Saudi Arabian second wives belong. Even the disappointing outcome of their polygamous marriages and the emotionally turbulent life that they described in the interviews was, in their view, comparatively better than their alternative lives as single women.

The interviews revealed that marriage expectations of Saudi husbands to their non-Saudi wives within the polygamous set-up appeared to be less demanding both on the moral, domestic and social levels. This is because the husband's expectation that a Saudi woman has been trained

to conform to issues such as accommodating in-laws, waiting on the husband's needs and organising the home in the familiar way, were not applied to a wife who has not received the same style of upbringing.

*The Effect of the Attitude of the Polygamous Husband
Towards his Existing Wives*

There are different situations through which polygamy is introduced into a monogamous marriage. The manner in which this is done by the husband with regards to his existing wife and society can make a difference to the future relationships within the family and their immediate community.³⁶ The observed attitude of newly polygamous husbands towards existing wives varies between regretful, gentle and compassionate and negative, defensive and careless, with tantrums followed by lengthy periods spent with the new wife.

Although there is no Sunna precedent (tradition of the Prophet) requiring the husband to inform his existing wife or to obtain her consent prior to embarking on polygamy, some Muslim writers advise him to do this 'so she can gather her emotional reserve and strength before the event actually takes place'. He is also advised to reassure her that he still cares for her and to restrain himself in her presence from showing too much excitement regarding his impending remarriage.³⁷ Legal codifications of family laws in some Arab/Muslim countries (but not Saudi Arabia) have made it necessary for a husband to inform his existing wife and his prospective wife of his marital status before the new marriage contract can take place.

In a newspaper survey conducted on a group of currently monogamous Saudi husbands and wives, the prevailing view was that a husband owes it to his existing wife to inform her before a remarriage takes place. They said that this would give her the opportunity to assess her new position and to save her the embarrassing shock of discovering it through friends or neighbours.³⁸

The interviews conducted for this book confirm the above observations. There were a number of cases where the position of the first wife was strengthened as a result of her being informed or made aware of her husband's imminent remarriage. Although her sense of pain and rejection did not appear to have been minimised, she found the situation more tolerable. In these cases, the existing wife felt less offended, as she was able to alter her expectations in advance and was offered a recognised

position within the arrangement in which she was inevitably, willingly or not, involved. There was also an apparent strengthening of the second wife's position, as she came into a position where her role was acknowledged.

Traditionally in Mecca, a newly polygamous husband took his first wife for a visit to the Prophet Muhammad's tomb in Medina (a much desired destination) and offered her a string of pearls as a reconciliatory gesture to help her cope with the pain.

Additionally, there is a wide applicability in Saudi Arabia today of the situation explained by the Hanbali jurist Ibn Qayyim Al Jawzia, whereby if a husband no longer desires an existing wife, he can present her with the choice of either renouncing her rights to intimate contact indefinitely, while remaining married and lodged and fed, or she can opt for a divorce.³⁹ But with wives suffering the legal discrimination discussed in this book, it is easy to understand why many wives, especially those with children, and with no other means of survival available to them, opt to live under these 'deserted' conditions. The husbands, on the other hand, enjoy a clear conscience of having offered an Islamic legal option and of being additionally benevolent in generously providing food and shelter without requesting physical rewards in return.

How the Polygamy was Discovered According to the Interviews

The initial disclosure by the husband to his existing wife about a proposed polygamy is often described by the wife as a powerful blow, sometimes combined with a sense of disbelief that a loved and trusted partner is capable of such a deviation in his loyalty.⁴⁰ This accounts for the reason why husbands are reluctant to face the result of the disclosure openly and directly. When a husband fails to inform his first wife, there are many other ways in which she may learn about the polygamy. This can either happen through malicious gossip or from a 'well meaning' informant (*fa'ilat khayr*), including a telephone call from the co-wife herself, who may be eager to bring the secrecy element of her marriage out into the open.

The researcher has observed a trend of comforting denial amongst some polygamous wives who were happy to go along with reassuring affirmations made by their husbands about their favoured status in his life and the triviality of his other wives. Some even confirmed that the husband was forced, beyond his control, into his other marriage either through a trick, family pressure or even through a magic spell from his other wife. This confirms the importance of diplomacy and the

thoughtfulness of the husband in making a success of the day-to-day management of his polygamous lifestyle.

When husbands were asked how the polygamy was discovered by the first wife, seven out of the fifteen men interviewed (less than one half) had personally informed their existing wives before the polygamy. Six had kept the remarriage quiet and allowed the existing wife to find out from outside sources rather than confronting her directly. The two remaining first wives were informed by the incoming second wife, before the fact and without an explicit agreement with the husband.

Several of the husbands interviewed who had not informed their existing wives of the polygamy gave reasons ranging from not being able to face her reaction, to wanting to adapt to his new marriage peacefully before having to cope with the additional pressure of a first wife's reaction. Some husbands have remarried secretly and divorced after discovering an existing fault in their new partner; they felt that their secrecy had saved them and their main wife from undue pain and pressure.

Only one out of eight second wives interviewed stressed her insistence that her future husband should inform his existing wife before the marriage ceremony could take place between them. All the others had left it as a matter to be settled between the two parties independently of her; some even preferred not to inform an existing wife in advance lest her negative reaction would influence the husband or his family to call off the forthcoming marriage.

Amongst the first wives interviewed on this subject, six out of sixteen (less than half) had been informed by their husbands before his remarriage took place. They all described their pain and failed initial attempts to prevent the second marriage from taking place, followed by their reluctant resignation to it.

Two examples described by first wives illustrate the surprise element that some existing wives are sometimes expected to contend with. One polygamous husband simply brought the second wife home following the second marriage ceremony, and asked his existing wife to come down to the guest section of their house to meet her co-wife. More dramatically, another first wife described to the author how she came home from work one evening to find her new unexpected co-wife intimately involved with her husband on the living room sofa.

The Effect of Polygamy on an Existing Wife According to the Local Literature

Although the views of first wives in local Saudi newspaper reports are all initially tainted with rejection and dismay, the majority finally and reluctantly accepted their fate due to their lack of an alternative and also the needs of their children. Much of the literature on the subject allows an estimated adjustment period of six months to two years for the first wife to vent her anger before adapting to her new marital situation. The local media emphasizes that any negative impact of polygamy should be dismissed as being of a temporary nature. A local newspaper report (dealing with the impact of polygamy on a previously monogamous relationship) warned husbands to expect a level of anger from their first wives following the discovery of polygamy, but one husband confidently concluded that he was 'certain of his ability to convince her and obtain her acceptance of the new situation quite easily'.⁴¹

The mood can therefore be summarised thus: despite recognising the presence of a first wife's pain and anger following her husband's polygamy, modern Muslim writers insist that this should not constitute a deterrent for the husband since polygamy is an issue for the general public good (*maslahah 'amma*) which should override personal emotional issues.⁴² This angry reaction, in their opinion, is to be considered as a normal process of change and it should eventually subside with time and a true vision of the reality of the matter.⁴³ The pain and 'overreaction' are dismissed as being to no avail and will only serve to affect the children of the marriage negatively.

The author has observed that the socially condoned responsibility (present in the Arab literature) of protecting the emotions of the children of the marriage and their wellbeing from the effects of polygamy is always left to the wife rather than the husband, who in reality is the party actively responsible for creating these risks to the children as a result of his polygamy. First wives who find polygamy unbearable and decide to leave the marriage, thereby losing custody of their children, are faced with harsh accusations of having broken up the family unit. Even those wives who do keep the children following the divorce are still accused of having alienated them from the care and attention of their polygamous fathers. The message being sent through the literature is that although the arrival of a co-wife was not a source of joy to an existing wife, her

eventual acceptance of her changed situation was inevitable, for the sake of the children but also for the sake of her own survival.⁴⁴

The Effect of Polygamy on the Existing Wife as Portrayed in the Non-Arab Literature

Through her observations on the outcome of polygamy as she witnessed it during her residence in Saudi Arabia, an American writer commented: 'The complex relationships in the triangle of one man and two or more wives defies generalisation. Few women experience the husband's taking a second wife as anything but devastating.'⁴⁵ Following along similar lines in her chapter on Iraq, Jan Goodwin described how Saddam Hussein's first wife had become distraught and concerned about her fading attractiveness: 'She also recognised that any Muslim male who takes a younger second wife will probably favour the children of that union. The second wife is perceived as the traditional "wife of the heart".' The explanation for this reaction is that the first marriage was a traditional one with a first cousin whereas the second was a love marriage of the husband's own choice.⁴⁶

The Effect of Polygamy on the First Wife Discovered through the Fieldwork

Despite the usual assurances of newly polygamous husbands to their existing wives that 'nothing has changed', the existing relationship patterns are impossible to maintain following the polygamy. The re-structuring includes the emotional and pragmatic levels. The emotional level is in the wife's undeniable knowledge that she is no longer emotionally, physically or socially her husband's only lover, and that she must learn to expect his absence and its now publicised reason. Husbands who had absented themselves with excuses before the publicity of their polygamy, but who had made a conscious effort to come home to avoid suspicion, are now relieved and able to stay with the new wife without the need to invent excuses.

The changes occurring within the relationship between the husband and his existing wife following the introduction of a new co-wife are also affected by the first wife's acceptance of the validity of her husband's need for another wife. This could be the case where she knows that she is barren or suffers from an incurable or long-term illness. Sometimes a first wife is even involved in the selection of a second wife for her husband. Pain and jealousy can never realistically be avoided, even in these circumstances, and examples abound of cases where a first wife went

along with the idea of her husband's polygamy until its results became more apparent; these include the dissipation of her superior status, her husband's growing attachment to his new wife, the latter's increase in status after becoming the mother of his children, and his love for his new children from her.

Practical changes to the life of the (first) family following polygamy include mealtimes, holiday entitlements and any divisions in the responsibility for the husband's laundry. Small but irritating details were mentioned by first wives of incidents such as his good clothes continuously running out as he forgets to bring them back from the other house, his not coming 'home' for lunch as promised, the first wife having to cope with the children's disappointed anticipation while he cannot be reached as his mobile phone is switched off. First wives who have an interest in preserving the marriage despite the polygamy soon learn that looking or acting angry when the husband finally does come home will only drive him straight out of the door again.

THE RESULTS OF POLYGAMY ON A FIRST WIFE ON THE SOCIAL LEVEL
ACCORDING TO THE FIELDWORK

One wife expressed the negative external reactions that she experienced as a result of polygamy as follows:

'Following my husband's remarriage to my co-wife, family and friends around me were either pitying me or gloating over my grief (*shamatab*). There were countless efforts and affirmations on their part insisting that there was nothing wrong with me, that in fact I was superior to my co-wife, that my husband will leave her in due course and come back repentant to me, but to me, this was no consolation here and now. Even if he ever did leave her, the irreparable damage has already been done.'

THE IMPACT OF POLYGAMY ON THE FIRST WIFE ON THE EMOTIONAL LEVEL

All the first wives interviewed had gone through an initial phase of shock, anger and rejection; they continued, even years later, to express a general sense of deep sadness. All but one of them had contemplated leaving the marriage at some stage after the polygamy was discovered. One first wife expressed her internal self-doubt, created by her husband's polygamy; she was tortured by imagined thoughts of her husband spending pleasurable

moments with his chosen woman, reaching heights of pleasure that he was unable to reach with her:

‘I spent years looking at myself and trying to understand my faults. What needs was I unable to fulfil for my husband that this other woman was able to do. I continuously put myself down with guilt and self reproach until I finally reached the conclusion that the problem was not a failure in me but in his perception and expectations of marriage. I began to convince myself that I was a whole and complete person; I now can accept the presence of other women in his life as part of remaining with him.’

Another first wife expressed her feelings thus:

‘My husband’s polygamy turned my life completely upside down. The continuous pain I felt often felt as an actual physical stabbing into my heart; I felt as though I was wounded and bleeding. Sometimes the pain revealed itself in the form of a hot iron that somebody was applying directly onto my injured heart. The pain became so excruciating that I sometimes stopped breathing; I had to get out and walk in the open air because I felt as though the indoors were not large enough to contain my pain. People told me the pain would eventually subside with time. I waited for this time to come but it wouldn’t. On some days or during some moments, the pain seemed to lessen only to return again in full force as though it had never gone away. Whereas previously, my husband would have been the first person that I would turn to in pain and suffering, this time he was ironically the cause of my pain and I could not turn to him for comfort, more so as I could watch him experiencing the lust and excitement associated with the beginning of the love affair. I detached myself as I watched him come home and dutifully fulfil all that is needed of him before excitedly getting ready to go back to her. Sometimes I would enter his study at home and find him leaning on one side with the telephone receiver sitting on his ear and neck; he would be so involved in his intimate conversation with her that he was totally unaware of my presence. I often wished that what I was experiencing was nothing but a nightmare and that I would wake up and it would all go away. Yet I would wake up in the morning or in the middle of the night and the painful reality would still be squeezing my heart. I lost my appetite for food and lost a lot of weight as a result; people around me said I looked great, better than I had ever done. I couldn’t sleep more than one or two hours at a time; the pain seemed to prevent even that only time of

escape. I could sense that I was becoming a burden in my husband's existence, that he even secretly wished that I would die peacefully and magically disappear to absolve him of the guilt that my mere existence was causing him.'

Several first wives who had children of their own spoke about the next traumatic incident, after the discovery of polygamy; they described an excruciating numbing emotional pain following the birth of a new co-wife's first child, especially when it was a son. The initially soothing sense of a slightly superior status as the mother of their husband's children was now dissipated as the co-wife rose to an equal status, a sobering confirmation that there would never be a return to the way it used to be.

Post-Polygamy Changes in Attitudes of Husbands Towards First Wives as Revealed Through the Interviews

Following their husband's remarriage, first wives complained of the new discontented attitude of their husbands towards them and the constant comparison of them with their second/subsequent wives:

'Throughout our monogamous years of marriage, my husband seemed happy with our weekly routine, our meal varieties and our holiday destinations and pastimes. Now that he has another home, run by a younger wife, he is criticising every routine in our lives, from my foreign language skills to my cooking ability to my dress sense. He even criticises joint activities we have always shared with his own family (my in-laws).'

Another first wife finds her polygamous husband's insensitive comments and personal comparisons unbearable:

'I am now confronted with details from their intimate lives such as, why don't you greet me in such or other manner when I come home? Or, you should buy some towelling bathrobes and hang them on a peg in the bathroom, after years of being perfectly content with the bath sheets we used! ... His comparisons include devastating comments regarding my appearance and even my performance on a sexual level.'

A first wife of thirty years was losing what she had valued as her compatibility with her husband. She suddenly found herself lacking

in areas she could not compete with: 'After years of partnership, I am now fully aware of my inability to provide him with the level of mental compatibility that he is able to receive from her.'

In a no-win case of total inconsideration by one polygamous husband towards his first wife, the latter said: 'Although I am proud that my husband still prefers my cooking and organised ways to those of his second wife, even these skills now work against me; he calls as they are both planning a day together by the seaside and says he will pass by to pick up his favourite packed lunch for them to take along.'

One newly polygamous first wife, whose husband made a public display of spending an equal amount of time between his two wives, spoke as follows:

'Unlike his previous habit of wanting home-cooked meals, he began to take me out to restaurants where he knew that we would be seen. It made him look good as I played the role of the happy wife and he, that of the dutiful husband. It shut up any social attacks that his polygamy might have created. It didn't matter how much I cried at home and how miserable I felt inside.'

