

# Limiting polygyny in Iraqi Kurdistan

*A study on different views of women regarding the amendment of the  
personal status law*



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## Summary

On November 13, 2008, the Kurdistan region in northern Iraq amended the Iraqi Personal Status Law. The amendment passed by the region's government affects Article 3 of the Iraqi Personal Status law, which deals with the practice of polygyny. This amendment added new legal conditions to polygyny, further restricting it and making it extremely difficult to practice. The amendment has its supporters and opponents; women for and against polygyny are represented within women's organizations, political parties and parliament and all have a reaction to the amendment.

The data collected through fieldwork conducted in spring 2010 in Iraqi Kurdistan argues that the women interviewed claim they know what is best for women in Kurdistan. The anti-polygyny respondents hoped that polygyny would be prohibited, while pro-polygyny respondents desired the opposite. Since the new conditions have made it exceedingly difficult to practice polygyny without banning it outright, both groups are somewhat displeased.

This thesis argues that both pro-polygyny and anti-polygyny respondents wish to own the right to "define" what is best for women in Kurdistan and fight for their views to become representative of women in the Kurdistan region of Iraq and influence the region's laws that directly affect a women's role in society and her rights as a citizen and member of a family. Both groups view the limiting of polygyny as a disappointment and a victory. This outlook further supports the argument of this thesis; that both pro and anti-polygyny groups see themselves as the true representatives of Kurdish women and regard their view of polygyny as the correct one, and the one that should provide the basis for the region's laws which grant and protect the rights of women in the society of the Kurdistan region.

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# Part 1: Background Information & Methodology

## Chapter 1: Introduction

On November 13, 2008, the Personal Status Law of the Kurdistan Region of Iraq was amended. This law deals with family law in the country. Because of specific laws in the Iraqi constitution, the Kurdistan region in northern Iraq has the power to amend laws, with these amendments being legally binding within the region. This is discussed in detail in chapter 4. The Kurdistan Region Personal Status Law was issued on November 13, 2008 and is known as Law No. 15. As a consequence of Law number 15, a total of 25 articles of the Iraqi Personal Status Law of 1959 were amended. The focus of this thesis is Article 3 of the Personal Status Law, which deals with polygyny and conditions placed on its practice. This thesis will not deal with the family law that is applied to non-Muslims in the region.

Prior to the amendment, the article contained a paragraph that allowed polygyny provided that certain conditions were met by the man. After the amendment, new conditions were added to the paragraph, further limiting polygyny.

Here is Article 3 of the Iraqi Personal Status Law prior to the amendment:

*Law No. 188 of 1959: The Law of Personal Status*

*Chapter one: Marriage*

*Part One: Marriage and Betrothal*

*Article 3*

1. *Marriage is a contract between a man and a woman who is lawfully permitted to him, the object of which is to establish a bond for a shared life and for procreation.*
2. *If a marriage is concluded its legal effects shall be binding on the two parties from the time of its conclusion.*
3. *The promise of marriage, the reading of the Fatiha and betrothal shall not be considered to be a contract.*
4. *Marriage to more than one woman shall not be permitted except with the permission of a judge and for such permission to be given the following two conditions must be fulfilled:*
  - (a) *The husband must have the financial ability to support more than one wife.*
  - (b) *There must be some lawful benefit.*

5. *If a lack of equity between the wives is feared, polygamy shall not be permitted; the assessment of this shall be left to the judge.*
6. *Any man who makes a marriage contract with more than one woman in breach of the provisions of paragraphs 4 and 5 shall be punished by a prison sentence which shall not exceed one year or by a fine not exceeding one hundred dinars or both (El Alami & Hincecliffe, 1996: 66).*

As can be seen, there are two specific conditions that have to be met in order for the judge to grant permission for marriage to a second, third or fourth wife.

The article below is Article 3 following the amendment of 2008:

***Provisions and articles of the Personal Status Law No. 188 of 1959 amended with the provisions and articles of the law amendment application No. 15 13/11/2008***

***Section one***

***Marriage***

***Chapter one***

***Marriage and Betrothal***

***Article 3***

*First: the work on paragraph 1 of article 3 from the amended law number 188 of 1959 will hereby be discontinued in the Kurdistan Region of Iraq and replaced with the following:*

*Marriage is a contract of consent between a man and woman according to which their marriage life will become licit as per Islamic laws. The aim of marriage is to form a family on the basis of love, sympathy and mutual responsibility according to the provisions of this Act.*

*Second: the work on paragraphs 4, 5, 6 and 7 from the amended law number 188 of 1959 will hereby be discontinued and be replaced with the following:*

*Marriage to more than one woman is not permitted unless it is authorized by a judge if and when these following conditions are all met:*

- (a) The consent of the first wife before a court.*
- (b) The first wife suffering from a medically proven disease which keeps her from marital cohabitation and that is incurable or results in her being sterile and is proven by a medical committee.*
- (c) The one seeking a second marriage must have the ability to financially support an additional family and must present valid documentations of this to the courts during the process of signing the marriage contract.*
- (d) The husband shall submit a written pledge before the court prior to the procedure of the marriage contract, verifying that he will act fairly towards both wives; in sharing and other marital obligations (material and moral).*



- (e) *The first wife shall not have written a condition in her marriage contract prohibiting her husband from marrying a second wife if he is to marry a second wife.*
- (f) *Anyone signing a marriage contract with more than one wife and contradicting any of these aforementioned paragraphs (a, b ,c ,d ,e) shall be punished through imprisonment of not less than six months and not exceeding one year. And he shall be fined ten million Dinars.*
- (g) *A judge shall not stop the execution of the penalties contained in paragraph f above (National Council of Kurdistan, 2009: 16-17. Translated from Arabic by the author of this thesis).*

New conditions have been added to the paragraph regarding polygyny and it is evident that the demands are quite strict, making it extremely difficult for a man to marry more than one woman at once. These conditions are not mentioned in the Quranic verse that brings up polygyny.

There are two Quranic verses in particular which are often cited when discussing the practice of polygyny. Verse three in the fourth *Sura (Surat al Nisa)* is believed to be the verse that points to the acceptance of polygyny in the religion of Islam:

*Should you apprehend that you will not be fair in dealing with orphans if you marry more than one of them, then marry of other women as may be agreeable to you, two or three, or four; but you feel you will not deal justly between them, then marry only one, or out of those over whom you have authority... (4:3).*

The other verse referring to polygyny, which is traditionally interpreted as addressing specific conditions on the practice of polygyny, appears later in the same *Sura*:

*You cannot keep perfect balance emotionally between your wives, however much you may desire it... (4:129).*

These two verses provide the basis for the majority of commentary and interpretation on polygyny within Islam.

## **Why the term polygyny?**

The reason this thesis refers to the practice of having more than one wife at once as *polygyny* and not *polygamy*, is because of the precise denotations of these terms. The word polygamy is often used when referring to the practice of having multiple wives, most likely because of its connotations. It is however not the correct term. Polygamy is the term for a marriage in which a spouse of either sex has more than one spouse at a time, whereas polygyny means having more than one wife at one time (Merriam-Webster, 2011: URL). It is therefore more accurate

to use the word *polygyny* and this thesis will therefore only refer to the practice of having multiple wives as such.

## **Key questions**

Among the respondents in this thesis there are primarily two groups: pro-polygyny and anti-polygyny. Within the groups there are of course variations and degrees of support and opposition for polygyny. The different layers and complexities of the respondents' views will be discussed and taken into account throughout the thesis.

The thesis will concentrate on the amendment to the legislation regarding polygyny which is a part of the overall amendment to the Iraqi Personal Status Law within the Kurdistan Region of Iraq. The main question of this thesis deals with the right to define and decide what is best for Kurdish women the Kurdish region of Iraq. Should polygyny be restricted like it is in the current legislation or be prohibited all together? Or should it be left with only the conditions set by Shari'a? Which of the groups know best how to improve women's situation and whose rendition of the Iraqi Kurdish woman's daily reality can be deemed the correct and legitimate one? Who knows what is best for Kurdish women? Who speaks for the women of Kurdistan?

In order to answer these questions the informants were asked about their views regarding polygyny. The issue of polygyny is not a simple one, nor is it standing alone, unattached to other important issues that preoccupy the informants. Therefore, it needs to be discussed through discussing other subjects. The chapters in Part 2 of this thesis reflect this and are therefore divided into the different themes through which different views on polygyny were discussed. The chapters based on fieldwork (Part 2) consist of different topics that are closely tied to polygyny. The chapters review marriage, divorce, sexuality and religion in light of polygyny. The last chapter in the fieldwork section discusses polygyny as a problem solver and as problem maker. Ideas regarding men and opinions on the politicians and the political process around the amendment are also discussed in the same chapter.

Part 1 of the thesis addresses the issues that build up to Part 2. The following chapter, chapter two provides background on the Kurds as well as their historical and religious background. Chapter three, the methodology chapter, provides an overview of the fieldwork of the author of this thesis and a discussion of conducting fieldwork as an insider in particular. The types and methods of interviewing are also discussed. Chapter four explains the history of

the Kurdistan region as a self-governing unit within Iraq and its legal system and also deals with the amendment of the Iraqi Personal Status Law.

## **Prior research**

Since the amendment took place in November of 2008, and the fieldwork was conducted in from March to April 2010 there was little to be found on the subject with the exception of a few online articles about reactions regarding the amendment. There were no academic articles or books published about the amendment in 2010 or 2011, during the time this thesis was written, nor was there substantial coverage from the non-Iraqi media. The subject was new and the research had to be as well. After searching extensively without much luck, it became evident that no researcher had written about the Kurdish region amendment to the Iraqi Personal Status Law. There were no prior researches on a similar subject from a different country either. The subject of limiting polygyny without officially prohibiting it, and articulating it in the way the Kurdistan Region has is quite different. This is also why it became the topic in this Masters dissertation.

There is, however, research by Lale Yalcin-Heckmann, which deals with a certain group of Kurds in Turkey (Yalcin-Heckmann, 1991). In *Tribe and Kinship among Kurds*, Yalcin-Heckmann writes about polygyny among the Kurds of Turkey. However helpful for further insight regarding polygyny amongst Kurds, it was not relatable to the subject of this thesis. This is because of several reasons; polygyny is prohibited by law in Turkey so the practice of polygyny among Kurds in Turkey is an entirely different issue to discuss. Turkey is, by definition, a secular country while Iraqi law is partly based on the Shari'a. The book *Tribe and Kinship among Kurds* deals with the ramifications of being married to one woman civilly and married to another one religiously and the situation of the wife and children who are not legally bound to the man. These are all interesting topics but are nonetheless not relevant to the specific topic addressed in this thesis. The focus of this thesis is the respondents' views regarding polygyny and the limiting of polygyny in the Kurdistan region of Iraq.

## **Authentic insider**

Uma Narayan argues that "Authentic Insider" is a position assigned to Third-World individuals for the benefit of Westerners. It allows them to take an interest in other cultures and to refrain from taking a critical stand towards that culture as criticism would be left to the "Authentic Insider". The "Authentic Insider" is allowed to speak for their culture and be

critical of it (Narayan, 1997:142). The position of “Authentic Insider” has advantages in the sense that the individual named as an “Authentic Insider” can counter negative portrayal of Third World communities, practices and inhabitants grounded in stereotype and ignorance. The disadvantage of being named an “Authentic Insider” is when the individual becomes the only person in a specific discursive situation that addresses “Third World Perspectives” or the like. The negative outcome of pointing out an “Authentic Insider” without reflection is as Narayan explains:

*When a single voice is positioned as the proprietary “Authentic Insider” with respect to Third World context, the “singularity” of that voice and its perspective tend to be effaced, and it comes to stand for things like “the Third-World position on human rights” or “the Indian feminist position on development” (Narayan, 1997: 143).*

Narayan further argues that during such a situation the Western perspectives on issues discussed materialize with polyphonous richness, with internal diversity, with difference and tensions in evidence, while “the Third-World perspective” seems unspoiled and monolithic. While there is a consciousness about assuming that any one position on an issue does not constitute the collective position of a whole nation or “all feminists”, sometimes this awareness coexists with a failure to see that Third-World communities are as divided, conflicting and filled with debate on key issues (Narayan, 1997: 143-144).

These notions on the “Authentic Insider” fit well into the pivotal issue of this thesis. Who gets to be the “Authentic Insider” and in that way “speak for” the Kurdish women of Iraq? We can argue that anyone being appointed as an “Authentic Insider” is left with a very difficult task and that the concept itself is wrong and should perhaps be combated, but that is not the task of this thesis. The (sad) odds are that the West will always look for “Authentic Insiders” and the labeling of Third-World individuals and activists will never cease to exist. The task of this thesis is delving into the Iraqi Kurdish activists and politicians’ view of themselves as representatives for female Kurdish Iraqi “position on polygyny”. The respondents in this thesis are the manifestations of Narayan’s claims, that the Third-World position on an issue can be very divided and driven by intense debate. For a Western activist however, one of the many standpoints in this thesis might in the future be appointed as an “Authentic Insider” and the only view of Iraqi Kurdish women.

It can be argued that Third-World individuals would wish to, and aim to be appointed to an “Authentic Insider” for the obvious reason that their goals and agendas will be represented in Western contexts as the prevailing one. Narayan states however that

“Authentic-Insiders” cannot be individuals living within Third-World nations but rather have to be:

*...Individuals from Third-World countries temporarily living and working in Western countries, ...individuals who are immigrants to the West from Third-World countries, ...individuals who were born and have lived in Western contexts but have social identities that link them to immigrant communities of color, [and]... all individuals who are members of communities of color in Western context and do not have any sense of “immigrant” identity (Narayan, 1997: 121).*

However it can be argued that the notion of “Authentic Insider” should not be limited to only Third-World individuals who reside in Western countries. Narayan’s idea of “Authentic Insider” can perhaps be taken further and applied to individuals living in Third-World countries. Third-World feminists/activists residing outside the West are easily accessible even outside their local environment. This is partly because Third-World activists and feminists are often invited to come and speak at seminars and conventions held in the West and the fact that they can act as informants for journalists and researchers from the West, as is the case in this context. Ironically enough, the author of this thesis who is herself an immigrant/refugee from Iraq can be viewed by some as an “Authentic Insider”.