Another first wife described the impracticality of the Islamically proscribed equal division of time amongst co-wives: 'Just as he is relaxed and we are both happily enjoying our time as a couple, the time comes when he has to tear himself away at midnight, not because he necessarily wants to at that point in time, but because her time slot has come up and as a devout Muslim, he is keen on maintaining the equality element within the marriage division.' And the first wife is sometimes expected to take on the role as counsellor towards her polygamous husband: 'He assures me that he is unhappy in his other marriage and needs my full support to cope with its results, he begs me to be on his side in his dilemma, I have to ignore my pain and put him first because I am aware of how much he needs me.'

The Importance of the Ability of a Wife to Leave the Marriage

There is a noticeable difference in the relationship of the two original parties to the marriage following the introduction of polygamy, which depends to a large extent on the reasons why they have decided to keep their part of the marriage going. Bearing in mind that it is legally and socially easier for a husband to terminate an unwanted marriage union,

what is of concern here is the ability of the co-wife to make a choice regarding the continuation of the marriage. The initial reaction of the first wife, upon discovery of the polygamy or her knowledge of its imminence, is to think of leaving the marriage. Whether or not this urge is followed through usually depends on many factors affecting her wellbeing, that of her children and even that of her immediate extended family.

The social, emotional and financial ability of an existing wife to choose whether or not to remain in her newly re-structured marriage will largely affect her relationship with her husband and her situation within the marriage as a whole. The character of the polygamous relationship will be marked by whether the first wife experiences a sense of powerlessness which forces her to remain within the marriage. Often this wife is staying under duress because of her inability to move out of the marital home, being unwelcome anywhere else, due to a lack of financial independence, or because of the possibility of her not having access to her young children in the case of a divorce. Where a wife is able to leave the marriage but remains within the now polygamous union because of love, there is a greater sense of wellbeing and understanding, and a genuine acceptance of the new situation. There is also a counter-argument which is traditionally used that a wife who is unable to walk out on an unhappy polygamous arrangement will discipline herself and begin to accept her new life and improve her chances of finding an element of satisfaction within it.

The importance of self-determination is clearly illustrated in the two cases taken from fieldwork interviews. One of the husbands interviewed spoke about his first wife's constant requests for a divorce following his remarriage to a second wife, until he signed and sealed a licence giving her the power of divorce at any point should she decide to do so. His first wife, perhaps sensing that she had more control over her destiny, has never asked for a divorce again, but this does not mean that their other problems have been solved.

Another first wife interviewed had lived through the agony of being coerced by her husband to accept situations in relation to her co-wife that she found oppressive and morally distasteful. Her unhappiness drove her to ask for a divorce in court following which the judge commendably called the husband into the court room and requested that he sign a detailed statement requiring him to abstain from a list of forbidden behaviours involving his wife, contrary to which she would have an

uncontested right to divorce him in that court. This acquired right added a new sense of strength to her relationship with her husband; feeling protected by her new terms, she realised that she wished to continue with the polygamous marriage.

The Financial Result of Polygamy on the Existing Wife

As emphasised in the introduction to this chapter, one of the most drastic changes automatically affecting the status of an existing wife with the introduction of another wife into the marriage by her husband is the financial aspect.

One of the results of polygamy on a previously monogamous marriage is an altered financial outlook by the first wife as she sees her financial rights being halved. The previous pattern of saving for the partnership becomes rare, as looking after one's individual needs becomes the main priority. The author has, however, encountered three exceptions to this rule where first wives (mainly wives from a non-Arab origin who had married Saudi men and settled there before their monogamous marriages had become polygamous) willingly work and contribute towards their husband's second home. There were several assurances that this was done voluntarily as a token of their continuing love and acceptance of their situation.

A link must be made between this section, the section 'Travel Only Possible with the Permission of the Legal Guardian' of chapter 6 (pp. 150–51), and the section 'Modern Changes Affecting the Polygamous Relationship' below (pp. 202–203) when dealing with the influence of financial restrictions as a determining factor inducing many otherwise unwilling wives to stay, at least temporarily, within a polygamous relationship. The lack of access to family wealth for women in the case of divorce prevented others from leaving the marriage, as they would be leaving behind investments which they and their now polygamous husbands had jointly accumulated over many years of partnership and marriage. Imposed legal restrictions, which prevent a woman from disposing of her privately owned property without the physical presence and full acceptance of her male guardian, make it harder for an unhappily married wife to secretly plan her financial affairs before seeking divorce from her polygamous husband.

The Positive Features of the Polygamous Marriage

The positive aspects of polygamy are continuously celebrated in the local media and by Muslim writers who portray polygamy as a practical method of honouring women and protecting them against social immorality and saving them from prostitution.⁴⁷ A thorough consideration of the overall picture of polygamy must therefore include its positive qualities as experienced by individuals who are currently practising it.

The Positive Aspects from the Husband's Perspective

As a result of their polygamy, husbands felt positively envied and looked up to in male-only circles as they were seen to be more manly for being able to keep two (or more) women satisfied. The variety of having a new sexual partner was also said to be a definite bonus at the beginning of the relationship, although the excitement and novelty of this aspect of polygamy invariably wore off with time following which some polygamous husbands actively sought more variety either through more polygamy or otherwise. For some of the husbands, the introduction of polygamy made their previously uncaring first wives become more attentive towards them, although for other husbands the introduction of polygamy created friction, anger and the break-up of their existing marital partnerships.

On a happier note to the traumatic scenes faced by the polygamous parties living within shared accommodation, there is the case where the co-wives had agreed on a code of behaviour which they adhered to, discussed above.⁴⁸

The Positive Aspects of Polygamy from the Perspective of First Wives

Positive aspects of polygamy for the first wife were not always easily identified. However, a newly acquired form of independence from previous pressures and obligations was noted. This independence sometimes came in the form of a lessening of the direct influence and interference of in-laws (who now had a new target), having the urge or the extra time to take up a new hobby or a new direction in studies or work, feeling more able to spend time socialising with personal friends and with extended family, or a rewarding sense of return towards religion giving the wife a newly discovered strength of character. Polygamy was also a point in favour in the case of those wives whose relationships with their husbands had deteriorated over the years, as it gave them a socially acceptable solution to walk out on a dysfunctional marital relationship.

Some Positive Aspects of Polygamy According to Second Wives

Although many of the second wives interviewed were caught up in a painful emotional struggle, three amongst them confirmed that their marriage arrangement suited their lifestyles. The points in common between these successful second wives consisted of the following: they all maintained a civil but a relatively distant relationship with their co-wife; and all three had worked before the polygamous marriage took place and continued to keep and develop successful careers.

Amongst those who looked positively on the polygamous aspect of their marriages were wives who cherished the space and time it gave them (while the husband was with his other family) to develop other aspects of their lives independently. They spoke about being able to skip the cooking and spend more time reading, keeping in touch with their female-only circle of friends and having time for beauty routines. Although they all admitted to some sense of jealousy and a relative scarcity in finances (when shared between two families) they agreed that their relationships with their husbands were overall a positive aspect of their lives.

As mentioned in chapter 4, the section ‘Social Acceptability of Polygamy’ (p. 77), from the Saudi/Islamic context, polygamy to a second wife is a religious, legal and social improvement to the alternative status of a mere mistress.

The Negative Impact of Polygamy

The negative impact of polygamy was extensively covered in the previous sections of this chapter; the next subsections focus on the negative results affecting the new couple – the polygamous husband and the subsequent co-wife.

The Negative Effects of Polygamy on the Husband According to the Literature

The positive effects of polygamy have been tackled in the section ‘The Positive Features of the Polygamous Marriage’ on the previous page; the negative effects of the practice will now be examined, beginning with some relevant extracts from the literature. Describing signs of the detrimental effects of polygamy on her father in her memoirs, the famous Turkish writer, Halide Edib wrote: ‘He wore the look of a man who was getting more than his just punishment now.’

She relates the effects of polygamy on another man from the same social circle who had lost most of his hair: 'My old wife pulls out all of my black hairs so that I may look as old as she; my young wife pulls out my white hairs so that I may look as young as she. Between them I am bald.'⁴⁹

Polygamous Realities for Husbands According to the Interviews

Although one of the husbands interviewed had found a positive improvement in his relationship with his first wife following his polygamy, all the others described the changes that occurred within the relationship after the addition of a new wife as emotionally taxing. Interestingly, the same term *sudaa'* (headache) was used by several of the husbands interviewed in describing their life within polygamy. One polygamous husband felt that he was mistaken to think that the addition of another wife into his life would somehow solve his existing marital problems; in reality, his polygamy had only increased them. Many husbands confirmed that their relationship with first wives before the polygamy was more peaceful. One husband explained that his first wife used to be patient and forgiving but, following the polygamy, her bouts of anger erupted incessantly and she never failed to remind him of his failures past and present. Others complained that first wives, who were previously meticulous in their availability and conscientiousness towards their homes and husbands, began to show neglect and indifference towards marital responsibilities after the occurrence of polygamy. The only exception was the husband mentioned above, whose previously uncaring first wife had become more attentive to his needs after his remarriage. Another polygamous husband found he often had to bite his tongue as he had, on occasions, unwittingly called one wife by the name of the other, accidentally causing a tantrum that ruined the entire visit.

Even efforts made by his wives to please this husband can prove a nuisance when each one of them cooks his favourite dish twice a week; he occasionally ends up eating the same menu four times per week and does not dare to complain lest he is faced with yet another tantrum. Despite becoming the focus of attention of two women instead of one, the husband finds that the benefits are not always as positive as he had imagined before his polygamy.

Moments previously available to reflect on his own and go for long walks were now gone, complains another husband, because any time for himself is now taken up by that allocated for his two wives, with each

one angrily assuming he cheated by spending her slot with the other one, if he steals a few moments alone.

Some husbands interviewed expressed a sense of having become trapped between the demands and responsibilities of the different wives and children. One described how he has to take each wife shopping separately on her allotted day as the co-wives are not happy to go shopping together; they each unknowingly choose the same shops and sometimes the same dresses while he quietly obeys, hoping to maintain the peace. When they eventually meet up at a family social gathering wearing the same clothes, they each return home full of accusations that he gives 'her original ideas' to the co-wife. The husband in these cases faces the disappointment of his failed expectations: instead of becoming the ultimate boss, he is faced by angry disappointed wives on both sides.

The negative aspects of polygamy on husbands described through the interviews included the financial perspective. Polygamous husbands of limited means, including those who were financially comfortable in a monogamous set-up, complained about the additional expenses of maintaining two homes and appeasing two demanding wives. These husbands had underestimated the level of the ensuing burden before embarking on the second marriage. These expenses were usually accentuated by the arrival of additional offspring and also by the second wife, who in many cases was employed at the time of the marriage but had decided to stay home after the arrival of her children.

Co-Wives Teaming Up Against the Husband

Other incidents of a detrimental nature for the polygamous husband were described to the author. As well as the case described earlier in this chapter, where the young co-wives occasionally slipped a sleeping pill into their older husband's cup of tea after dinner and went out together while he slept, there was one where both co-wives were unavailable to visit their seriously ill husband in hospital, and another where three co-wives hardly appeared at their sick husband's bedside, leaving his care to members of his extended family or to hired nurses. These cases sadly disprove the myth that leads husbands to choose polygamy while healthy and wealthy in the hope that the love and care they receive from their relationship from one wife will be doubled.

Although there are surely many other incidents where the co-wives actively share the care of their sick husband (albeit with many hidden

conspiracies involved), this case illustrates the importance of the husband's sensitive handling of the relationship between the co-wives from the onset of the polygamy in order to reap the benefits of harmony or at least stability within the polygamous triangle.

Results of the Failure of Polygamous Marriage on Some Husbands

Three of the husbands interviewed had recently divorced their second wives, thus reverting to a state of monogamy. When asked whether the experience had deterred them or whether they would contemplate polygamy again, one husband said that, in his particular case, the purpose of polygamy was to discipline a haughty wife, and since his remarriage had caused her to ignore him further, even turning their children against him, he did not foresee polygamy as a happy possibility in the future.

Another husband had just divorced his second wife while his first wife had sought and obtained a divorce from a foreign court, which gave her custody of their children out of Saudi Arabia (while they were away during the school holidays). The children were on their mother's side as her co-wife had mistreated them while she was married to their father. As a result, the husband found himself alone without any wife or children or any of his foreign-based assets. (Child custody under the Islamic *shari'ah* courts in Saudi Arabia is automatically given to the father in these cases as covered in the legal chapter, and local assets would not pass to the wife in a divorce case under Saudi jurisdiction.)

On the opposite side of the scale is another husband who had just divorced his second wife 'and sent her back to her father because she had acted disobediently towards him'. When asked whether he would now be content to return to a monogamous life with his first wife alone, his answer was: 'The furnished flat is now empty and ready for a new wife.'

The Unpleasant Aspects of Polygamy for the Second/Subsequent Wife According to the Literature

While the section 'The Factors Affecting the Character of the Relationship Following Polygamy' above described how first wives need to contend with their disappointment at the polygamous turn of their monogamous marriage, this section highlights the situation of second wives facing their inevitable disappointment as the reality of a shared husband sets in.

Extracts from the modern literature suggest that although sharing a husband with another woman is not an easy matter, 'in most situations,

the second wife never suffers the same level of emotional stress as the first wife. Second wives are spared the same sense of rejection felt by the first wife. And for some women, becoming a second wife is the only road to marriage.⁵⁰ In the words of another writer: [a second wife is] ‘a woman who is only approached and courted by married men due to her age or social status, a woman whose siblings are all busy in their marital homes and whose aged parents will not be around for long ... a woman whose destiny pushes her to enter into a home and a heart that already belongs to another and comes to share another’s abundance.’⁵¹

Society continues to look unfavourably upon a second wife who robs an existing family of its peaceful existence.⁵² She is taking an initial risk by marrying a married man, as many second wives end up divorced and pushed aside by the husband’s existing wife.⁵³

Negative Polygamous Issues According to Second Wives

The most difficult aspect of being a second wife according to the women interviewed is the social stigma and the sense of accusation that are still attached to the role. Added to this is having to cope with the husband’s sense of guilt towards his first or previously existing wife and family. There often seems to be a yo-yo in his emotions and commitment towards the second/subsequent marriage. They also complained about the husband coming into the marriage with an established set of habits, values and assumptions regarding daily routines, including a woman’s emotional/physical needs and requirements that they felt pressured to mould into. One second wife said she had understood and foreseen from the beginning that if her polygamous marriage were to succeed, it would have to be as a result of her patience and understanding towards her husband and through valuing his responsibilities. She feels ultimately rewarded for all her many disappointed moments by the sense of happiness which they share together when he is with her.

Several second wives were sad to comment that the initial marked preference they had enjoyed at the beginning of the relationship was settling into a routine, sometimes even indifference, on the part of their husbands. Being stood up for appointments and let down at agreed meetings or outings or even entire holidays was reported by second wives as a fairly common incidence, due to the obligations and emergencies arising from their husband’s previously existing families.

The financial limitations of polygamy were referred to by some second wives who felt they had to make do with whatever surplus of funds was available after the satisfaction of the needs of their husband's first family. Second wives also felt at a disadvantage during direct interaction with in-laws and their husband's other long-established friends and business associates. They reported sensing a lack of acceptability by the latter. The sense of guilt that this rejection entailed was displayed by one second wife during the interview when she questioned whether God viewed her as a 'bad' person. Another second wife reacted to the pressure by withdrawing from her previously full social agenda as she found it hard to cope with unpleasant comments and remarks.