## **Explaining abbreviations**

This chapter has explained the basis of discussion for this thesis and presented the main issues that will be looked into in further chapters. However, before understanding the content of the rest of the thesis some abbreviations should be explained:

IKF - Iraqi Kurdistan Front

KDP - Kurdistan Democratic Party

PUK - Patriotic Union of Kurdistan

KRG - Kurdistan Regional Government

ISU - (Kurdistan) Islamic Sisters Union

KNA - Kurdistan National Assembly

KIU - Kurdistan Islamic Union

## Chapter 2: A brief overview of the Kurds

### Origins

The general conviction is that at the turn of the first millennium BCE, Iranian speaking tribes from Central Asia and the bordering areas began migrating towards what is today known as the Iranian plateau (Blau, 1996: 20). The term Kurdistan was, however, first used in the twelfth century by the Saljuqs. Sultan Sanjar Saljuq was so aware of the distinctive personality of the Kurdish people that he created a province of Kurdistan, meaning “the land of the Kurds”. There are also myths connected to the origins of Kurds; one explains that they descend from children hidden in the mountains in order to escape a vicious child eating king, while another quite famous myth holds that Kurds are descendants of slave girls belonging to King Solomon (McDowall, 1996: 4-6).

### Location and population

Area wise, what is considered Kurdistan (the land of the Kurds) is around 200 000 square miles, about the size of France. Kurdistan is not an independent country, and, as a term, refers only to the contiguous areas where an ethnic majority of Kurds reside and which the Kurds regard to be their homeland (Izady, 1992: 1). Kurds are spread across four different main states, Iraq, Iran, Turkey and Syria. While population statistics are typically inaccurate due to various logistical issues and political pressures, it is estimated that in Turkey Kurds comprise about 15-18 percent of the country’s population. With the high birth rates reported in the Kurdish area of Turkey it is said that Kurds might outnumber ethnic Turks by the year 2025. In Iran, Kurds make up about 14 percent of the country’s population. Kurds are 9 percent of the Syrian population, while, in Iraq, Kurds are estimated to be 30 percent of the country’s citizenry. Kurds are also found in parts of the former Soviet Union, including today’s Armenia, Georgia, Azerbaijan, Russia and Kazakhstan. Kurdish communities of significant size are also located in Afghanistan, Lebanon, and Jordan, and approximately 100 000 Kurdish Jews reside in Israel. Kurds have also emigrated, fleeing in significant numbers to Europe and the United States. According to Kendal Nezan, director of *Institut Kurde de Paris*, Kurds number over 31 million, with 22 million still living in Kurdistan itself. This makes them the third most populous ethnic group in Western Asia after Turks and Arabs (Nezan, 1996: 7-9). However, according to CIA World Fact Book, Persians populate 51% of Iran and

Iran is estimated to have over 77 million inhabitants (CIA 2011 URL). Kurds are therefore perhaps the fourth largest ethnic group in Western Asia in terms of population.

## **Language**

The Kurdish language is a member of the subdivision of the Iranian branch of the Indo-European family of languages. There are two principal groups or dialects of the Kurdish language, Kurmanji and Pahlawani. Within the Kurmanji dialect there is North Kurmanji and South Kurmanji (also referred to as Sorani). The Pahlawani dialect is also comprised of two groups, Zazaki (also known as Dimili) and Gurani. Historian and political scientist Mehrdad Izady mentions that the difference between Pahlawani and Kurmanji can be compared to the difference between French and Italian (Izady, 1992: 167-170).

## **Tribalism**

Tribalism plays a large role in the Kurdish society today, just as much as it did several hundred years ago. Izady states that it is so strong that even religion, nationalism and allegiance with other Kurds from different tribes has played a secondary role to tribalism (Izady, 1992: 192). He explains the importance of tribal kinship:

*The Kurd has found his identity, his security, and his livelihood in the tribe, and has paid his tributes, moral and material, to the tribal chief (Izady, 1992: 192.)*

The importance of tribal affiliation should be emphasized, as even the highly educated Kurd will probably show the most loyalty to his tribal leader. It is even evident in the contemporary role of politicians, who need to consult leaders of tribes regarding major decisions (Izady, 1992: 192-193). Martin van Bruinessen claims that not all Kurds are tribal, but that the Kurdish tribe itself has certain characteristics (Van Bruinessen, 1992: 50-51).

*The Kurdish tribe is a socio-political and generally also territorial (and therefore also economic) unit based on descent and kinship, real or putative, with a characteristic internal structure. It is naturally divided into a number of sub-tribes, each in turn again divided into smaller units: clans, lineages etc. (Van Bruinessen, 1992: 51).*

## **The status of women**

Historically Kurds are known to include women into what is usually a man's sphere. During early Kurdish dynasties, women were used for fighting and in the military. It has even been noted that other rival dynasties have ridiculed the Kurds for allowing women to fight (Izady, 1992: 194-195). Even during these old dynasties there were female politicians, and it is also

recorded that Kurdish women were involved in politics within the Ottoman Empire. Kurdish women have also been religious leaders within Kurdish religions such as Yarsanism, an indigenous Kurdish faith. As with fighting battles, the participation of women in religious practices was frowned upon among non-Kurds, with accusations of sexual impropriety among the believers. The Kurdish Jews were known to hold women in high regard, and appointed the first ever female rabbi, Asenath Barzani, in the 17<sup>th</sup> century (Izady, 1992: 194-195).

Izady states that Kurdish families are patriarchal, patrilineal and patrilocal, but when the head of the household dies, the matriarch assumes the role of the deceased male. Izady also says that arranged marriages do not normally take place among Kurds unless they involve political or financial motivations (Izady, 1992: 195). Van Bruinessen however, states that tribal Kurds are endogamous; it is preferred to marry the father's brother's daughter. In fact, the girl's father's brother's son has a "first hand" right to his cousin and can theoretically deny her to marry anyone else (Van Bruinessen, 1992: 72).

The terminology around marriage in the Kurdish language explains the different roles of men and women. For women the term is "marrying" while for men who marry it is "to bring a woman" (Yalcin-Heckmann, 1991: 214). Times have surely changed, but the vernaculars of Kurdish show that the original Kurdish method was to have bride move out of her family's house and into the husband's residence. Defined in a Levi-Straussian terminology; the women move and the men stay (Yalcin-Heckmann, 1991: 214).

## **Kurds and religion**

Around three-fifth of all Kurds are Sunni Muslims, all of which follow the Shafi'i school of jurisprudence. The Kurdish Shi'a make up about 5-7% of the Kurdish population (Izady, 1992: 133). The Kurds' relationship with the Shafi'i tradition began in medieval times. As the Turkic<sup>1</sup> tribes began to populate most parts of the Anatolian heartland, they of course brought with them their Hanafi traditions that were established in central Asia. The Hanafi school of law became influential in the area, though it never managed to change the Shafi'ism of Kurds (Izady, 1992:135). It is said that the Kurds never changed their school of law because while they belonged to the Shafi'i *madhab*, all the non-Kurds in the area belonged either to the

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<sup>1</sup> People who speak languages belonging to the Turkic subfamily of the Altaic family of languages. Several million Oğuz tribesmen settled in Anatolia when the Seljuk Sultan Alp-Arslan defeated the Byzantine Empire in 1071. One Oğuz tribal chief, Osman, founded the Ottoman dynasty. The Oğuz are the primary ancestors of the Turks of present-day Turkey (Britannica, 2011: URL).