The Effect of Polygamy on the Children of the Marriage

The effect of polygamy on the upbringing of the children depends on the quality of care given by the father to each of his families. It is also greatly affected by the acceptance of the situation by their mother, her ability to take over responsibilities previously dealt with by their father and the level of the occurrence of other polygamous unions within their own social environment, such as school friends, neighbours and extended family. In many observed polygamous families, it is the children of the 'new' wife who are usually more likely to have access to the father's attention and possibly to his wealth as a result of their mother's favoured position.

There is a noticeable decline in the paternal involvement within the polygamous family; the sense of responsibility towards the offspring is generally shifting towards the financial fulfilment of their needs, often disregarding other obligations naturally arising from marriage and fatherhood. This trend was explained by one husband as his way of keeping the boundaries between the two homes separate and delegating the care of each home and relevant offspring to each wife in order to avoid potential conflict. This also minimises the extent to which the father is missed when he is with his second or other family.

A husband's apparent lack of long-term commitment towards the marriage, created through his regular absences from the home, are factors that can prove to be damaging to a woman's sense of identity, social status, emotional balance and self-esteem. The consequences of such negative emotions can also have a long-term damaging effect on the quality of child care and the upbringing offered by a mother undergoing such stress.

Polygamous parents are reported to use their children negatively to manipulate each other, which could create a long-lasting detrimental effect on their psychology. These children grow up competing with each other and considering each other as enemies as a result of the animosities expressed between their mothers.⁵⁴ An illustration of an extreme case of offspring's reaction towards a father's polygamy is the celebrated incident of the late 'Udai, son of Iraq's former president Saddam Hussein, who killed the man who is said to have introduced the second wife to his father.⁵⁵

Children of polygamous marriages who live within mainly monogamous environments (where their neighbours, cousins and classmates were mostly from monogamous homes) expressed their feelings of isolation; some had even encountered criticism and bullying as a result of their father's polygamy. In the interviews, they spoke about their guilt and about trying to hide the reality of their family structure lest they be ridiculed and bullied at school. The disadvantage of those children extended into early adulthood, as the offspring of polygamous marriages spoke of feeling victimised when approaching future marriage partners. They were being negatively labelled by potential partners and their families who did not approve of polygamy and did not want their daughters or sons to get involved with a partner who had witnessed the complexities of a polygamous background.

Husbands interviewed on this issue, however, often insisted that the relationship between their children from the different marriages is a harmonious one. This is due to the fact that children are on their best behaviour in the presence of their father in order to maintain his approval. Added to this is the husband's sense of denial through which he refuses to see the dilemmas that have been created by his polygamy.

*The Long-Term Consequences of Polygamy:
Does Polygamy Reproduce Polygamy?*

The research has looked at the case of second wives who, following divorce from an earlier polygamous marriage in which they had reluctantly played the role of first wives, choose to remarry polygamously as they join a previously monogamous partnership. Almost half of the second/subsequent wives interviewed during the fieldwork had previously experienced marriage as first wives.

The research questioned whether the children of polygamous unions were more likely to get involved in polygamous marriages later in life

modelled on their childhood experience. Or would a negative experience act as a deterrent in this case? Would the damage (if any is evident) be carried forward, through the role models on offer, into future generations?

The findings were generally as follows. Although individuals from polygamous family backgrounds, interviewed for the research, often spoke about their suffering, guilt and sadness as they watched their mother's pain, the answers that they gave were often at variance with their actual marriage patterns. Nearly all the husbands whose fathers were polygamous had later become polygamous themselves, in the same way that many (but not all) wives who had suffered as a result of their father's polygamy had become involved in a polygamous marriage either as first or second wives. Some of these women, as discussed earlier, had even experienced both situations.

The above does not detract from the fact that a growing number of polygamous husbands and wives in Saudi Arabia today come from monogamous backgrounds. This changing situation is understood by the research to result from a separate issue: the sweeping pro-polygamy campaign to which their generation is being subjected to.

The Effects of Polygamy on the Household

Polygamy naturally has an effect on all the parties concerned, namely the husband, co-wives and offspring, but it can also have an effect on extended family members and even household staff, the family business and the circle in which the parties socialise, either separately or as a couple. This involves changes, pressures, divided loyalties and frictions. The way in which each party is influenced varies: the husband's perspective is different from that of the first wife; the second or subsequent wife's experience is different again; and so on. The behaviour of the husband towards his wives, and the behaviour and interaction between co-wives and that of the offspring of these co-wives towards each other, has a major influence on the immediate and long-term character of the partnership. Speaking of her childhood experience of her father's polygamy, the Turkish writer Halide Edib Adivar described the unhappy effect it had on her grandmother and staff in the household as well as on her father and his two wives: 'The suffering extends to two very often considerable groups of people – children, servants, and relations – two whole groups whose interests are from the very nature of the case more or less antagonistic, and who are living in a destructive atmosphere of mutual

distrust and a struggle for supremacy.’ Adivar also spoke of the blame put on the grandmother for not having prevented the polygamy.⁵⁶

According to the interviews, all co-wives, whether first, second or subsequent, routinely encountered and disliked being addressed (inadvertently) by their husbands or his family members, friends and even household staff by another wife’s first name.

*Impact of Polygamy on Surrounding Social Groups*⁵⁷

Social circles with a predominantly monogamous pattern can become strained when one of its members becomes polygamous and begins to introduce a different co-wife into the circle. Split allegiances can occur and a sense of guilt amongst society overtakes friends of the first or original co-wife.⁵⁸ Wives within monogamous marriages can also feel threatened when a friend’s husband boasts of his newly found happiness as he brings a new co-wife into the usual social circle instead of the familiar first wife. This behaviour creates a sense of insecurity, lest currently monogamous husbands choose to imitate his happiness and follow in his footsteps. Newly polygamous husbands tend to boast about the extra loving care that the new wife offers them and the sense of rejuvenation experienced as a result. This is sometimes exaggerated in order to justify their socially questionable choice of polygamy. The result of this, as reported by some husbands, was that pressure can be exercised by existing wives of monogamous marriages to boycott the new polygamous couple from their social group.

Another practical inconvenience of importance regards social invitations that are commonly addressed to Mr so and so and his *haram* (wife). Difficulties arise as to which wife is to accompany her husband. Cases where the husband chooses to be accompanied by a new wife, despite the first wife being a close friend of the hostess, are not an uncommon occurrence according to the interviews. However, when a second marriage was initially sought because an existing wife is not willing to share her husband’s social life, then this problem naturally does not present itself.

Intricacies arise even in female-only social circles; when hosts and organisers issue invitations for social venues, frequented independently by both wives, there is a difficulty in deciding who should and who should not attend. Although polygamy is less obvious in women-only gatherings, the situation can bring about an embarrassing situation

for the hostess who has inadvertently invited both women, and even for guests who are socially familiar with both co-wives. It can be a dilemma as it may look like taking sides: the display of a public allegiance to a rejected first wife or the acceptance of the newly acquired status of her co-wife. The result for the hostess and guests who may know both wives can be a very difficult attempt to balance the two camps without hurting feelings or appearing to betray one's friendship to one or the other. The pain, guilt and anger felt on these occasions, as expressed by the co-wives and their accompanying sisters or daughters, towards each other, inevitably leads to more anger and disappointment that are then poured on to the husband by his wife when she returns home.

The Effects of Polygamy on the Wider Scale

The natural sense of competition amongst co-wives and the hope of establishing a long-term presence within the marriage makes each co-wife attempt to produce as many children as she can. Added to this is the sense of security that a wife in a polygamous marriage hopes to eventually obtain from her grown-up children, both in old age and in case of the failure of the marriage. In view of the problematic demographic increase in Saudi Arabia, this can only add to the ever-increasing population growth, causing further rises in unemployment.

The External Social Image Affecting the Relationship Internally

The external image and the level of acceptability of polygamy can have a marked effect on the outcome of the marriage. This is illustrated by the strong counter argument against Egyptian legal reforms which allow an existing wife to file for a divorce in court within one year of discovering her husband's polygamy on the grounds of *dharar* (injury) as a result of her husband's polygamy. Pro-polygamy modern Arab writers claim that it is in fact the legal assumption of injury implied by these laws that pushes the wife towards seeking divorce in order to save face socially and reclaim her dignity. Husbands who are faced by rejection from their first wives as a result of polygamy often claim that the wives would accept the situation were it not for the pressure from family and friends who influence them to leave the polygamous marriage. During the interviews, one polygamous husband stressed the fact that his first wife was only unhappy about his polygamy as a result of pressure from her immediate

family and her social circle. He spoke of incidents of renewed intimacy and a flow of communication between them whilst on trips abroad with their children but said that the situation always changed the moment they returned to her home atmosphere.

Personal observation has uncovered a pattern where polygamous couples (when the husband is with one of the co-wives only) openly display their affection to each other in the presence of their social circle, in a manner which is noticeably lacking in the surrounding monogamous couples. To an onlooker who may be unaware of the marital arrangement, the couple may give the impression of being newly-weds or still courting. However, when the co-wives and husband are seen socially, the harmony reflected can be very deceiving to those who are unaware of the intricate details of existing feuds only revealed during more intimate moments. This intentionally open display of affection could be explained as a defence mechanism by the polygamous partners against intruding comments or unwelcome questioning.

Modern Changes Affecting the Polygamous Relationship

In the search for differences that have affected the institution of polygamy in Saudi Arabia, principally within the Hijazi groups researched, it has been noticeable that modern social changes have had a mainly negative impact on today's polygamous families. The move from the extended towards a nuclear family pattern, initially monogamous but then followed by the re-introduction of polygamy, has had a detrimental effect. This is partly due to the loss of the important influence of the elders in the extended family arrangement in 'supervising' both financial equality and equality in terms of the husband's regular physical presence amongst his co-wives. Previously, when a son of the family brought another wife into the household, the head male figure in the family (usually the father or an older brother) was available to help neutralise the effects of the shift in passion and loyalties between the newly polygamous husband and his wives. This guidance is now practically non-existent, and the support network and the sense of shared responsibilities, once available to the various members of an extended family, has also been lost. Today the 'neglected' wife within a polygamous union often carries similar burdens as those of the single mother in other societies, with the added burden that, unlike other 'developed' societies, the loss of support once

provided by an extended family arrangement has not been replaced by an adequately supportive social security system.

Modern changes have also drastically affected the financial aspects of polygamy, in particular the status and long-term contributions of an existing first wife upon the unexpected arrival of a new co-wife into the technically 'equal' equation.

Character of the *Misyar* Polygamous Relationship⁵⁹

Misyar marriages are common in Arab Gulf countries; they are very often polygamous but as they differ from the classic polygamous relationship, they are tackled separately in this section.⁶⁰ The *misyar* relationship is in many ways similar to that of a man and his mistress in the Western cultural environment, in that the wife does not enjoy the right to equal treatment with her co-wives, including the quality of her accommodation, maintenance, and number of nights spent with her husband. As discussed in chapter 5, many *misyar* wives believe, usually mistakenly, that the passionate nature of their relationship with their husband will continue, making giving up other traditional rights worthwhile.

Expectations from the Perspective of the Misyar Marriage Partners

There is a difference between marriage expectations in a *misyar* marriage situation and those in the traditional marriage proposal, as observed through the research. A traditional marriage, in which the bride naturally expects to be fully housed and maintained by her future husband, is usually agreed between two families, whereas a *misyar* marriage is in most cases an arrangement made between the parties without the involvement of extended families. A bride in a standard marriage contract is usually expected to be a virgin, unlike the bride in *misyar* arrangements who is often (but not always) a widow or a divorcee; the prospective husband in the *misyar* case is therefore waiving his requirement for a wife with no previous sexual experience. This is not a hard-and-fast rule, as some brides with previous marital experience sometimes enjoy more financial gain from the marriage than the original, traditionally selected first wife.

The expectation often characterising the *misyar* polygamous relationship is its lack of stability and the absence of the couple's sense of long-term commitment towards the marriage. This can prove damaging to a woman's sense of identity, social status, emotional balance, self-esteem

and, most importantly in a traditional society, her moral reputation. This in turn will reflect on her commitment to the relationship. Difficulties arise mainly when the *misyar* wife has high hopes that she will acquire more out of the marriage than the initially agreed benefits, or when the husband verbally promises more than he eventually delivers. As a *misyar* husband is unlikely to value a wife who came easily to him, he is more readily willing to exercise his power of divorce should she start to create a scene or ask for more than he is willing to give.

However, there are some *misyar* marriages of convenience that seem to be working for those parties who understood and agreed on their requirements in advance.⁶¹ The interviews conducted for this book have also revealed the occasional, initially unexpected long-term possibility of some *misyar* marriages. Some interviewed married men who had been through a string of polygamous *misyar* unions eventually got 'attached' to one of those wives and ended up turning the union into a regular polygamous marriage. There are also women, known to the author, who have been through several *misyar* marriages, some as many as six and seven; these are available on a 'list' which can discreetly be made available by imams in mosques or *khatibas* (marriage mediators), to men searching for a prospective *misyar* wife.

Conclusion

The world of polygamy is as varied and complex as the individuals involved within it. This chapter has sought to give an honest account of the positive and negative aspects of polygamy as conveyed by the literature and through the detailed direct and open accounts of polygamous individuals and their surrounding offspring, extended families and social circle. Although a number of individuals have managed to turn polygamy into an advantage, many others have suffered from its initial and lifelong impact, mainly as a result of disappointed expectations and possible injustices.

This chapter exposed some points in common that cannot be avoided by the parties, such as guilt, jealousy and the co-wife's sense of rejection while a husband is spending time with the other woman. The polygamous relationship cannot be isolated between the husband and his wives alone, its results inevitably spill out and have a permanent effect on the offspring, extended family, household staff, friends and society as a whole.

Polygamy invites an uncompromising social curiosity from outsiders often inducing the partners to display their exaggerated affection publicly to dispel negative assumptions.

The chapter proved that the assumption of equality between co-wives portrayed by the pro-polygamy literature, as seen in chapter 2, is not a practical reality amongst today's modern polygamous families. The whims and emotional leanings of the majority of husbands towards one wife and her offspring to the detriment of the other/s are no longer kept in check by a familial or a state-empowered authority.

The main, overwhelming observation has been that polygamy represents a compromise, whether conscious or not, by the women involved. It is only through this compromise by women in polygamous marriages that the continued existence of these marital arrangements is sustained. The common link between the cases studied is the vulnerability of one gender with regards to the other. This situation is created and maintained through a deep-rooted, ongoing tangible economic and intangible psychological and emotional frame.

In the light of this, the next chapter will attempt to clarify the reasons that led these men and women to enter (or remain) in polygamy.