Hanafi school of law or were Shi'a and this distinction from the "other" Muslims contributed to the Kurds' sense of identity. It is said that in Turkey a polite way of finding out if someone is a Kurd is to ask about their *madhab* (Kreyenbroek, 1996: 93).

The non-Muslim Kurds follow one of several Kurdish faiths. These indigenous faiths are referred to as the Cult of Angels. The three remaining branches practiced to this day are Yezidism, Alevism and Yarsanism (Izady, 1992: 137). The Yarsans are also referred to as Ahl-i Haqq and exist both in Iraq and Iran (Izady, 1992: 145). Alevism is practiced by Zazaki speaking Kurds and a minority of Kurmanji speaking Kurds in today's Turkey. They are also collectively referred to as the Alawis. The last of the Cult of Angels is Yezidism. They are less than 5% of the Kurdish population and they are found mainly in Syria, Turkey and regions north of the Iraqi city Mosul (Izady, 1992: 153).

The majority of Kurds follow Sufi orders. Kurds have historically been very loyal to these orders (Izady, 1992: 158). At present times the two major Sufi fraternities among Kurds are the Qadiriya and Naqshbandiya. The Qadiriya is an older tradition and came to Kurdistan long before the Naqshbandiya order. The Kurdish branch of the Qadiriya is known for ecstatic practices such as walking on fire, eating glass and piercing body with skewers. In the Naqshbandiya order however, a quietist, contemplative form of practice is preferred (Kreyenbroek, 1996: 94-96). There were also a significant number of Jewish communities in Kurdistan, mostly in urban areas. However, most of the Kurdish Jews moved to Israel in the 1950s. There is also a Christian population in Kurdistan, although they do not refer to themselves as Kurds (Kreyenbroek, 1996: 87-92).

When the Ottoman Empire was defeated by the allies in 1918 it opened the gates for a new order in the region. The Treaty of Sèvres in 1920 was going to grant Kurds their own state within the densely populated Kurdish areas. This treaty however, was never enforced as Turkish military officer Mustafa Kemal (who later took the name Atatürk as founder of the Republic of Turkey) renounced it. Borders were drawn to separate newly created states and the majority of Kurds were divided between Syria, Iraq, Iran and Turkey. The governments of all four countries, despite their differences, had the common goal of coercing the Kurdish people into submission and to pushing forth a non-Kurdish national identity. Conflicts were inevitable (McDowall, 1992:17-18). What did the conflicts within the new states entail? That is a question which cannot be answered properly in the frames of this thesis; however the

Kurds from Iraq and their current political situation will be discussed in detail in the following chapter.

## **Chapter 3: On methodology and conducting research as an “insider”**

### **Aims**

I decided to do my fieldwork in Iraqi Kurdistan. My aim was to interview members of parliament and representatives of certain organizations. I was hoping to interview the members of parliament who pushed forth the amendment, and find out more about the process of lawmaking. I also wanted to interview organizations and political groups who were either with or against the amendment of the polygyny law. I was aiming to find out the views of women’s rights organizations regarding the fact that the amendment does not fully prohibit polygyny. Last, I aimed at interviewing religious organizations and women who did not want parliament or government to limit a man’s right to polygyny. The fieldwork was planned to last from March and throughout April 2010. Given the compressed timeframe, I knew I would need to efficiently maintain a busy schedule.

### **Conducting fieldwork in my “homeland”**

Being originally from Iraqi Kurdistan, I believed the process of finding informants would be simpler and easier than if I were non-Iraqi. I came to Norway with my family in January 1994 as a political refugee. I speak Kurdish, which is the official language of the Kurdistan region of Iraq. The problem was, as was with Abu-Lughod (Abu-Lughod, 1986), that even though I spoke the same language as the locals, I had never really lived there. For the three first years of my life, my family and I lived in a town called Kifri, very close to Arab Iraq, and even our dialect of Kurdish was different from the Kurdish spoken in the parts of Iraqi Kurdistan where I did my fieldwork. We eventually moved to the Iraqi capital, Baghdad, a mixed city where Arabs far outnumber Kurds. Because of these factors, and of course, my 16 year stay in Norway, I felt foreign in Kurdistan.

Lila Abu-Lughod when researching a group of Bedouins assumed she would conquer their doubts about her by emphasizing her Arab side and downplaying her Western side (Abu-Lughod, 1986: 11). I too thought I could overcome any suspicions the locals had about me by stressing my Kurdish identity and showing that they and I are one and a same. To outsiders this might sound strange and perhaps complicated, but the fact that I was not originally from Suleimaniyah or Erbil did present problems. Kurdish people as a society are tribal and preoccupied with family bonds. Suad Joseph who decided to do research in her parents’ homeland of Lebanon had family in a suburb nearby Beirut. When they came to visit her, it

added to her credibility and right to be in Lebanon (Joseph, 1988:28). Parts of my family did move from Baghdad to the Kurdistan region after the 2003 invasion, but it was not as though they had roots there or were “known” as a family among the locals. Lila Abu-Lughod’s father insisted on joining her to meet the Bedouins she was to live among. Her father’s respectability and obvious trust in the Bedouin family showed that not only was he a man of honor, but his daughter had male family members who cared about her (Abu-Lughod, 1986:11-14). In my case it was out of the question to have my parents leave their busy lives in Norway to come to Kurdistan and meet my informants and validate my research. I had of course cousins and uncles who were more than happy to accompany me and drive me to interviews but I mostly declined. I did not realize during my fieldwork the importance of having family members validate me.

## **Identity**

Suad Joseph states that because she grew up as an Arab-American, she was from two conflicting worlds and possessed a bi-cultural socialization (Joseph, 1988:25). I believe I possess a tri-cultural socialization. I see myself as a Kurdish-Iraqi-Norwegian. I have an extra added identity within my ethnicity as I belong to a minority within Iraq. Some might think being Iraqi is synonymous with being Kurdish, but it is not the case, for me. I identify in many ways with the Iraqi people as a whole, and perhaps this has to do with the years I spent in Baghdad. Yet, as a member of the Kurdish minority that has been the target of systematic discrimination and violence, I feel the need to distinguish myself from the Arabs of Iraq. It is not a forced action, as Kurds have many cultural and religious traits that set them aside from the Arabs. Indeed, these two identities often clash. The “liberation” of Iraq has meant prosperity and security of the Kurdistan region, and therefore it has been a stark contrast to the deterioration in security and quality of life throughout the Arab areas of the country. After 2003, when Iraqis often clashed with one another I was sometimes accused of lacking loyalty to the greater Iraq because I was proud of the Kurds’ success. At the same time I was accused of being a traitor to my Kurdish people because I identify with the greater Iraq. Adding to all of the confusion is my Norwegian identity. Predictably, the conflicts between my “Eastern” and “Western” identities are just as visible as the Kurdish-Iraqi conflict. When all of this is combined, it is not difficult to grasp the array of emotions that sometimes arose during my fieldwork. However, I wish not to paint a gloomy picture. I see my interwoven identities as strong tools for my research and fieldwork. I speak Kurdish, I know the general accepted

Kurdish behavior and yet I use research tools taught to me in Norway. To me, this makes up for the identity clashes and frustrations.