NOTES

- 1 As covered in chapter 5, section 'The Muslim Marriage Contract' (pp. 82–83).
- 2 Most Hijazi couples embarking on a monogamous marriage twenty years ago or earlier said they did not consider polygamy as a possibility. However, today polygamy lurks as a shadow over most monogamous unions.
- 3 Translation and Qur'an quote taken from Wadud, *Qur'an and Woman*, p. 22.
- 4 Coulson, 'Islamic Surveys 2', in *A History of Islamic Law*, pp. 221–22. (More information on the marriage contract can be found in chapter 5.)
- 5 Abu Amina Bilal Philips and Jameelah Jones, *The Rationale and Laws Behind Polygamy in Islam*, International Islamic Publishing House, 5th edition (1996), p. 88.
- 6 Philips and Jones, *The Rationale and Laws Behind Polygamy in Islam*, p. 88.
- 7 Shirley Guthrie, *Marriage and the Home*, in *Arab Women in the Middle Ages: Private Lives and Public Roles*, Saqi Books (2001), pp. 12–13.
- 8 Sandra Mackey, *The Saudis Inside the Desert Kingdom*, Houghton Mifflin Company (1987), p. 156.
- 9 The difference between *misyar* and standard marital polygamy is covered in the section 'Character of the *Misyar* Polygamous Relationship' (pp. 203–204).

- 10 Dr Muhammad 'Amarah, *Al Islam wa Al Mar'ah Fi Ra'y Al Imam Muhammad 'Abdu* (Islam and Women According to the Opinion of Imam Muhammad 'Abdu), Al Muassasash Al 'Arabiyah Li Al Dirasat wa Al Nashr (1980), p. 122.
- 11 Long, *The Kingdom of Saudi Arabia*.
- 12 Mackey, *The Saudis Inside the Desert Kingdom*, p. 156.
- 13 Ni'maty Khalifah, *Dhahirahou 'Aqd Rasmee wa Batinahou Min Qablahou al-Khidaa'*, *Al Zawaj Al Sirri Burkaan Mustatir That Fawha Mathkoubah* (Secret Marriages, A Hidden Volcano Under a Fractured Opening. Externally a Valid Contract, Internally of Deceitful Origin), *Donya* newspaper, 24 December 2003, p. 3, First Year-No. 30.
- 14 Information obtained through the personal observations of the author.
- 15 As described by a polygamous first wife during an interview.
- 16 Mernissi, *Beyond the Veil*, pp. 115–16.
- 17 Helen Fisher, *Anatomy of Love: The Natural History of Monogamy, Adultery and Divorce*, Simon and Schuster (1993), p. 18.
- 18 *Misyar* relationship patterns are covered in chapter 5, section 'The *Misyar* Marriage as Practised in the Gulf Region' (pp. 106–111) and in 'Expectations from the Perspective of the *Misyar* Marriage Partners' (pp. 203–204).
- 19 'Amarah, *Al Islam wa Al Mar'ah Fi Ra'y Al Imam Muhammad 'Abdu*, p. 124.
- 20 Dr Muhammad Baltajee, Professor and Head of the Islamic *Shari'ah* Department at the Dar Al Uloum College, Cairo University, *Makanat Al Mar'ah Fi Al Qur'an Al Kareem wa Al Sunna Al Sabihah Al Hukouk Al Siyasiyya wa Al Ijtimaiyyah wa Al Shakhsiya Li Amarah Fi Al Mujtama' Al Islami* (Women's Status in The Qur'an and Valid Sunna, Political, Social and Personal Rights of Women in Muslim Society), published by Dar Al Salaam Li Al Tiba'a Wa Al Nashr Wa Al Tawzee' Wa Al Tarjamah (2000), p. 226.
- 21 Ahmad 'Aamir Sa'ad, *Al Nadwah Tadehoul Al Mantiqah Al Sha'ikah wa Tufajjir Al Qadhiyyah, Al Ta'addud Rafelb wa Quboul wa Itharah wa Maka'id* (Al Nadwah Enters the Thorny Area and Causes the Issue to Explode, Polygamy, Rejection and Acceptance, Provocation and Intrigue), *Al Nadwah* newspaper, 29 April 2003, p. 11, issue 13536.
- 22 Muslima Inspirations; 15 July 1993, <http://www.themodernreligion.com/index.1.html>.
- 23 Joseph Ginat, *Women in Muslim Rural Society*, Transaction Books (1982), p. 341.
- 24 'Excerpts from *Memoirs and The Turkish Ordeal*, by Halide Edib Adivar, Turkish Nationalist', in *Middle Eastern Muslim Women Speak*, edited by Fernea and Bezirgan, p. 178.
- 25 Goodwin, *The Price of Honor*, p. 252.
- 26 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat* (Letters on Polygamy), published by Dar Ibn Hazm Li Al Tiba'a wa Al Nashr (1997), p. 36.
- 27 Muhammad Fouad, *'Amal Shaytaniyyah Tarfa' Adad Al 'Awanis wa Tutawil Fatrat Al Istihadha* (Satanic Deeds Increase the Number of Spinsters and Lengthen Menstruation Periods), *Donya* newspaper, 17 December 2003, First Year No. 17.
- 28 Eleanor Abdullah Doumato, *Getting God's Ear: Women, Islam, and Healing in Saudi Arabia and the Gulf*, section entitled 'Amulets, Decoys, and Disguises: Women Guard the Household', Columbia University Press (2000), pp. 148–55.
- 29 There is more on husbands' negative polygamous experiences in the section 'The Negative Effects of Polygamy on the Husband According to the Literature' (pp. 192–95).

- 30 Article 40 of the Jordanian Law of Personal Status No. 61 of 1976 as detailed by El Alami and Hinchcliffe in *Islamic Marriage and Divorce Laws of the Arab World*, p. 89.
- 31 This case is referred to in the section 'The Positive Aspects from the Husband's Perspective' (p. 191).
- 32 *Al Nadwah* newspaper, 29 April 2003.
- 33 *The Women of Mormonism: The Story of Polygamy as Told by the Victims Themselves*, edited by Jennie Anderson Froiseth, editor of *The Anti-Polygamy Standard*, Salt Lake City, C.G.G. Paine (1886). (Information about the organisation and relevant publications is available from www.polygamyinfo.com/voices.htm.)
- 34 BBC Radio 2 programme 'Taking Your Stand'; Frontie was interviewed by Fergal Keen, 10 February 2004.
- 35 *Donya Tajous Nabad Al Zawjat wa Tahbis Anfasahun, Al Dharah Al Jadeeda Bayna Dharouriyat Al Mu'ayashah wa Rafdh Al Waqi'* (Donya Checks the Pulse of [First] Wives and Withholds their Breathing: The New Co-Wife Between the Need to Co-Exist and a Refusal of Reality), questionnaire by Nawal Al-Yusuf, *Al Mar'ah wal Mujtama'* (Section on Women and Society), *Donya* newspaper, 13 August 2003, p. 9. First Year, issue 12.
- 36 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat*, pp. 14–15.
- 37 Philips and Jones, *The Rationale and Laws Behind Polygamy in Islam*, p. 89.
- 38 Survey conducted by Nawal Yusuf, *Donya Tajus Nabd Al Zawjat wa Tahbis Anfasahun, Al Dharrah Al Jadidah Bayn Dharourat Al Mu'ayashah wa Rafdh Al Waqi'* (Donya Checks the Pulse of [First] Wives and Withholds their Breathing: The New Co-Wife Between the Need to Co-Exist and a Refusal of Reality), *Donya* newspaper, 13 August 2003, p. 9.
- 39 Ghassan 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shari'a wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen* (Marriage, Divorce and Polygamy in Islam, Jurisprudential Laws and Justifications of the Current Muslim Writers) (2004), p. 49–50.
- 40 Report by Nawal Al-Yusuf, *Donya* newspaper, 13 August 2003, p. 9.
- 41 *Donya* newspaper; 13 August 2003, p. 9.
- 42 Abu Osama Muhyoddeen 'Abdel Hameed, *Qalou Wa Qulna 'An Ta'addud Al Zawjat* (They said [Masculine] and they said [Feminine] Regarding Polygamy), published by Dar Al Masha'il Li Al Tiba'aa wa Al Nashr wa Al Tawzee' (1413 Hijri Calendar), p. 46. The same opinion is expressed by Dr Muhammad Baltajee, Professor and Head of the Islamic *Shari'ah* Department at the Dar Al Uloum College, Cairo University, in *Makanat Al Mar'ah Fi Al Qur'an Al Kareem wa Al Sunna Al Sahihah Al Hukouk Al Siyasiyya wa Al Ijtima'iyah wa Al Shakhsiya Li Amarah Fi Al Mujtama' Al Islami*, p. 201.
- 43 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat*, pp. 21–22.
- 44 Survey conducted by Nawal al Yusuf, *Al Dhara Al Jadidah Bayn Dharourat Al Mu'ayasha wa Rafdh Al Waqi'* (The New Co-Wife Between the Need to Co-Exist and a Rejection of Reality), *Donya* newspaper.
- 45 Mackey, *The Saudis Inside the Desert Kingdom*, p. 162.
- 46 Goodwin, *The Price of Honor*, pp. 251–22.
- 47 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shari'a wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen*, p. 115. More coverage of the views of Muslim writers regarding the benefits of polygamy for the female population can be found in chapter 2.

- 48 See the section 'Co-wives in Separate Apartments' above (pp. 176–77).
- 49 Adivar, 'Excerpts from *Memoirs* and *The Turkish Ordeal* by Halide Edib Adivar, Turkish Nationalist', p. 178.
- 50 Mackey, *The Saudis Inside the Desert Kingdom*, p. 162.
- 51 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat*, p. 27.
- 52 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat*, p. 29.
- 53 Maryam Bint Muhammad, *Rasail Fi Ta'addud Al Zawjat*, p. 31.
- 54 'Amarah, *Al Islam wa Al Mar'ah Fi Ra'y Al Imam Muhammad 'Abdu*, p. 124.
- 55 Goodwin, *The Price of Honor*, pp. 251–52.
- 56 Adivar, 'Excerpts from *Memoirs* and *The Turkish Ordeal* by Halide Edib Adivar, Turkish Nationalist', pp. 175–77.
- 57 This section ties in with chapter 4, section 'Social Acceptability of Polygamy' (pp. 73–77) dealing with the acceptability of polygamy amongst mixed, monogamous social circles.
- 58 The social effects of polygamy on first wives was seen in the section 'The Results of Polygamy on a First Wife on the Social Level According to the Fieldwork' above (p. 185).
- 59 Abdullah Kamal, *Permissible Prostitution, the Modern Institution of Marriage in Egypt Saudi Arabia and Iran*, published by Dar-Al-Khayyal (1979).
- 60 These forms of polygamy have evolved to suit the changing needs of the time and are described in detail in chapter 5, section 'The *Misyar* Marriage as Practised in the Gulf Region' (pp. 106–111).
- 61 This point is illustrated through the case-studies in chapter 4, section 'Social Acceptability of Polygamy' (pp. 73–77).

THE REASONS FOR POLYGAMY

The reasons for polygamy naturally vary according to religious affiliations and fervour, social custom, economic incentives and state structure of the group concerned. This chapter considers the views of Arab writers on the reasons for polygamy, including the relevant local Saudi newspaper and magazine articles dealing with the subject. It searches for the reasons why some men seek polygamy and the reasons that encourage a woman to accept marriage with a currently married man.

These reasons will be identified from the general Arab, Muslim context, with a mention of local distinctions whenever relevant. The main focus will, however, remain the consideration of these reasons from a Saudi Arabian context.

The reader is also referred to the section on the Islamic discourse in favour of polygamy (pp. 19–25), which displays an array of reasons justifying the practice according to the opinions of a sample of current Muslim jurists and writers.

It has been generally observed that the wide variety of reasons for polygamy put forward mainly revolve around the needs of the husband. These are either caused by a deficiency in the existing wife/wives, or an excessive need in the husband himself that one woman cannot satisfy. The second observation concerns the encouragement bestowed on such a husband to seek immediate redress here and now, through polygamy, versus the overall social inclination towards the expectation of wives, whether first or subsequent, to apply patience in this life, in order to reap their rewards in the hereafter.

Through its progression, the research undertaken for this book has come across exceptions for every written rule on this subject, and discovered many more reasons, other than those previously published, that are believed to encourage men to choose polygamy and women to accept it. With these cultural assumptions in mind, the reasons presented throughout this chapter will hopefully be seen in their relevant context.

Structure of the Chapter

While most of the literature deals with the reasons for polygamy from a male perspective (including those writers quoted in chapter 2 who take up the defence of subsequent wives in their arguments in favour of polygamy), in order to create a more comprehensive picture of the polygamous arrangement, the reasons given by the second or subsequent wives for engaging in polygamous marriages, and the reasons why existing wives remain within marriages that have become polygamous will also be explored. This part of the chapter connects closely to chapter 7, which describes the character of the polygamous relationship.

The classification of the headings will be organised according to these reasons, as will the source from which the information was obtained, whether academic references, local publications and interviews or personal observations. Different but often interacting groupings of reasons will be broadly divided within the chapter; they consist of the classic, the religious, the internal and the external influences and incentives affecting the men, the second wives and the first wives.

Reasons Why Men Engage in Polygamy

In his critical academic study of marriage and divorce laws in the modern Muslim context, Ghassan 'Ascha devoted a chapter to identifying a number of reasons why men engage in polygamy, some contradicting each other, in what he described as the 'very difficult task of justifying a system that previously did not need a justification'.¹ This research observed some noticeable differences between the classical, repetitive reasons offered by writers, and the more spontaneous, realistic reasons discovered through the interviews.

Another point noted by the research is that individuals embarking on polygamy do not always have a specific reason at the time other than that of wanting to get married. Reasons are sometimes chosen later on, as a justification or an explanation offered after the fact.

Two broad patterns of motivating circumstances were observed:

- 1) Husbands decide to become polygamous because of what they perceive as an unfulfilled need or a deeply disturbing feature in their existing relationship. They then embark on a search for the ideal next

wife. They continue, meanwhile, to live with their existing families in a make-do manner, never giving themselves fully as they wait.

- 2) The second category of husbands identified is those who were initially happily monogamous until a change in circumstance altered their perspectives regarding their existing relationships. These circumstances can include a change of residence, a change in their line of work (involving substantial socialising), or a change of religious, moral, or social values to those previously practised. The most likely reason why a partner becomes polygamous, however, is in response to an attraction to a new potential partner.

The most common reason for the polygamy of the researched groups is represented by this last possibility. Once the attraction towards a potential partner occurs, one or more of the reasons (to be discussed throughout this chapter) will be identified and used by the husband as a personal or social justification for the polygamy. The availability of such a large array of socially condoned reasons, in addition to the facilitating religious acceptability and a total lack of ensuing financial or legal repercussions, provides a strong incentive to act on the attraction and validate it with a polygamous marriage.

The External Factors Influencing Polygamy

External influences can play an important role in influencing human relationships. These have been divided into, on the one hand, the wider circuit of public policy, media and state influences² and, on the other hand, the more immediate external family and social factors affecting personal behaviour patterns.

Political Influence and Public Policy as a Reason for Polygamy

Polygamy, like many other social phenomena, thrives when it finds encouragement in the surrounding social climate. The local cultural influence seems to be of paramount importance in either encouraging or discouraging the practice, as in the case of the Ashkenazi Jewish settlers in Western Europe who refrained from polygamy under the influence of Christian culture, while the Sephardic Jews living in Moorish Spain and in the Near East continued with the practice until the formation of the State of Israel in the mid-twentieth century.³ Hindu husbands in India,

it was noted in legal cases, were converting to Islam for the sole reason of being able to legally contract a second marriage without being prosecuted for bigamy.⁴

A historical example of the presence of cultural influence and power as a facilitator of polygamy was made obvious in the case of polygamous practice amongst the Jews and Copts of Ottoman Egypt in the eighteenth century as a result of the political power of the men who sought to engage in the practice. Supported by the government, they went as far as to exile their pope, Murqus V, who was chosen by the community, and installed another pope who was in favour of polygamy. When a new governor was installed in Egypt, and the supporters of polygamy lost their close connection with the administration, and in consequence lost their power to maintain an otherwise prohibited practice, Pope Murqus was returned to the papal chair. The practice of having sexual relations with female slaves (permitted in Islam) was also said to have been prevalent amongst the Copts of the same period, in imitation of their Muslim peers, despite its ban by their Church.⁵

THE USE OF POLYGAMY TO CREATE POLITICAL ALLIANCES

Family ties have been created and strengthened through marriage ties and resulting offspring. When marriage is used to promote political family ties and links, polygamy can represent an added advantage for a man to create several such connections at the same time through his marriage to different wives. However, Al-Rasheed presents a counter argument to this theory: she argues that although in theory polygamy can increase the network of alliances, in reality it creates rivalry and competition between groups. Polygamy devalues the political significance of any single marriage.⁶

Outside Influences and Media Intrusion

A newly emerging issue affecting relationships and creating a shift in marriage values and gender expectations is the overwhelming introduction of satellite television into traditional Saudi homes. This point was mentioned by both husbands and wives who explained how, previously, men only saw their wives and other women in their immediate social circle, whereas today they are exposed to a twenty-four-hour display of beautiful female images. This situation is creating an inevitable but unfair comparison with a wife's familiar, naturally ageing looks. As a

result, the pressure on the marriage becomes evident and the need to acquire a wife with similar proportions of physical beauty often turns into a necessity.

The Facility of the Social Outcome

The acquiescence to tribal values encourages polygamy. Women who originate from within polygamous backgrounds see no social stigma attached to it, provided, some second or subsequent wives state, that there is a knowledge and acceptance by the first wife of her husband's proposed remarriage.

With polygamy increasingly widely practised, a newly polygamous man in Saudi Arabia is socially justified as 'neither being the first nor the last to have indulged'.

THE PRACTICAL EASE OF MARRIAGE

Given the relative ease with which marriage and divorce can be entered in and out of, from a husband's perspective, and the minimum risk of social, legal or financial repercussions, the barriers of thinking twice before indulging in remarriage are naturally lifted. Local accessibility to easy marriage and remarriage is illustrated through the noticeable feature on the streets of Jeddah of the succession of street signpost advertisements, in many residential districts, marked with the word *mā'dun* (authorised marriage contractor), followed by his mobile number. Within easy range of these are similar signpost advertisements of short-let furnished flats (*shuqaq mafrousha li al ijaar*). As seen in chapters 5, 'The Muslim Marriage Contract, its Terms and Conditions and Modern Variations', and chapter 3, 'The Historical and Modern Developments of Polygamy in Saudi Arabia', the legal validity of a marriage in Saudi Arabia, polygamous or not, can be achieved through an offer and acceptance by the two parties, in the presence of two witnesses and the consent of the legal guardian of the bride. The written contract stamped by a registered *mā'dun* is a guarantee against the imminent possibility of harassing visits (in the short-let flats) from members of the *hay'a* (the Commission for the spread of morality and fighting of vice).⁷

FAILURE IS SOCIALLY BLAMED ON THE WIFE

As in many patriarchal societies, in many cases where the husband strays, instead of him bearing the blame for his irresponsibility in causing the

family break-up, it is the abandoned wife who is faced with a lifetime of self-doubt and guilt for 'her' failure.⁸

THE PROMOTION OF A MAN'S SOCIAL IMAGE

As discussed earlier, polygamy can have the added advantage from the husband's point of view of further boosting his self-image amongst his peers as a virile individual with the ability to satisfy more than one woman at the same time.

THE FIRST WIFE CHOSEN BY THE FAMILY

The influence of the extended family plays a key role in bringing about marriage, divorce and polygamy. Many Arab families still exert pressure on their offspring in the choice of marriage partners. As a result some husbands in these cases resort to polygamy because of what they view as an incompatible partnership at home, not feeling totally convinced by the first wife as she was traditionally chosen by the family. An illustration of this is seen in the case of a son who was arguing against the obligation to marry an unwanted first cousin; the traditional father is said to have answered: 'Marry your cousin first, and I will not interfere with your choice of the second wife.'⁹

THE MOTHER'S ENCOURAGEMENT

Some mothers and older sisters are seen to take an active role in inquiring about and searching for polygamous brides (in social gatherings and wedding receptions) for their currently married sons/brothers. They give the pretext that their son/brother is unhappy and unsettled in his current partnership, and is only maintaining the marriage for the sake of the children.

CHANGES IN PATTERNS OF GROWTH

The wish to have an educated, 'modern' wife comes about when a growing gap occurs between partners. With the different educational and employment opportunities on offer between men and women, a man who advances in his career can find his traditional first wife inadequate to satisfy his growing social needs.¹⁰

As one first wife, painfully understanding her husband's need for an intellectual partner, explained in an interview: 'My husband has discovered a type of intellectual stimulation with his new wife that I am not able to offer.'

THE HUSBAND'S WORK IN ANOTHER LOCATION¹¹

Traditionally, men who engaged in trade or other work involving regular travel acquired a wife at their usual work destination, with the purpose of protecting themselves from illicit indulgences.¹²

Wealth as a Classic Factor Influencing Polygamy

The relevance of wealth as a key factor aiding polygamy is historically evident in many societies. The intrigues of the harems of monarchs and sultans were made famous in history books and Hollywood productions. Wealth is also a religious requirement for a man embarking on marriage, whether polygamous or not: a husband is financially responsible for the maintenance of his wife and offspring.¹³

The Influx of Money in Saudi Arabia as a Reason for Polygamy

Following the increase in oil wealth in Saudi Arabia in the 1970s, providing for two (or more) homes and two sets of families became financially possible, bringing polygamy within the reach of many. With the changing social patterns resulting from this influx of money, and the growth towards consumer-oriented social trends, a prospective husband's wealth and/or social status have created an incentive for some women to accept a polygamous relationship with him.

Many instances were observed through the research where the arrival of money into the family had brought with it the introduction of polygamy by the husband into what had previously seemed to be a harmonious monogamous union. Married men who are promoted to a more important position explain how they are regularly approached by telephone and other methods by women seeking polygamy. This affects their outlook towards their previously satisfactory marriage arrangement.

POLYGAMY AS AN INCENTIVE FOR A FREE DIVORCE

There is an observed growing trend where polygamy is being used by some husbands to manipulate an unwanted wife into seeking her own divorce. This can happen through consistent abuse but also through the introduction of a preferred co-wife through polygamy. In seeking her own divorce (provided she has not stipulated otherwise in her marriage contract), an existing wife gives up her legal right to her deferred dower (*mu'akhar sadak*).¹⁴

SOCIAL ROLE REVERSAL IN THE QUEST FOR POLYGAMY

The novelty of this situation, where wealth promotes polygamy in the modern Saudi context, as observed through the research, is that women with an independent income are procuring husbands within a polygamous arrangement in the same classic way that wealthy men procure additional wives. Polygamy in Saudi Arabia is in a growing number of cases aggressively initiated by women. This happens in the form of single women approaching a monogamous wife, asking her to share her husband with them, or, according to the men interviewed, directly contacting a man of their choice, at his office or mobile telephone number, offering marriage without a financial commitment from his side. As one monogamous husband explained in an interview:

‘Maintaining a monogamous partnership has become a challenge these days. As soon as I became successful in my work, my photo appeared in the newspapers on a regular basis; I became bombarded by women who call and propose marriage to me. They make it clear that the situation they are seeking is a no strings attached one, yet remaining within the confines of the Islamic requirements.’

The pressures facing women to become and remain married, together with the lack of possibilities for meeting prospective husbands, have sent them looking for a mate through every possible avenue; once they find one they are pressurised into compromising their traditionally implied marital rights.

MEN PURSUING POLYGAMY FOR FINANCIAL REASONS

Newspaper and magazine advertisements featuring men who wish to remarry polygamously to financially solvent widows or divorcees have become a common sight in Saudi Arabia. Examples of this are numerous marriage requests consisting of the following: ‘40 year old Saudi man, seeking marriage to a widow or divorcee without children, fair skinned, her age ranging between 25–30 years, preferably with a job. Marriage is sought in the *misyar* style.’¹⁵ Along the same lines is the following: ‘35 years old, state-employed (*mouadhaf*) Saudi man, seeks marriage through a *misyar* union with an employed widow.’¹⁶ The author interviewed one case where the husband was polygamously married to three school teachers in this fashion. The wives obediently handed him their monthly

salaries out of which he then distributed their spending money and household expenses as he saw fit.

These examples highlight the reversal of the classic male wealth factor as a requirement or a facilitator for polygamy. Insolvent Saudi men engage extensively in what they consider to be their uncontested right to polygamy and divorce; the large number of unplanned offspring produced by these marriages can only contribute to the soaring national demographic problem.

Polygamy as a Result of Changes Towards a Capitalist Outlook

Following the relatively novel shift in national consumer patterns, resulting from the influx of oil wealth into the country, economic reasons for divorce are reported as arising when the husbands are unable to meet their wives' financial expectations.¹⁷ Research observations concluded that the combination of a culture which strongly encourages female domesticity, generally discouraging female employment, together with the growing national economic hardship amongst many previously wealthy elements of the society, has contributed towards a sense of inadequacy by some husbands. They are painfully aware of the expectations of wife and society, yet remain unable to provide for luxury material goods presented as essential by the growing media advertisements and the wife's social female peer group. This trend leads potential subsequent wives towards polygamy as a means for economic improvement.

On the other hand, in line with the same consumer ethos, the improvement of a man's financial situation through marriage to a wealthy second wife is also increasingly becoming an openly sought reason for modern-day polygamy.¹⁸

Did the Abolishment of Slavery Create a Gap for Polygamy?

Verse 4:3 in the Qur'an (amongst others) allows a Muslim man to use his female slaves as concubines: 'If you fear that you cannot maintain equality among them, marry one only or any slave girls you may own. This will make it easier for you to avoid injustice.' The concept of equality does not apply between concubines and wives.¹⁹ Only the master owning the slave was entitled to this privilege and not other members of the household, although there are many living cases in Saudi Arabia of non-compliance to this rule. As discussed in chapter 7, section 'Traditional Styles of Polygamous Slavery' (pp. 168–69), it was

argued that female slaves used to meet the husbands' requirement for religiously condoned, sexual variety within the home. With slavery now abolished, a need for polygamy was created to fill that gap while remaining within the requirements of the *shari'ah*. Although the above opinion may be valid in some cases, other informants insist that slavery did not in the past prevent some Saudi husbands from acquiring more than one wife, in addition to one or several concubines.

Internal Factors Encouraging Polygamy

Some classical failures of an existing wife have been used extensively by religious writers as valid justifications for polygamy.²⁰ The lack of a purely Islamic source forming a basis for the infertility or illness of a wife being used as a justification for polygamy was raised on p. 25. This section considers a sample of the most quoted needs and expectations of potentially polygamous husbands.

Infertility of the Wife and/or the Husband's Desire to Increase Offspring

In addition to a wife's total infertility, the husband's personal desire to have a larger number of offspring, by more than one woman, has driven some husbands to remarry polygamously. Added to this is the situation where the wife bears only daughters; the husband then remarries in his quest for sons.²¹

A Long-Term Illness

The advent of a long-term or contagious illness has been extensively used as a justification for the husband to seek another partner. This includes a wife with a lengthy menstrual cycle or a similar physical trait which prevents the husband from having intimate contact with her.²²

Neglect in a Wife's Appearance

Several husbands interviewed said they sought a new partner as a result of their first wife's altered interest in her appearance. Ironically, the arrival of a new co-wife is said to have revived the grooming interest in the first wife, albeit too late.

HER LACK OF SEXUAL ATTRACTION

Linked to the above are husbands' complaints during the interviews about wives with grown-up children who were intimidated by their presence, and did not dress up provocatively for their husbands. These wives had let themselves (their appearance) go, giving their husbands the incentive to seek a second and even a third wife. As one secretly polygamous husband explained: 'My wife let herself go after having our first two children. Although she is very responsible towards our home, children and in-laws, I still wanted to have a well-groomed female who took an interest in me. I continue to be good to my first wife and do not disclose the polygamy to her so I don't hurt her.'

Confirming the universality of the above, anthropological research has shown that in some cultures a wife, after giving birth to offspring, is viewed with a new kind of respect, making it difficult for the husband to continue a fulfilling physical relationship with her.²³ This is in line with the ancient Greeks who divided their women into wives to bear children, concubines to care for them at home, and mistresses to indulge with.

Added to the above are the psychologist's findings that men tend to be more strongly sexually attracted to women with whom they have never had sexual relations than they are to women with whom they regularly have sexual relations.²⁴

Bad Temper or Haughtiness

In cases where there is continuous fighting and misunderstanding between the spouses, remarriage is sometimes seen as a means of disciplining an existing wife into improved docility and obedience. Competition created by the existence of a co-wife can keep this situation under control.

Deep-rooted marital misunderstandings and a need to settle down elsewhere are other reasons why a husband may not wish to divorce an existing wife but chooses instead to spend less time with her while making a new start with a woman he hopes will be a more compatible partner.

One husband spoke of this aspect of the relationship with his first wife as the main reason that he sought polygamy: 'My first wife came from a higher social level than myself and she never failed to remind me of this fact. The arrival of my second wife has made her behaviour change dramatically for the better. I am happier now and careful to treat them equally in every matter.'

One husband introduced polygamy to discipline his wife's failure in caring for her mother-in-law: 'My first wife treated my mother disrespectfully. I needed another wife who would treat my sick mother kindly during her illness.'

A failed attempt at bringing a wife down to earth is described by a disappointed polygamous husband: 'My wife does not care for me or respect me. She has always been hard-headed. I married someone else to retaliate but it hasn't worked. She continues to ignore me and has now turned our children against me.'

THE STRONG CHARACTER OF THE WIFE

Traditionally, the expectation was that men should be strong and in control of their families, while women should be docile, obedient and submissive. Considered to be as problematic as a 'haughty' wife is one with a strong personality who can make her husband feel insecure about his role as the man of the house. The solution sought by men in this situation is to marry another wife polygamously. Eight polygamous husbands interviewed gave the main reason for their polygamy as being the first wife's strong personality, often described as hard-headedness. Following the polygamy, two out of the eight husbands said that the introduction of another wife had helped improve the first wife's behaviour in the long term, while two unrepentant first wives had the following to say: 'I was always too good for my husband, his inferiority complex towards me drove him towards having extramarital affairs; we fought a lot, he married a second wife yet he continues with the same pattern of short-lived multiple wives and mistresses.'

Another first wife acknowledges the problem but does not plan to change her character: 'My husband and I were very much in love but totally incompatible in our characters. He married another woman who acts like a doormat and knows how to stroke his ego. I don't wish to play or act a role that is not mine.'

The Manipulative Wife

One polygamous husband, who began by having what he viewed as a bit of fun, viewed his wife's cold reaction towards his altered behaviour as unacceptable, and chose polygamy on the rebound as a power game. He explained: 'Initially, I was happily married to my first wife. Until I started to feel bored with the routine. I met a group of friends and

started to have fun, my wife disapproved and began to manipulate me by withdrawing intimacy; I retaliated by marrying another woman.'