## **Meeting oneself in the field**

Tilde Rosmer mentions parallel meetings; the researcher meets new and strange experiences and meets herself at the same time, on a different level (Rosmer, 2005: 51). I “met myself” through doing my fieldwork. I found that I was learning more about myself through learning about my informants. My body language was that of a “Western” woman - for example, I preferred to cross my legs when sitting, which is a social taboo in Kurdistan. One is not supposed to show the bottom of one’s shoe or foot to the people sitting across from them.

According to Suad Joseph, there is a difference between Western and Middle Eastern construction of personhood:

*I was, in my sense of self, probably more Middle Eastern than Western. By American middle-class standards, I probably did not have a well-developed sense of myself as an individual...*

*I experienced this sense of self in terms of what I now would call a powerful desire to merge. I felt little sense of my own boundaries and seemed to dive into relationships with people (Joseph, 1988:39).*

My experience was similar. I see myself as a careful person who would seldom be direct to anyone. I felt that my sense of self had yet to fully develop, and judging me by Norwegian standards I was perhaps viewed as weak and insecure. In Kurdistan my lack of assertiveness was perceived as shyness and willingness to conform, both of which I have perceived to be positive things in the Kurdish culture. A Kurdish woman is supposed to be subtle, and never too assertive and “visible”. Collectivism is a big part of the Kurdish society; therefore, if one has not the willingness to conform and “merge”, one will be always on the outside. And who wants to be an outsider when they are attempting to observe and participate in a culture?

Joseph writes that she merged with many of her informants. For her this meant that she was allowed to “get inside” people in a way that not so socialized anthropologists would not be able to (Joseph, 1988: 43). This was also the case for me during my fieldwork. Observing other “European” Kurds residing in Kurdistan, I sensed they were more direct and individualistic than me. I believed there was a clash of cultures. The long goodbyes and polite conversations about random subjects, compliments that might not always be based in truth, these were all things I realized I had to do in order to “fit in” and merge. I realized such behavior was effective as I remembered what was said to me once. During one of my previous

visits, a local coworker<sup>2</sup> told me that I “had a better chance of surviving here because I was not like the other harsh and rude European Kurds”.

In the West one is trained to affirm their wants directly, otherwise they would be resented. The Western way teaches you to be more direct. Middle Eastern socialization, however, is the opposite. Your needs are to be expressed indirectly as you are deciphering others’ indirect wants (Joseph, 1988: 38). This came as second nature to me. The shift from my assertive personality to my indirect one is imperceptible to me, however clear it might be to others observing me. This is partly because of my life in Norway. Kurds living outside Kurdistan had not changed much, and in order to obtain family relations with Kurdish families in Norway I learned how to be indirect with them. I realized that I had to tone down the honesty I used with Norwegians and had to be more fluid and indirect. Had I not been Kurdish, I might have either forgotten to use this indirect approach or not even been able to turn off my directness. A person, who has not been indoctrinated at home on how to watch their words and statements, might not possess the ability to “tone down” once they need to.

### **Expectations and difficulties with co-existing**

Suad Joseph points out her neighbors’ expectations of her and how it was at times confusing. She was expected to be one of them, yet they also wanted her to behave like an educated woman from abroad. She was expected to dress better than the neighborhood women, and keep a tidier and nicer home than them (Joseph, 1988: 33). I was often told that I dressed too simple, that my long flowing clothes made me look like a poor person who could not afford fitting clothes. My mobile phone was old and that also created a reaction – “a European girl should have a nice phone”, my aunt said. I changed my look to better suit their expectations and also bought an expensive new phone.

When Berit Thorbjørnsrud was living among locals in Egypt, the meals were shared and alone time was scarce. She held her feelings of irritation inside until one day when she broke down in tears, as someone took over her bed and there was no food left for her (Thorbjørnsrud, 2005). Although I was living with relatives I still relate to this feeling. The feeling of never being alone, and of feeling that you cannot complain because everyone is treating you with what they see as the utmost kindness was frustrating and I did my best to not let it affect my fieldwork. In Erbil I stayed with my paternal aunt and shared a room with my

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<sup>2</sup> In the autumn of 2008 I was working as an intern in a local Kurdish Iraqi organization set up by Norwegian People’s Aid and it lasted from September through November 2008.

two cousins. They sometimes took over my bed and rearranged my things and ruined my carefully orchestrated paper system. Sometimes there was even meat in the dish that they set aside for me (I am a vegetarian). I was out all day talking to informants and then came home only to find food that I could not eat. I experienced one big outburst, crying and complaining to my mother on the phone. The need to break down and to then pick yourself up, and realize that no one is attempting to deliberately annoy or hurt you is very important (Thorbjørnsrud, 2005: 31-34).

## **Clothing options**

The expectations of locals and family members who expected me to dress nicer than them was challenging. In addition to that there were clothing codes to follow when conducting interviews. I interviewed secular female activists, women in political posts, either as members of parliament or leaders of political parties and politically active women who were also members of an Islamic woman's organization. I presumed that, although, the women in the two first groups were religious in the sense that they believed in God and did not discard Islam, they would not expect me to dress more conservative. The latter group, I assumed would be a more demanding group when it came to attire. I was right.

I wore long skirts and long tunics and covered my chest area with a big scarf so no outline of breasts would be apparent. The first time I dressed in that way I was going to my first interview with the Kurdistan Islamic Sisters Union. I thought I had dressed correctly. Before leaving for the interview I showed off to family members. They just laughed and said I looked like "a crazy gypsy woman", with my layer upon layer attire. In spite of relatives' ridicule, I did not change and interviewed the women dressed this way. My uncle's wife, whom I stayed with in Suleimaniyah offered to dress me in the real "religious" way, but I declined. I might have looked funny and perhaps unstructured and a bit disheveled, but it was the only conservative dressing I felt comfortable in. It was, in a way, my interpretation of their Islamic attire. Perhaps because I knew I was meeting seven women at once, I was afraid it was going to be "seven against one". I felt it better to wear an outfit I can identify with and not something bought locally. I felt they could see right through me. I wanted to feel safe and comfortable. When interviewing the women's rights activists, I wore formal attire such as dark blazers and white shirts, something resembling what I would wear for a job interview. I did not allow myself to ever wear blue jeans when interviewing or observing because I believed blue jeans are always linked with Westerners who wear informal attire everywhere when in Kurdistan.

There is no state-sanctioned requirement of hijab in Iraq. Women wear quite westernized clothing. However, as mentioned, some of my informants were members of a religious organization. I knew from sources that they wore hijabs and long capes. I was contemplating wearing a hijab when interviewing the ISU, yet, after some thought, I decided against it. While I believed covering up my body and wearing conservative clothes would show my informants that I respected them, I did not think covering my hair would do the same. The towns I did interviews in were small, what if they saw me the following day with no scarf on my head? Would they feel lied to? I think they would, and therefore I chose not to cover my head.

### **The interviews and the process of making contacts**

I had previously stayed in Kurdistan through internships with Norwegian organizations. I felt I had some idea of what was awaiting me. Rosmer states that attempting to contact informants and organizations without being in the country of fieldwork was impossible (Rosmer 2005: 58-59). I also struggled with the same exact issue. When I tried to make appointments from Norway, I was advised by both Kurds and researchers to wait until I arrived in Kurdistan.