'She Didn't Take My Threat Seriously'

Two husbands, who later regretted their polygamous remarriage, had talked about it to their first wives before taking the plunge, with the initial intention that the wife would become more attentive thus dispelling the need for a co-wife. However, both went ahead with polygamy either to prove a point or because their impression at the time was that their wives did not mind too much: 'I always told my first wife that I wanted to become polygamous. She didn't seem to mind while it was only talk. When it happened, she suffered tremendously and I am suffering as a result of seeing her hurt this way. I now have children from the second wife and there is no going back.' And along similar lines: 'My first wife is not from my country. She went on a long holiday and when I asked someone to call her to tell her I was contemplating polygamy, instead of coming home, she told them: "Let him take a hundred wives if that's what he wants." So I remarried.' Both husbands said that by acting nonchalantly, their first wives had conveyed the wrong messages, and that if they had realised how hurtful the remarriage would be to their first wives, they may not have gone ahead with it.

Husbands' Needs Remain Unmet

This section follows the classic pattern that overwhelmingly links the reasons for polygamy solely to the implied needs of husbands. The reasons examined in this section are presented through the subjective views of the husbands concerned.

Excessive Sexual Needs of Some Husbands

This issue is often addressed by pro-polygamy writers through a religious context.²⁵ Polygamy becomes a religious necessity where one wife (unaided in this task by one or more co-wives) is viewed as incapable of satisfying her husband's sexual demands.

The fieldwork confirmed this dilemma, as in the example of the husband who justified his polygamy as stemming from a need which was only partially met: 'My wife does not have the same physical needs that I have. I needed polygamy to satisfy those needs.' A first wife acknowledged this trait in her husband's nature, as follows:

‘My husband was possessive and very jealous and obsessed with sex which took over his entire life. He married a poor but very beautiful woman and I asked him to bring her to live in the same home because I didn’t want to lose control of the situation. It was very painful when they closed the door to their bedroom but I eventually managed to get her on my side as he began to show her the ugly side of his violent nature.’

Polygamy in Search of a Dream

Polygamy evolved as a need for one man who married several wives (two and three at a time) in what he viewed as his search for an unconsummated teenage love: ‘When I was a young man, I fell madly in love with a woman but was unable to have her. I now seek this image of love in every polygamous marriage I make but feel disillusioned with each one of them.’

The Employment of a Wife as a Reason for Polygamy

Education and women’s work have shifted the balance of female reality from that of male expectations. The important issue of marriage expectations, the traditional versus the modern, creeps into many unresolved disputes between husbands and wives. The ‘traditional’ solution to this kind of dilemma from the husband’s point of view is to acquire another wife who promises to fulfil those needs that are not being met in his first home.

This situation can arise when a working wife’s responsibilities and success take her away from her home for long periods of time, or when they cause her to be too tired at the end of the day to be fully available as a companion to her husband; often in such cases the husband feels inadequate with regards to his wife’s success, when he is unable to match it. This employment situation, however, represents a contradiction. On the one hand, a wife in employment may be accused of being too occupied, away from her husband, her children and her home, which gives rise to a need for her husband’s remarriage. Yet many of today’s married men advertise their preference for a second wife in regular employment.

The effects of the employment of the wife on the polygamous partnerships interviewed were as follows: two thirds (eight out of twelve) of the second/subsequent wives interviewed were working at the time of

the polygamous marriage; only two of them stopped working soon after the marriage.

Among first wives, eleven out of twenty (just over one half) were working at the time the polygamy happened, and two out of twenty had started work outside the home (paid or unpaid) after the introduction of polygamy into their marriages.

This seems to contradict the claim that female employment represents a valid reason pushing husbands towards polygamy, since their choice of a second wife is directed towards women in employment. However, a wife's employment continues to provide a useful justification for a husband's polygamy.

The second conclusion drawn from these results is that the employment of a wife within a polygamous marriage is a positive aspect as it keeps her attention diverted from the husband's regular absences and time spent with his other family/families. There are also economic benefits that the additional income can offer to the otherwise stretched polygamous family income.

HUSBANDS IN THE INTERVIEWS: HER EXCESSIVE INTEREST IN CAREER OR EDUCATION WAS A REASON

Following the above statistics, only two of the fifteen polygamous husbands with working wives blamed their first wife's excessive interest in her work/education as creating his need for another wife who was willing to spend more time and energy with him. The next partner, according to both men, had successfully fulfilled this missing aspect of the marriage.

One husband expressed his loneliness as being a driving force behind his remarriage: 'My first wife was always studying then working. She went to bed early every night whilst I ended up watching television alone. I started going out with friends every night but finally I realised I needed another wife, someone to spend my nights with, so I remarried.' Another husband who continues to reap the financial benefits of his first wife's success nevertheless despised its other side effects: 'My wife started a business, it expanded and she became very successful, she spoke and thought about nothing else. I have now remarried with someone who cooks for me and greets me when I come home instead of leaving the responsibility to my servants.'

When comparing these results to the strong emphasis placed by the media on the connection between female employment and polygamy, it

can be seen that this situation is far from true for the majority of the polygamous target group.

Religiosity

Segregation and Polygamy: Imposed Moral Restrictions

Religiously-imposed social restrictions have played an important role in encouraging polygamous marriages. Whereas before the imposition of segregation, ideas about gender roles were obtained from the role models embodied by the adults in the family, today, with the social disintegration that has overwhelmingly swept through homes in the area of the research, the only images of social and married life come from distorted media interpretations of the sacred institution. The researcher has observed a current trend whereby a man who enjoys the company of the women in his family is considered effeminate and unmanly, while a man who enjoys the company of women outside the sphere of family relationships is seen as macho, successful and full of vitality.

Since as a result of this segregation, it has come to be considered immoral for a man and a woman to spend time alone, unaccompanied by a third party, it can be said that the only socially and religiously safe way for an unrelated male–female relationship to flourish is under the umbrella of marriage. This can be illustrated through the example of a recently polygamous husband who opted to marry his female colleague, as he could not allow society to point an accusing finger on their meetings.

Inability to Meet before the Marriage

Customary restrictions of a religious nature can in some cases restrict the ability of potential partners to meet prior to the wedding. This situation can lead to disappointment in expectations whereby a physical trait in his wife found undesirable by the husband can soon become a cause for his polygamous remarriage. It is related that a man who was contemplating marriage was advised by the Prophet to look at his future bride to ascertain that he found her physically agreeable.²⁶ It is, however, not permissible for the parties to spend time alone (*khalwa*) before the marriage contract. It was related by Ahmad that the Prophet had said: ‘If a man other than a *mahram* spends time alone with a woman, the devil (*shaitan*) will be their third companion.’²⁷

Moral Obligation to Marry

One regretful polygamous husband described his dilemma as he opted for what he believed was the morally sound solution: ‘My second wife is the sister of my friend. She had problems and often came to me for help. One evening as we met, she induced me into having a physical relationship with her, only [for me] to realise that I was the first man in her life. I immediately felt morally obliged to put matters right by marrying her.’

Polygamy as Part and Parcel of Islam

This topic has been elaborated on previously, where the acceptance of polygamy is portrayed by the media as an Islamic duty to be accepted by Muslim women. Men, on the other hand, are encouraged to seek polygamy as a means of immunising themselves against sin (*tahsin*). Polygamy is therefore viewed as sign of piety.

A Shift in Religious Observance by One Partner

There is a definite shift in marriage patterns following the effect of two sweeping extreme opposite social forces currently in parallel existence within the target group studied. At one extreme, there is a strong return towards a purely Islamic lifestyle resembling what is believed to be the exact replica of how Islam was practised, fifteen centuries ago, by the Prophet Muhammad and his followers. At the other extreme lies a hidden social scene frequented by some husbands, which involves partying and substance abuse.

Only a very small number of the group interviewed belong to either one or the other of these two extreme social forces, but the unfailing presence of these issues and their relevance to the topic of the research makes it unrealistic to totally exclude mentioning them.

Although most Saudi husbands usually prefer a respectable, pious mother for their children, certain behaviours are considered excessive, such as the refusal to listen to music or watch television, or refusing to go on holiday to destinations such as beach resorts and abstaining from the previously enjoyed mixed social life. This excessive newly-acquired religious fervour of one wife was, according to her interviewed husband, the main factor pushing him towards a regretted polygamy. The husband also complained that ever since she joined a religious circle, very common in Saudi Arabia today, he has been subjected to constant sermons as she moralises to him about his fun-loving behaviour. These changes in

religious attitudes represent a problem only if one party to the marriage experiences them but not the other.

Polygamy Encouraged by Unexpected Random Events

Some unusual factors have provided an incentive for polygamy for some men, while remaining unlikely to have the same effect on others.

Polygamy as a Result of Male Sterilisation

One serially polygamous husband who maintains his continued love for his first wife explained how he began to indulge in polygamy: 'I had a sterilisation a few years ago because I knew my wife and I didn't want any more children. This gave me a sense of freedom which came with an urge to marry polygamously. Without the ensuing childbearing responsibilities, this became too hard to resist. I am fair to each new wife I take in disclosing the reality of the situation. I choose divorcees who usually have children or those who cannot have them.'

Brought Together by Circumstances

As in any destined meeting between potential partners, one husband explained how he met and married his second wife: 'After the death of her husband, circumstances put my second wife and her children under my care. It happened at a time when I was unhappy in my first marriage. Love developed and I married my second wife whilst keeping the first one.'

Reasons Why Women Engage in Polygamy

Some of the reasons already tackled by this chapter are equally applicable to men and women. This is mostly so in the case of second and subsequent wives. For many women within polygamous unions, the acceptance of their situation represents a compromise sometimes by imposition, and at other times by choice. The following are the reasons why some women choose to engage in polygamy:

*Fear of Spinsterhood, and an Urge for Motherhood*²⁸

Many women fear reaching an advanced age without getting married. This is increased by the fear of ending up without the care of a sympathetic legal guardian (*mahram*) when the father of the woman dies; brothers are

known to be more involved with their own families, sometimes neglecting the need of their unmarried sisters.

Women's emotional need for marriage and motherhood is often confronted today by the growing preference of young men to have a lengthy bachelorhood. A fear of missing her 'last chance' can drive some women to opt for a polygamous marriage with a married man who is willing to settle partially with them and start a new family.

Extracts from an interview of the reasons why one woman from this category chose to become a second wife are given as follows: 'I was 28 years old from a poor background. I had just come out of a failed engagement and it looked unlikely that I would have another marriage opportunity. My husband proposed to my family, but since they knew of his existing marital situation, they were against the marriage. He spoke to me about equality and promised that my co-wife and I would have independent accommodation within the same building. After some hesitation on my part, we became formally engaged, as he managed to convince me. He has since married two more wives, it has not been an easy life for me, but I remain his most needed and most trusted one of all.'

Family Pressure to Marry a Cousin

As discussed previously, some traditional families in Saudi Arabia continue to place a paramount importance on maintaining marriage ties between cousins. Younger second wives are reported to have become polygamous as a way of giving in to family pressure in cases where the older cousin was already married to another woman.

Love as a Reason for Polygamy: the Fear of Falling into Sin

A valid reason given by women for their involvement with a married man is that of falling in love with the prospective husband. If the man is unable or unwilling to give up the existing wife, polygamy in these cases represents the means to steer clear of fornication (*tahseen alnafis*). Although this reason is traditionally used by men in their justification for polygamy, the fulfilment of a physical need was noted in the interviews as being an equally important incentive for many of the women who resorted to polygamy.

Acceptance of polygamy represented a compromise for these women, because of an attraction experienced towards a married man as opposed

to another available bachelor. In the interviews, the women described how, in the initial days of a polygamous marriage, they were made to feel as if they were the physically preferred wife, but that the long-term reality that they later needed to contend with was that in a polygamous marriage, the wives were naturally sharing half, a third or one quarter of a man, depending on the number of his existing or as yet unforeseen subsequent wives.

The same loving reason has kept many first wives in marriages that had become polygamous, as illustrated by the following words: 'My husband loves me and is extremely possessive of me. He often told me he was looking for a second wife and found one from Riyadh who was willing to enter into a polygamous union. He is very unhappy with her now but I urge him not to divorce her because they now have children together and it would be unfair on them if he did.'

Undisclosed Polygamy

Not all the jurisdictions that condone polygamy impose the requirement on a husband to disclose his pre-existing marital status at the time of the remarriage; some women were lured into polygamy without their initial knowledge due to the husband's hiding of the existence of his first marriage. These women sometimes find it hard to leave after the reality has been discovered.

Misrepresentation of the First Relationship

A re-occurring reason given by some second wives for accepting to go ahead with polygamy is that prospective polygamous husbands seem to have a tendency to represent themselves as neglected by an existing wife. In their attempt to convince a prospective wife to accept their marriage proposal, some husbands are reported to have led their second wives into falsely believing that their existing marriages were practically non-existent. In the words of a disappointed second wife interviewed: 'I met my current husband, accidentally, through common friends. As we talked during our first meeting, we realised that we had a lot in common. I was divorced, and working. He contacted me proposing marriage and assured me that he had been separated from his wife for a number of years but that they had agreed not to divorce for the sake of their common interest in their children's well being. I hesitated but we are so compatible in many ways and it would be a pity not to give our relationship a chance.'

The problems started after we married as his first wife began to have a revived interest in him and to manipulate him through the children. It is not an easy ride but all in all I am glad to have accepted him.'

Unrealistic Expectations Regarding the Future Relationship

The description of her miscalculation of the reality of polygamy as a reason for her acceptance of polygamy was described in the words of a second wife: 'My current husband is financially well to do from a good family and unhappy with his first wife, she only gave him one daughter and the relationship was collapsing between them. He was about to leave the country for a number of years and was seeking a second wife to take along with him. I had never been married before. The reality of the polygamy only dawned on me a few years later when we returned to our country and he began to divide his time regularly between the two of us (his first wife and me).

A Husband is Misunderstood by his Existing Wife

Along the same lines, another second wife explained that she accepted polygamy because her husband had convinced her that he was misunderstood at home and needed her as the main woman in his life: 'I met my husband through a meeting at work. He was married but feeling very neglected by his wife. I was divorced with children who lived with their father. Although I had refused several other marriage offers, some of them monogamous, I knew that he was the man for me. His first wife and grown-up children have never accepted me or my daughter from him. This part is hurtful but it is not his fault. I have to give in to many things and make constant concessions to keep him. I am very understanding and manage to remain objective when he needs to cancel or delay a previous arrangement with me. I compensate him with all the love and attention that is lacking in his other home. I do know for sure though that I am his choice and she is his obligation.'

Another second wife whose husband had convinced her in the same way recalled: 'I had been divorced for ten years and was very content with my job and social life then I met my husband and life began to change. He was feeling misunderstood at home and felt the same way about me. I made it very clear that I would only settle for a public, polygamous marriage and not an affair or even a *misyar* arrangement. I insisted he told his wife before anything happened. She rejected the idea

and hates me for it. However, I would love to be her friend if she allowed me to do so. I don't want to take anything that is hers; I only want to share with him the quality of emotions that he was not receiving from her anyway.'

The Socially Imposed Need for Marriage

As described in earlier sections, a single woman in Saudi Arabia needs the support of a male guardian. The morality of a single woman also becomes a source of interest to all those around her, from family members to neighbours up to and including the doorman. A widowed or a divorced woman who wishes to guard her reputation in Saudi Arabia is, as a result, confined for life to female company.

Reasons Why a Widow Chose Polygamy

To illustrate the point is the situation of one woman interviewed. Having been previously widowed, she explained how her moral standing had been drastically altered in the eyes of her immediate social group as a result of the loss of her husband. Women friends who had previously trusted her totally were openly denying her the friendship she used to have with their husbands. Middle aged and financially independent, she now suddenly needed to report to her father and brothers; even the doorman in her building considered himself as morally responsible for her welfare. Remarriage to an already married male acquaintance, a decision of pure convenience, amazingly restored this woman's social independence: 'I realize that morality in society is not a purely personal matter, it lies in the hands of my husband ... my husband.'

The Reason Why Divorcees Opted for Polygamy

The marked increase in the divorce rate has contributed to an increase in the number of women willing to marry a man who is already married in order to escape a more difficult social and financial situation. During the field work, it was noted that a majority of second wives were divorcees. Five out of twelve second/subsequent wives interviewed had previously experienced marriage (to another man) as first wives. The reasons why divorcees accepted the position of a second wife in a polygamous marriage is included in these personal comments made by some of them during the interviews. One of them explained how she was influenced by the 'silent and sometimes loud accusations pointing fingers at her because

she did not succeed in securing a new husband or in preserving the relationship with the old one’.

Family pressure on a divorcee to marry polygamously is echoed in the words of a second wife interviewed: ‘I was divorced twice by the age of 25. It was unfortunate luck as I was a victim every time getting involved with violent selfish husbands. When this opportunity to remarry came along, my family were very persuasive, I was unable to refuse, and it was inevitable.’

Circumstances Requiring a Part-Time Husband

Cases exist where a busy woman is unable or unwilling to take on the heavy obligations expected of a Saudi Arabian wife. The situation was explained by a woman who specifically requested to be introduced to a married man who was interested in an additional union polygamously:²⁹ ‘I am divorced with several children. Although I have a fulfilling job, I was still aware that emotionally and physically, I needed a man in my life. I specifically wanted a married man with a family as I did not want to have any more children and needed time to pursue my responsibilities and interests that the demands of a standard monogamous relationship would not allow me to have. I made it known to the men in my family that I was seeking marriage of this description. My condition was that his first wife should be informed and that I could meet her before anything would go ahead. I am about to get married in the next few weeks with a married man who was introduced to me through my family. His wife knows me, and I have managed to convince her by explaining to her that as he was planning to take a second wife anyway, I was the lesser evil for her since I didn’t want to take him away from her full time and wasn’t planning to start a family with him so she could continue to have him most nights and remain the only mother of his children. She was initially more accepting of the idea but seems to be changing her mind now and then. There is no going back now as the marriage is going ahead and my children have accepted him. I do make an effort to be considerate and not to look my best or to get too close to him in her presence.’

Polygamy Imposed by Circumstances

Apart from situations where polygamy was viewed as a moral obligation to put a situation right if intimate contact had already occurred between an unmarried woman and a married man, the following are individual

cases discovered through the research where other circumstances played a role in bringing about polygamy.

One first wife explained the twist in fate which brought polygamy into her marriage: 'My husband married his teenage sweetheart. She had married another man while he was away at university. He had told me about their story while we were courting. When she became a widow, several years after our own marriage, she contacted him and he felt that he was meant to marry her.'

A more unusual case is one where a married man had fallen in love with his brother's wife, who then divorced his brother and married him. In an interview with the first wife, still in shock, the first wife noted: 'My husband married his sister-in-law after they agreed and she divorced his brother. He apparently has always loved her even before we met and married.'

Reasons Why Existing Wives Stay Following the Introduction of Polygamy³⁰

Three quarters of the first wives interviewed had initially remained married after their marriages had become polygamous. The reasons discussed varied between financial dependence, the best interest of the children, family pressure, or the continuing love felt for the polygamous husband. One additional reason is described here by a first wife, who decided that, overall, her marriage to him was worth maintaining despite his temporary polygamous flings. In her words: 'My husband is as kind and immature as a big baby. I know that he truly loves and needs me. But he marries other women whom he meets during his travels; he brings them home to have lunch with me everyday. It is painful for me to watch his excitement over each one of them; he behaves like a child who has discovered a new toy. He eventually tires of each of them and divorces her. We live peacefully for a while before he starts again. I am very lucky he has not had children with any of them.'

Conclusion

Although the factors leading to polygamy can vary depending on the cultural variations of the different regions, the overriding theme presented by the literature, propagated by the media and re-iterated through the

interviews is that the main causes of polygamy are the financial and social aspirations of either one or both partners teamed with the important issue of catering for male sexual needs.

When looking for valid reasons to justify polygamy, the emphasis was solely and universally placed on the needs and/or deprivations of the husband within the marriage equation. The equivalent defects were apparently not considered, by the media or society, as urgently requiring a change of partner or the addition of another in the case of wives unhappy with their current marriage arrangements.

Reasons propagated through the media and the literature revolved around religiosity and religious justifications as they cater for the deeply embedded assumption of superior male sexual needs that often remain unmet by one female partner. Equivalent female needs are only mentioned in the case of second or subsequent wives but not for the first wife, for whom it is presented as beneficial to maintain the marriage shell. Pressure is applied on a first wife to maintain the marriage even if it is at the expense of renouncing her equal share to her husband's intimacy, as the repercussions linked to a divorce outweigh the lack of physical intimacy with a polygamous husband. The benefits of polygamy for a second/subsequent wife are presented as the means for safeguarding her morality in particular and that of the entire social order in general. The morality of a polygamous first or subsequent wife, even one openly deserted by her husband in favour of another, was presented by the media and the literature as a socially burdensome moral issue in comparison with the morality of a single woman, irrelevant of her social background.

Research findings drawn from the fieldwork survey were noticeably different from those publicised through the media and the literature. In some observed cases, the husbands did not have a specific reason why they resorted to polygamy; but the existence of a wide array of socially acceptable 'reasons' close at hand provided a useful choice of justification after the fact as and when needed.

Media coverage was often mentioned by husbands as an initiator of polygamous ideas. Expectations of partners and their role in determining the outcome of polygamy was further explored in chapter 7.

A wife's employment presented as a reason for a husband's polygamy through the media was found, through the research, to have a multitude of facets. While husbands expressed the need for a new partner as a result of their existing wife's employment, a majority of the subsequent wives

sought were in paid work. The research concluded that while employment provided an additional income often needed by families, some dissatisfied husbands continued to benefit from the first wife's income in some cases using it to set up their second marital home with a new co-wife. It was the ability of a subsequent wife to give her husband a sense of being looked after on her allotted days which mattered to a husband, while the first wife, initially in a full-time marriage, had had less time to divide between home and work.

The chapter also searched for the reasons that induce women to marry polygamously as second or subsequent wives and the reasons why first wives remained within a marriage following polygamy. Unlike the image of the destitute 'other woman' saved through polygamy, second wives represented through the researched group had prior to the marriage enjoyed active lives. Their reasons for engaging in polygamy were attributed to a social expectation to be married, the love of a married partner, worry about the religious and social condemnation of their single status, financial and physical needs, and a need for male support.

Unlike the media portrayal that the pain and anger of a first wife following a husband's polygamy can be overcome by a husband's assurances and a few presents, the negative feelings obviously lingered for many years. There was however, amongst first wives within a polygamous marriage, a noticeable element of denial, which made the loving husband appear as a helpless victim of unfortunate circumstances or of the scheming other woman.

NOTES

- 1 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shari'a wa Tabirraat Al Kuttab Al Muslimeen Al Mu'asireen*, p. 101.
- 2 Detailed in chapter 3.
- 3 Yalom, *A History of the Wife*, p. 55.
- 4 Pearl and Menski, *Muslim Family Law*, p. 253.
- 5 Mohamad Afifi, 'Reflections on the Personal Laws of Egyptian Copts', in *Women and the Family, and Divorce Laws in Islamic History*, edited by Sonbol, pp. 207–208.
- 6 Al-Rasheed, *A History of Saudi Arabia*, p. 77. The role of politics in the promotion of polygamy in Saudi Arabia was extensively tackled in chapters 4 and 6.

- 7 The rights and duties of members of the Commission are detailed in chapter 6, section 'The Origins and Methods for the Creation of the Law in Application in the Kingdom of Saudi Arabia' (pp. 134–39).
- 8 The topic is covered in chapter 4, the section 'Social Acceptability of Polygamy' (pp. 75–76).
- 9 *Al Jadeeda Taftih Malaf Al Zawja Al Thaniya, 20 Sabab Tad'ou Alrijal Lizawaj Min Thaniya, 10 Asbab Taj'aal Al Mar'ah Taqbal Bilzawaj Min Mutazawij* (Al Jadeeda Opens the File of the Second Wife, 20 Reasons Causing Men to Take a Second Wife, 10 Causes Making a Woman Accept to Marry a Married Man), *Al Jadeeda* magazine, vol. 18, issue 866, 29 January 2003, pp. 20–25.
- 10 This situation was discussed in chapter 3 as being common amongst the technocrats in Saudi Arabia.
- 11 Travel marriages were discussed in chapter 5.
- 12 This topic is linked to travel marriages and was covered at length in chapter 5.
- 13 As detailed in chapter 5.
- 14 The topic of *mahr* and *sadak* (advanced and deferred dowers) is covered in chapter 5, pp. 87–88
- 15 *Qitar Al Zawaj* (The Marriage Train), *Al Bilad* newspaper, order number (024), 14 April 2002.
- 16 *Qitar Al Zawaj* (The Marriage Train), *Al Bilad* newspaper, order number (030), 21 April 2002.
- 17 Sheikh Ahmad 'Abdelqadir Al Mu'bi, Ma'dhoun Shar'i (licensed marriage contractor), *Tashkhees Sab'at Asbab Li Al Dhabirah* (Identifying Seven Causes Responsible for the Phenomenon), *Okaz* newspaper, 25 July 2003, p. 9.
- 18 As explained further in section 'Men Pursuing Polygamy for Financial Reasons' (pp. 216–217).
- 19 'Ascha provides details of the rules of slavery in Islam in *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shar'ia wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen*, pp. 117–21.
- 20 See chapter 2, section 'The Islamic Discourse in Favour of Polygamy' (pp. 19–25).
- 21 'Ascha, *Al Zawaj wa Al Talaq wa Ta'addud Al Zawjat Fi Al Islam, Al Ahkam Al Shar'ia wa Tabriraat Al Kuttab Al Muslimeen Al Mu'asireen*, p. 113, quoting Ahmad Muhammad Jamal in *Mufitarayat An Al Islam* (Lies about Islam), published by Dar Al Fikr (1972), p. 119.
- 22 The concept of illness as a cause for polygamy is, however, not mentioned anywhere in the Qur'an or the Sunna (tradition), as presented in chapter 2.
- 23 Peter Bertschneider, *Polygyny: A Cross-Cultural Study* (1995), pp. 67–68.
- 24 Donald Symons, 'On the Use and Misuse of Darwinism in the Study of Human Behavior', in *The Adapted Mind, Evolutionary Psychology and the Generation of Culture*, edited by Jerome H. Barkow, Leda Cosmides and John Tooby, Oxford University Press (1992), p. 137.
- 25 As discussed in chapter 2.
- 26 Related by al Mughira ibn Shu'ba in Sayid Sabiq, *Fiqh al Sunna*, 2nd Volume, published by Al Fath Li Al I'lam Al 'Arabi (1990), p. 142.
- 27 Sabiq, *Fiqh al Sunna*, p. 142.
- 28 The media portrayal of spinsterhood as a growing epidemic puts pressure on unmarried women to compromise their choice of partner in order to escape from this label.

- 29 This case study was used in chapter 7 to highlight the positive aspect of polygamy for those knowingly entering into the arrangements.
- 30 The term existing instead of first wife is used here to include the main wife in the polygamous marriage due to cases where the initial first wife is no longer in the marriage or has taken an inactive role.

CONCLUSION

In writing this conclusion, I begin by quoting from Imad Al-Asfahani, AD 1125–1201: ‘I have yet to complete a book and to reopen it the following day without finding I might have included this, deleted that. Or I might have polished this statement, modified the next, transposed the third. In short, man’s work, his thinking, his revisions, are never complete nor perfected. Such is man.’¹

The above statement is, to a certain extent, valid for every writer, but it feels even more so with the subject of this work, which has proved to be of a constantly expanding nature. New ideas and material were found on every visit made back and forth to the area of the research. Additions and improvements could be continued for a lifetime. This is even more true when researching one’s own locality; individuals who were interviewed often make contact again, naturally allowing a continued follow-up of their original situation which was viewed at the end of the fieldwork period as finalised. Although the fieldwork was formally undertaken and completed during the first seven months of 2003, it seems to have expanded into an ongoing process.

The men and women selected for the sample in this book were drawn from a variety of social and economic backgrounds, all of them sharing a direct polygamous experience and all of them residing within the Meccan region of the Hijaz.² The promised anonymity of the interviewees has taken precedence in the stratification of the case-studies. As mentioned in the Foreword, the men and women were not classified as initials, numbered case-studies or any of the other methods used by researchers, lest the successive continuity of their views and experiences led to their identities being discovered by individuals from within their close circle.

The critical elements which have come out from this work are outlined below. The introduction described changes to the pre-existing socio/geographic divisions which previously marked the level of practice and acceptability of polygamy in Saudi Arabia, and the current sweeping changes that have affected these divisions amongst the inhabitants of the Kingdom today.

Chapter 2 presented polygamy as a human phenomenon and linked the polygamous Judaic culture with the beginning of the spread of the practice of Islamic polygamy. The town of Medina was, until the arrival of the Prophet Muhammad and his Muslim companions from Mecca, populated mainly by Jews and Christians and a handful of new Muslim converts, who were the main hosts and supporters of the Prophet (*Al Ansar*). Polygamy does not appear through historical accounts to have had an earlier presence amongst the Prophet's tribe, *Quraysh*, in pre-Islamic and early Islamic Mecca. The Prophet himself was at his happiest, most content marital state when he was, in Mecca, monogamously married to his first wife Khadija. His later polygamous marriages were harder to manage despite his reported exemplary thoughtfulness in his dealings with his wives.

This non-Islamic polygamous origin reveals a situation of double standards when put into context with the defensive pro-polygamy attitude of Muslim writers. They treat any argument against the practice as a direct attack on the Islamic religion,³ while not forgetting the use of the historical pre-existence of polygamy as a justifying argument in favour of Islamic polygamy, whenever deemed suitable. These writers assume the Islamic prerequisites of equality and justice, although unsupervised, to be fully applicable to all Muslim polygamous husbands, making polygamy a viable option for the women involved. This point has often proved inaccurate, as observed through the findings of this work, mainly in the case-studies discussed in chapter 7.

The topic of state involvement in the promotion or suppression/control of polygamy links the legal reforms and codifications that put restrictions on the practice in some Arab/Muslim countries, while banning it in Turkey and Tunisia, and later re-instating it in Iran and Iraq following the adoption by these states of a different policy to suit current needs. Chapters 3 and 6 describe Saudi state involvement in the promotion of polygamy to solve existing dilemmas. In order to be fully understood, the public policy promotion of restrictive laws and polygamous marriages must be viewed as representing the values of the decision-makers and religious authorities, who belong to a cultural background where these arrangements constitute a natural, continuous way of life. The applicability of polygamy in this manner has resulted in the disintegration of family values when imposed on another group with different gender structures and affiliations.

The historical progression of the practice of polygamy⁴ within the target group is reported to have begun amongst the Hijazi technocrats who worked closely with royalty, before taking on this larger dimension.