Informants were often reluctant to sit with me one on one; they wished to sit in groups, perhaps because they were not sure of my intentions. That gave me an idea to make the group interviews into engaging group discussions where my interview questions were conversation starters. I could note down their answers as well as observing them. I conducted several individual interviews as well – some I recorded and others I took notes. I wrote down as much as I could while they were talking and noted key words that I believed would trigger my memory as soon I arrived back home.

Upon arriving in Kurdistan, I felt somewhat lost. I was not quite sure where to begin. My diary entry from the first day explains this well:

*12. March 2010 (Erbil)*

*Already feeling stressed because I have so little time here. Tomorrow is Saturday and everything is closed. Another day wasted. I hope Sunday (working day) will be productive (Field diary).*

I contacted people who Kurds in Norway recommended me to contact. I knew I had to start out humbly; I wanted the amendment in an official written form. Having the amendment written as an official document would be an important source for my paper. This seemingly simple aim initiated a large chain of events.



My break came upon visiting one of my mother's oldest friends. Her son in law knew a Member of Parliament who happened to be in the women's committee in parliament. Initially I thought the son in law would help me get access to the parliament library where I could make copies of the original law and amendment, but as I was walking with him, I realized that we were in fact meeting a very relevant member of parliament. I was able to visit the parliament, receive my long awaited amendment, and talk to a woman who I first thought had nothing to do with the law. She turned out to be one of the key characters involved in forming the amendment of the personal status law. She was a Member of Parliament with a Ph.D. in law, and was therefore be the legal "brains" behind the amendment. Naturally, I interviewed her, not once but twice.

## **Interviews conducted**

I conducted six recorded interviews and four interviews where I took notes. I will note the interviews by city. The names of informants have been anonymized, as well as the name of the organization Jinan. I conducted ten interviews, one of them being more observation with some questions asked.

March 28, 2010: I interviewed four Kurdish women working for the German organization WADI. Two of the participants were lawyers, while one of the remaining two was a journalist and other a social worker. I recorded that interview in their offices in Suleimaniyah, Iraq, and it lasted about 90 minutes.

March 31, 2010: I interviewed members of the Kurdistan Islamic Sisters Union, the women's group tied to the largest Kurdish Islamic political party in Iraq, the Kurdistan Islamic Union. There were six women present. The interview lasted about two hours and was conducted in the organization's own offices.

April 5, 2010: I conducted an individual interview with general director of the Sisters Union in Suleimaniyah. I interviewed her at her office, and I used a voice recorder. The interview lasted about an hour.

April 6, 2010: I conducted an individual interview with a lawyer who partook in the group interview with the ISU Suleimaniyah. I took notes instead of the voice recorder. We conducted the interview in the lobby of a hotel and it lasted about an hour and a half.

April 6, 2010: I conducted an individual interview with a Member of Parliament Shara, who was a part of the women's committee appointed to work on and amend the personal status

law. The interview was done in her office in Suleimaniyah. I did not record her voice, I only took notes. The interview lasted about thirty minutes.

March 25, 2010 & March 15, 2010: I interviewed Member of Parliament Hero in Erbil. For both interviews I only took notes. The interviews were parts of long meetings with her where questions were asked sporadically during observation and talks with other MPs, so it is not safe to say exactly how long the interviews lasted. The interview was done at the parliament building.

March 18, 2010: I interviewed Sara, the general director of a women's rights organization (Jinan) in Erbil. I recorded the interview and it lasted about 40 minutes. I interviewed her in her office.

April 10, 2010: I interviewed former Member of Parliament and women's committee member Dilan. The interview lasted about two hours and I used a voice recorder. I interviewed her in her office at the Kurdistan Communist Party's headquarters.

April 14, 2010: I interviewed members of the Erbil branch of the Islamic Sisters Union. There were nine women present and the interview was done in the offices of the Erbil branch. The interview lasted about an hour and was recorded.

I also observed a sort of lecture held by the female lawyers working at WADI at a café for women in the town of Halabja. The theme of the lecture was the newly amended polygyny law and the practice of polygyny in general. Following the lecture, there was a discussion on polygyny.

## **Method of interviewing**

None of my interviews were in a strict form of systematic questions and answers. I let the informants digress, elaborate, and sometimes vent over personal frustrations. I was careful not to seem uninterested in what they said and avoided cutting them off to make them "return to the issue at hand". It is important to interact with the informant in a non-positivist interview setting and not control or steer the conversation. Qualitative interviews are precisely for the attempt to understand and explore the informant's personal convictions regarding the subject (Miller & Glassner, 2008: 126-127).

I conducted informal interviews. An informal interview does not have a questionnaire like structure with accurate questions, nor do they have standardized agendas and checklists

(Kemp & Ellen, 1984:230-231). That is why I sometimes “left the floor open” and made room for the informants to answer in their own ways. In the informal interview, everything is negotiable. Informants may question, criticize or refuse to answer a question. They are also able to answer questions in any way they like to (Kemp & Ellen, 1984:230-231). This is perhaps why questions in an informal interview usually more open (Kemp & Ellen, 1984:230-231). This was true in my case, as my interviews were informal and the content of my questions sometimes fell under scrutiny of the informants. Using an informal way of interviewing sometimes led me to stumble on to a key sentence which would give me further insight into the informant’s reality.

Being from a culture that is not a stranger to academia but still downplays social science, many possible informants were reluctant to doing a formal interview. The questions had to change, they were made more open so not to provoke or make any informant weary of me. I also attempted to make the interviews seem as though they were conversations between informants and me. They were, of course, always aware that their answers would be used in my research, and they always had the option of being anonymous.

After speaking to my supervisor, I decided to also accommodate informants who wanted to be interviewed in groups. Informal interviews often consist of group interviews where the researcher interviews a group of people. Group interviews develop their own dynamic and the discussion may open up new fields (Kemp & Ellen, 1984:233). Through a group interview setting, one can unveil the differences in opinions, which is a very valuable thing. However, answers can be affected by the presence of someone of senior status. That might affect the quality and form of information (Kemp & Ellen, 1984:233).

During group interviews one can run the risk of having one informant’s views affect the others’. A form of peer pressure can occur, and the group may become affected by one group member who is respected or looked up to (Scott, 2005:123-125). Going into my two major group interviews where the informants were members of the Islamic Sisters Union, I thought of several possible scenarios. If one highly regarded woman shut down and refused to partake in the interviews, would the other ladies follow her lead? Would the power relations outside of the interview setting transfer to the interview?

Luckily I did not have any group interviews where informants gave up on talking to me. In fact, they were extremely talkative! They corrected and reminded each other, and kept tabs on the women that had not been very talkative. The more active informants encouraged

the timid women to open up to me. For the group interviews, I used digital voice recorder because I knew I would never be able to write down everything I wanted.

When interviewing members of parliament, I did not use the voice recorder. In fact, I did not even ask to record as I did not want to risk being suspected of later using the recordings in an official context. Rather, I had to take notes and then rush home to write down everything I remembered from our meetings. Neither Suleimaniyah nor Erbil are big cities by Middle Eastern standards, therefore the distance between “home” and the places of interview were never more than 20 minutes by taxi. The interviews were fresh in mind when I arrived back and I was able to write a field diary entry, a summary and a general observation of the whole interview setting.

I did not have a set list of questions from which I did not stray. I had a long list of questions regarding the amendment and regarding polygyny. Since I was not sure which questions worked the best, I kept working on my list and adapted the interviews as I drew from experiences from interviews conducted.

I never let my informants presume that I knew anything from before. Therefore many of the women explained elementary things about Fiqh and Shari’a and I listened as though it was the first time I heard of these subjects. In certain situations a researcher may gain from playing dumb, to make tactical use of statements of disbelief (Kemp & Ellen, 1984:234). I let my informants explain even the most obvious matters regarding religion and faith and, as Altorki notes (Altorki, 1988:59), the women felt they were re-socializing me into something Norway had long made me forget.

## **The conversations that provoked and moved me**

I learned that questions asked in an informal interview gave me important insight into my informants’ views and thoughts. These were the informal conversations (Esborg, 2005:97). I gathered a decent amount of knowledge through conversations had after the “official” interview was done.

Sometimes I was trusted with secrets, and it was shown by the informants lowering their voice. I saw this action also to it as an act of trust. My informants trusted me to listen to them and respect them. Some informants would say “this is just between us” in the middle of an interview. It left me perplexed. Did they start trusting me so much that they were sure I would not use this information? Did they initially want me to use it but later regret being so

open? They were, after all, aware that I was recording and taking notes. Whatever secrets or private issues my informants shared with me, I have and will always keep to myself. Honoring my informants' wishes and showing them the respect they showed me is important to me.

Sometimes the informants made unpleasant statements. When one of the informants in a group interview said to me that all girls in the West are forced to go out and sell their bodies from the age of 12, I could not help but react. The informant was trying to tell me how women in Kurdistan are able keep their honor and integrity and do not have to sell their bodies like poor Western women. I uttered quietly that it is not true, that girls in Norway are not forced to become prostitutes. The informant stopped and said that she knew this to be true because she read in a magazine. A researcher should be very careful when interrupting an informant. One is never to interrupt accidentally, but with an amount of consideration for the consequence (Kemp & Ellen, 1984:234). Following that experience, I wondered if I should have interrupted her. Listening to the recording, I can hear the consequence was not negative because the informant continues to be talkative.

Uncomfortable experiences do not only occur when the wrong thing has been said, but it can also happen with action. I was interviewing the general director of a women's rights organization. She cut our meeting by half because she was very busy and had deadlines to meet. She said I was asking too many question and that I was lazy and wanted her to do my job. I managed to thank her before she escorted me out. This was perhaps the only interview setting where I felt hospitality was scarce, as I was generally met with the utmost generosity by my informants. Even the busy Members of Parliament offered tea and told me to contact them whenever I needed anything. Such negative experiences were important and functioned as a lesson that not everyone in Kurdistan is open and generous.

## **Conclusion**

I set out on my journey to Kurdistan with a fear of failure. I knew that I had an advantage by being Kurdish, but I felt also that I had been away for too long. All of these fears proved to be warranted to some extent, but I did not fail. I was able to conduct interviews; I made many contacts and managed to observe my informants. Regardless of how much you read to prepare for fieldwork, surprises still turn up. Also, what seems easy to handle on paper may well be a completely different story in practice. When being faced with people and comments that displease you or go against your beliefs, you cannot seek help from any method book. You

can only find guidance. On the other hand, things I believed to be difficult ended up being quite easy. Things like calling people to ask for interviews or for help with making further contacts with relevant organizations and offices were easier than first imagined. I am very happy I was able to experience the highs and lows of fieldwork in my other homeland of Kurdistan, and I hope that my thesis will be inspired by the two cultures that form my everyday reality.

## **Chapter 4: Amending the personal status law in Iraqi Kurdistan**

### **Autonomy since 1991, but how did it all begin?**

When Iraq invaded Kuwait in August 1990, the door to Kurdish self-governance in Iraq was opened (Stansfield, 2003:121). The chain of events that followed Saddam Hussein's unprecedented invasion and attempted annexation of a neighboring state led to scenes of the humanitarian disaster that ultimately provoked an international outcry to address the unfortunate situation of the Kurds (Romano, 2004: 153). For the first time, many across the world called for the Kurds to govern themselves.

Before 1991 there was not much international support for the Kurdish cause or attention paid to the plight of the Kurdish people. However, as the US and its allies united in opposition of Saddam Hussein's invasion and occupation of Kuwait, reports dating back to the late 1980's were cited which demonstrated Iraq's use of chemical weapons on Iranians and Iraqi Kurds. There was no longer a dispute regarding the authenticity of reports of these deadly chemical attacks.

As the US-led coalition pushed Iraqi forces from Kuwait, US President George Bush asked the Iraqi people to rise and rebel against Saddam. His call to action was very public and was broadcasted on TV and radio channels worldwide. Both Kurds in the north and Shiites in the south of the country did as Bush asked, and virtually every major city in their respective regions was under rebel control by March 1991. The US administration then worried that an uprising of this magnitude might indicate that the Iraqi people might be very difficult to control. As international support for Iraq's rebels failed to materialize, Saddam struck back against the "disloyal" Iraqis with characteristic brutality. His elite Republican Guard units first crushed the Shiites in the south and then moved up to the north to reestablish control over Kurdish-majority areas that had fallen to the rebels. The bloodshed quickly caused a refugee crisis, as civilians fled their homes, with over 2 million Kurds fleeing to the Turkish and Iranian borders, attempting to find safety (Romano, 2004: 156-157). As the world watched, a new refugee crisis was born. The author of this thesis was one of those refugees, walking all the way to Iran and sleeping outside for days.

Long lines of refugees were bombarded by Iraqi helicopters. Refugees fled in panic and many were initially denied entry into Turkey. Images of this chaos and suffering were broadcast on

television channels worldwide. Worldwide awareness of this humanitarian crisis provoked an international outcry to help the Kurds of Iraq. The allied forces, along with Turkey, attempted to find a solution. Turkey was not interested in having Iraqi Kurds residing in their country, as they were struggling with their own Kurdish population rebelling against the state. Under the legal backing of UNSCR 688<sup>3</sup>, Allied forces were placed to keep Baghdad from attacking the Kurds in the north, and “no-fly” zones for Iraqi forces were declared in both the north and south of Iraq. This meant that Iraqi forces were no longer able to fly over the Kurdish areas, and, after constant attacks from the Kurdish fighters (*Peshmerga*), they finally retreated in October 1991. Thus, the Iraqi Kurdistan safe haven region was created, including much of the Kurdish-majority areas of Iraq, though excluding two big cities, Kirkuk and Mosul (Romano, 2004:157).

## **From humble beginnings to KRG**

In Iraqi Kurdistan, there was much work to be done to create some semblance of a functioning, stable region. Prior to the 1991 war and uprising that followed, the region was destroyed during years of war and genocide. Almost all of the region’s villages were destroyed during the Anfal campaign. Following the creation of the safe haven, the Iraqi government withdrew all administrative infrastructures from the Kurdish region. The region was also denied access to electricity, a phone system, disposal mechanisms and water treatment facilities, leaving it void of infrastructure. At the same time, the Kurdistan region was also subject to the international sanctions imposed on Iraq. Without material coming in to fix hospitals, roads and water treatment plants, and with thousands being internally displaced, it was difficult to see how the region could survive (Romano, 2004: 158-159).