In the early days of Islamic polygamy, widows and divorcees were swiftly re-absorbed into the marital pool by honourable male members of the community who saw beyond the limited attractions of youth and virginity. The essence of early Islamic polygamy was aimed at protecting single women and their families. This Quranic cornerstone condition has been overlooked by the fatwas: the ability of the prospective polygamous husband to financially maintain a new wife and her ensuing offspring is not enforced in Saudi Arabia. Even poverty-stricken men are now permitted to indulge in multiple marriages and divorces which result in additional female and child destitution and an increase in the soaring demographic problem (see p. 19). Today social topics of wide media coverage and concern include the increasing number of divorces and the rise in spinsterhood.⁵ These are presented concurrently by the religious *‘ulema* and by the government-controlled media as national dilemmas. The main concern lies in the risk that this will inevitably lead towards sexual immorality on a large scale. Advice offered on the best way to contain such widespread evil is expressed through the religious–media partnership. Women must therefore learn to accept this reality by allowing the scarcely available men to be shared by the multitude of surplus women through the means of polygamy. Statistics, often ignored, have however proved that the number of male citizens exceeds the number of females in Saudi Arabia. The old female surplus argument, nonetheless, continues.

The religious authorities justify polygamy through their subjective assumption that unmarried women would otherwise engage in immoral behaviour. The author calls for an awareness regarding the reality of the often neglected, rejected, distressed, jealous and angry, yet technically married polygamous wives. These women should also have their needs, physical and emotional, addressed by polygamy promoters, who leave their uncertain fate in the hands of the many estranged or merely irresponsible or temperamental husbands.

The protection of the morality of single female members of Saudi society is generally understood to be a collective responsibility. Family members, neighbours, doormen and drivers all play an active role

in implementing this national responsibility. This morality is directly connected to the marital status of a woman in general, as opposed to her personal behaviour in particular. Society becomes absolved from this protective burden as soon as a man, any man, married or not, takes on the sole responsibility of safeguarding one, two, three or even four women by becoming their husband. The collective protection efforts become obsolete as these women are now assumed to have access to sexually fulfilling encounters within a religiously and socially approved context, at least every four days, which guarantees their immunity from the previous risk of seeking it immorally elsewhere.

Even the internet websites advertising the uncertain, short-lived *misyar* unions are today justified as a means of providing moral protection from illicit relationships. Short-lived *misyar* marriages, despite their long-term personal and social drawbacks, are marketed as an Islamic solution for Western immorality.

Chapter 6 discussed the relationship between different dimensions of the law. There is, on the one hand, the current local interpretation and application of *shari'ah* law in Saudi Arabia and on the other, multifaceted legislation (some of which is clear and justified, while some is fairly blurred). The latter laws have mushroomed out from within the entangled executive, judiciary and administrative powers. Their many origins, motivations and creation processes are interpreted as politically acceptable from within the Saudi context. One direct effect of this legal entanglement has been to encourage the reshuffling of individual, family and social values, increasing the pressures and restrictions on previously relatively independent women, and resulting in a growing trend towards polygamous marriages.

Fatwas issued by the government-employed religious authorities (*ulema*) are different from the purely Islamic jurisprudential laws (*shari'ah*) yet are packaged and presented within a religious context; this makes them as absolute and unquestionable as the *shari'ah* laws. The influx of outside influences, with locals experiencing new role models through travel, satellite channels and the internet, presented the religious authorities with a new challenge: that of fulfilling the inevitable aspirations of the local inhabitants to engage in foreign images of clandestine, illicit, male–female relationships. When unable to find an Islamic origin to justify a proposed new legal enactment or restriction, the *ulema* resort extensively to the two Islamic jurisprudential concepts of *maslahah 'amma* (the public good)

and, *sad al tharā'i* (the closing of the doors of evil).⁶ Chapter 5 revealed the lengths that the *'ulema* are forced to go to in order to clothe polygamy in Islamic garb, and discussed the development of polygamy as a consequence of the interactions of Muslim people within a large geographical area. Differences and similarities between *mut'a* marriage, *'urfi* marriage, travel *misyar* marriage, *hiba* marriage and secret marriage contracts were all identified, and distinctly categorised into the different geographical areas in which they are practised. With arrangements such as the travel marriage, which is often polygamous, the *'ulema* chose to stretch the modern, synthetic fibre of the Islamic cloak even thinner by doing away with the financial responsibilities previously imposed on a husband while preserving and strengthening his superior position.

The author found that the cultural gender downgrading created by the succession of legal restrictions on women's basic rights and liberties has resulted in a sweeping local assumption that these women are willing to accept a reconstructed marriage contract in which they are expected to sign over their basic rights as Muslim spouses, yet be grateful for existing in the shadow of a man. Numerous single women, usually past the age of thirty, and divorcees and widows of any age, are regularly approached by married men for *misyar*-style marriages. These ego-inflated men consider their offers of weekend-style marriages to be generous, given the social circumstances of these potential brides. The majority of men taking on a wife from within the above categories often do so on a trial basis; the research has witnessed husbands referring to such an involvement as 'trying my chance' since the bride in question is presumed to have little to lose by embarking on yet another degrading, temporary marriage. The research has come across several husbands who, when dissatisfied with their (originally divorced) second/subsequent wife, ended the marriage by simply repudiating her and 'sending her back to her father'. This observed situation confirms the painful assertion of a social order that is heading in the wrong direction with its eyes closed, in spite of the highly held green-coloured banner of faith. Polygamy has in this manner contributed towards the problem of increasing numbers of divorces.

Research evidence has shown that, in the majority of cases, the choice of polygamy as a protective measure against the ever-present risk of immorality through illicit extramarital affairs has proved to be a temporary solution.⁷ The inevitable sense of familiarity between the partners sets the husbands on a search for novelty so easily presented

through polygamy, often *misyar* style. Long-term protection against the crime of *zina* (fornication) is only possible in the cases of those husbands observed who are willing to renew their polygamous marriage partners regularly through divorce by repudiation, a situation that is obviously to the detriment of the wives involved. The aggressive call for a return to Islamic values, with polygamy representing the means for the moral protection (*sitr*) of Muslim women, in retaliation against the immoral Western conspiracy aimed at destroying the *umma* (Islamic community) by attacking the morality of its mothers, is viewed as illogical under these circumstances.

Chapter 7, 'The Character of the Polygamous Relationship', conveyed the realities of day-to-day experiences within polygamy. It highlighted the marked discrepancy between the images presented through the media and the literature, and the daily dilemmas encountered by those living within polygamy. Subsections were divided into the experiences of husbands, first wives, second and subsequent wives, the offspring of these individuals, their household and other employees, their extended families and their frequented social circles. Apart from a handful of positive assertions, the majority of accounts did not present polygamy as the straightforward, predictable way of life portrayed by the media.

The dilemma of the first or existing wife occupied the larger share of the chapter, as she is usually on the receiving end of, rather than an active player in, the introduction of the polygamy. She is also the one whose original situation usually deteriorates as a direct result of polygamy and is the only one in the situation who was unknowingly or unwillingly pulled into the game as a result of the wishes of the other parties. However, second wives from within the focus groups do not always have an easy time either. The continuation of their marriages often came as a result of a tremendous amount of patience and compromise, often allowing a husband's first family's needs to take precedence, while asserting their marital position with regard to their husband's non-polygamous social circles.

The public promoters of polygamy seem to overlook the continuous need of polygamous husbands to compromise in order to avoid conflict and bouts of anger from their wives. They underestimate the continued state of grief and anger displayed by first wives, which is passed on to their offspring, and display little awareness of the altered quality of the partnership in its emotional and financial aspects, or the difference in

approach to the marriage of monogamous wives and of those unhappily surviving within or pragmatically making do with a polygamous husband.

The attempts of husbands to treat co-wives equally, even if only with regards to time and financial matters, was proved by the research to cause hardship to all the parties involved. In the interviews, husbands spoke of feeling stifled and fatigued by the demands placed on them to treat their wives justly and equally, to maintain two or more homes, to cope with the fluctuating emotions and outbursts of jealous co-wives, to shift to a different house or a different room every night, and to sleep besides a wife because it happens to be her turn that night while physically and emotionally feeling more inclined to be with the other one. Several husbands spoke of their guilt as they were totally unprepared for the years of continuing, immense pain that they have caused to their (often loved) first wives. The reality of polygamy in these cases was often very different from the expectations. This highlights the discrepancy found by the author between the pro-polygamy literature and media assertion that polygamy will not change the quality of life between the two partners of the previously monogamous marriage, and the reality experienced by those living within polygamy. The allocated six-months to two-year adaptation period, during which 'a first wife will have come to terms with her new situation following which life will go back to normal when she realises that no change to her original situation has really taken place', has been proven by the findings of chapter 7 to be a myth. Even in cases where the introduced polygamy was eventually ended, the long-term effects of it on the fabric of the partnership remain tangible.

Changes in family circumstances from those of the sixth century, together with other changes that have affected the Arabian Peninsula, now part of the World Trade Organization, need to be realistically acknowledged and addressed by public policy decision-makers. Previously, when polygamy existed within a small, close-knit community, the strict equality and financial rules governing polygamy were closely monitored and enforced under the watchful gaze of the responsible elders. Today the responsibility of applying these rules is entrusted to the polygamous husbands who might on some occasions act in an unreliable manner or impulsively as a result of infatuation. The initial role of the *wali amr*, which should be a source of support and a safety network for women, needs to be reviewed rather than strengthened; this imposed male protection now ranges from the burdensome to the unjust.

There is an urgent need for polygamy to be controlled by a firm, legally clear, state-controlled body, which is accessible to all, instead of the often unrealistic, uninformed *fatwas* irresponsibly made, which solve the temporary, whimsical needs of the parties while overlooking the fate of the women and children involved in these shallow marriage structures, and the effect of their high rate of failure on the long-term quality of Saudi Arabia's social fabric. In the same way that commercial transactions have been legally codified and updated, an equivalent update of the laws of personal status is a national responsibility, and should not be entrusted to the whims of unaccountable individuals.

Wide social and economic differences exist between the practice of polygamy in the early Islamic era and present times, despite the local legal and religious insistence on the latter being based on the former. The financial reality in today's monogamous partnerships was observed to be different from that of the sixth century. In the twenty-first century, spouses have joint bank accounts and a first wife sometimes injects capital into a family business or contributes towards the purchase and furnishing of the family home throughout the length of the marriage. Such contributions are naturally made with the implied understanding that these assets will remain within the family's current nuclear set-up. When the husband in these circumstances chooses polygamy, according to the current application and interpretation of Muslim law in Saudi Arabia, the first wife wakes up one day to see her entire portion of ownership being halved and shared between herself and the newly introduced co-wife. Should she look for justice, she will be faced with her husband and his new wife, supported by the court system, raising the banner of Islamic justice and the equal treatment of co-wives. The financial and other material investments made by a long-term first wife were not intended to be shared by a third party who has not contributed her equal share.

The Islamic division of the husband's wealth between his co-wives, and other dependent relatives, is still based today on the rules that were applicable in the early days of Islam. These were times when the family wealth consisted of simple daily food provisions and limited clothing material, and when the husband and co-wives lived in basic accommodation. Cases abound where a grieving first wife, choosing to walk out of what had become an unbearable emotional trauma, attempted to claim her just share of the family wealth following a painful divorce.

Despite being armed with valid evidence consisting of witnesses, receipts and joint signatures, she was dismissed, empty-handed, by a judge in court who applied his limited personal understanding of Islamic divorce laws. As a result of this jurisprudential lack of flexibility in adjusting to modern changes, many observed cases today represent severe financial injustices for the existing/first wife, a situation that greatly contravenes the justice and equality factors required from the husband towards his co-wives.

Chapter 4, 'The Social Acceptability of Polygamous Marriages', distinguished between the publicised media and literature acceptability of polygamy in Saudi Arabia, which enticed individuals to indulge within polygamous practice, and the true level of open acceptance amongst the focus group of the research and those individuals directly in contact with them. A lack of acceptability was detected amongst individuals practising polygamy, who sometimes hid it publicly or from their families while practising it secretly. This situation is naturally the outcome of its lack of acceptability amongst those around them. Acceptability was seen to be at its highest level within male-only social circles, and at its lowest level amongst mixed social gatherings which were naturally exclusive to monogamously married couples. The fluctuations between acceptability of polygamy and the lack of it, dictated by life's ever-changing surrounding circumstances, come to show the uncertainty of the situation of polygamous wives and that of their dependent families. Money and a powerful position were seen as important factors helping to bring about acceptability for those who seek it or were, at least, useful for suppressing the outward expression of unacceptability by surrounding family, existing offspring and society.

This book set out to search for the reasons why men and women continue to engage in polygamous marriages in the twenty-first century. The answer lies in the restrictions and social pressures facing women in every aspect of their daily lives. As for the men, they can be divided broadly between those who take advantage of the unrestricted opportunity to engage in carnal variety and those whose egos are inflated by the heavy religious/media encouragement, and who genuinely believe that by participating in polygamy, they are contributing to saving the world. The unhappiness of their women is seen not as a valid issue but as an inevitable misunderstanding purely due to gender traits.

This book conveys the voices of a group of people, eager to be heard and understood, while fearing the mere thought of being known and identified. The far-fetched, media-presented image of the content,

pampered, polygamous husband surrounded by satisfied, sisterly co-wives and cooperative happily adjusted offspring, all in one voice thanking God for the Islamic values that have protected them from the risks of immorality, represents an illusion for many.

Despite the multitude of social, financial, moral and physical reasons explored, the core element in all these situations is the natural willingness of the men, but mainly that of the women involved, either independently or through coercion by, or influence from, their families or immediate social circles, to maintain or become involved in a polygamous arrangement.

Polygamy may well have worked as an intelligent, long-term compromise for the few men and women who planned, adapted, accepted and understood its true implications, and for wives who were able to remain pragmatically detached from the romantic image, and to make the most of having a rationed male presence in their lives, wisely coming to terms with the difficulties of not having it at all. As for the majority of others, inevitably interacting with Western culture and therefore exposed to images of happily married couples and brides in white dresses, the resulting intricacies and daily realities of polygamous life can only be temporarily disguised from gloating outsiders.

NOTES

- 1 The quotation in its translated form was borrowed from Abdul Malik A. Al-Sayed, *Social Ethics of Islam, Classical Islamic-Arabic Political Theory and Practice*, published by Vantage Press (1982).
- 2 The term Meccan region is used to denote the geographical areas covered in this work, including the cities of Mecca and Jeddah. Although some of the individuals interviewed originate from the cities of Medina and Riyadh, they had all lived and were settled in the Meccan region at the time of the research. A limited number of non-Arab and non-Saudi individuals were interviewed but only in relation to their marriages with Saudi Arabian citizens and after fulfilling the above-mentioned residency criteria.
- 3 Chapter 6 considered *fatwas* emanating from the highest religious authority in Saudi Arabia, echoed in Egypt, which equated the acceptance of polygamy by all Muslim women as part of their true acceptance of Islam.
- 4 As observed by informants from the older generation.
- 5 The Arabic term for spinster (*ʿanis*) is in itself a Saudi introduction in the Hijaz. Previously unmarried men and women were referred to as *ʿazib* and *ʿazba* respectively.
- 6 Explored in chapter 6, section 'The Creation of Modern Regulations in Saudi Arabia' (p. 137).
- 7 In chapter 3, section 'Public Policy and Polygamy' (pp. 50–51).

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