With the new millennium, change gradually came to Kurdistan. There was an abundance of stores packed with food. Western style supermarkets emerged, stocked with goods produced outside of Iraq. Modern stores appeared, electronic goods were on the market and public parks were everywhere. Both ruling Kurdish parties took it upon themselves to build new schools, make primary school attendance compulsory and open three new universities. The KRG even opened a central bank in order to encourage local business ventures. The “Oil for Food” program also helped the financial situation of the region. The

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<sup>3</sup> Resolution 688 of the United Nations Security Council dated 1991. The resolution condemns the repression of Iraqi civilians, especially the Kurdish population. It also calls for Iraq to remove the threat to international peace and security in the region (Fas 1991 URL).



program, in addition to providing food for every citizen of the Kurdish region on a monthly basis, also financed housing, schools, roads and other institutions that are important for any region. At the same time, illegal sanctions-busting trade was also a significant source of income for the Kurdistan region. Tourism has also been another factor in the region's new economic prosperity. Kurds living outside Iraq visit the region and spend money, as do Iranians who need "a break" from the imposed veiling and alcohol prohibition of their home country (Romano, 2004:160).

At present, the Kurdistan region is a federated region within Iraq. The three institutions governing the region are the KRG, The Kurdistan Region Presidency and the Kurdistan Parliament. It is specified in the Iraqi constitution that the region's three institutions exercise administrative and legislative authority in Kurdistan in areas such as the regional budget, security, health, education, natural resources and infrastructure development(KRG 2009 URL).

According to the Iraqi constitution, one or more governorates can organize itself into a region, and thus the existence of the Kurdistan region, comprised of three Kurdish-majority provinces in northern Iraq, is legally sanctioned:

***Article 119***

*One or more governorates shall have the right to organize into a region based on a request to be voted on in a referendum submitted in one of the following two methods:  
First: A request by one-third of the council members of each governorate intending to form a region.*

*Second: A request by one-tenth of the voters in each of the governorates intending to form a region (UNIRAQ 2005 URL).*

The administrative capital of the KRG is the city of Erbil, also the seat of the Kurdistan Parliament. The three governorates under KRG legislation are Erbil, Dohuk and Suleimaniyah. The region has over 4 million inhabitants (KRG 2010 URL). Currently, the region has 19 ministries in addition to a Prime Minister and Deputy Prime Minister (KRG 2009 URL).

**Elections, divisions and reuniting: what it means for polygyny**

During the 20<sup>th</sup> century, a variety of Kurdish political and military parties were founded, including the two parties that have dominated Iraqi Kurdish politics for decades. The Kurdistan Democratic Party (KDP) was founded in 1946 (Stansfield, 2003: 66). In 1975, a

former KDP member Jalal Talabani, along with other KDP dissidents, formed a new political party, the Patriotic Union of Kurdistan (PUK), in Damascus, Syria (Stansfield, 2003: 79-80). The PUK was built on a more leftist ideology, whereas the KDP was more traditionalist (Stansfield, 2003:79).

In 1992, the results of the first elections in the Kurdistan region caused a huge dilemma, as neither the KDP nor the PUK received a clear majority in the Parliament. They were therefore forced to find a power sharing solution that would nonetheless allow for proper administration of the region. This solution came in the form of the 50:50 system, meaning that all executive and legislative power was to be shared equally between the KDP and PUK (Stansfield, 2003: 145). The system was dependent on the two parties' collaboration and patience in order to work. Tensions grew, with both sides suspicious of the other's motivations. (Stansfield, 2003:146).

Eventually it became clear that neither party was in the sharing mood, with powers never really merging together. The KDP and PUK never really passed on control of their income sources to the government. The government also gained little to no control over the border crossing point between Iraqi Kurdistan and Turkey, which functioned as an economic lifeline of sorts for the region. Perhaps more importantly, the KDP and PUK forces, the *Peshmerga*, stayed under the control of their respective parties (Stansfield, 2003: 152-153).

The tensions between the parties grew stronger and culminated in fighting at the end of 1993, which lasted for years. In 1997, the belligerent Kurdish parties agreed to a ceasefire, and from then on the Kurdistan region of Iraq was divided between the PUK and KDP<sup>4</sup> (Stansfield, 2003:153-154). Researcher Stansfield explains the situation of post-1997 Kurdistan:

*Iraqi Kurdistan was therefore divided geographically and politically between a KDP-dominated axis of Erbil-Dohuk and a PUK-dominated axis of Suleimaniyah-Darbandikhan (Kirkuk)... Within each area, the respective political party dominated the administration and, indeed, political life in general, resulting in further polarization (Stansfield, 2003:155).*

The parallel governments continued until the US invasion of Iraq in 2003, which resulted in the collapse of Saddam's regime (Yaphe, 2007:141-145). In 2005, KDP and PUK reunited,

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<sup>4</sup> It is important to note that there were small parties within both governments. The cabinets and the overall political scenes were not exclusively comprised of KDP and PUK members. To find out more about them, see Stansfield (2003).

arranging an election for a united Kurdistan Parliament. The two parties also ran together on a joint Kurdish list at the national Iraqi elections in 2005. The first meeting of the Kurdistan Parliament was held in June 2005, officially joining the two administrations together (UNHCR 2006 URL).

As mentioned earlier, the division of the Kurdish region into two quite parallel administrative governments meant in fact two prime ministers, two presidents and two Parliaments. According to an UNHCR report (UNHCR 2006 URL), in the Suleimaniyah governorate the courts applied Shafi'i and Hanafi Islamic law in personal status matters, while non-Muslims were judged using the Iraqi Personal Status Law in addition to their own laws. The reports for 2007 show that the Erbil, Dohuk and Suleimaniyah governorates practice the same methods in dealing with personal status matters and regarding non-Muslims and refer to the same schools of Islamic law (UNHCR). Before uniting in 2005, the PUK controlled areas had a complete ban on polygyny. This lasted from 1994 and until the two governments officially united in 2005. During the prohibition times, however, residents in the PUK-administered areas travelled to Erbil or Dohuk to marry their second, third or fourth wife (IWPR 2007 URL).

As Iraq was building a new democracy, there was a need for a brand new democratic constitution. The Iraqi constitution was approved in a nationwide referendum in October 2005 (Yaphe, 2007:143). The Iraqi Constitution of 2005 sets Islam as a source of legislation, though it is emphasized that Islam is *a* source of legislation, and not *the* source (Yaphe, 2007: 144).

## **The Parliament**

It is important to understand through what process the Personal Status Law was amended in the Kurdistan Region. In order to gain such insight, it is crucial to provide an overview of the structure of the Kurdistan Parliament and briefly study the history of the Parliament. This insight will also make it easier to comprehend the region's first election which took place in May 1992.

Prior to the elections, a group of judges and lawyers were appointed by the Iraqi Kurdistan Front<sup>5</sup> to form a committee wherein they would decide the best tactic for the construction and formation of the Kurdistan National Assembly (Stansfield, 2003:124). The committee met from December 1991 until the end of January 1992 and set the terms for KNA membership (Stansfield, 2003:124-126). In 2009, the KNA was renamed Kurdistan Parliament (KRG 2010 URL). The committee studied the parliamentary democracies of a variety of countries and set forth the following regulations:

1. The KNA should consist of no less than 100 members.
2. The KNA functions according to a secret ballot.
3. There shall be equality between female and male electoral candidature.
4. The election of candidates is according to proportional representation, and according to the party lists.
5. Parties have to secure 7% of the overall vote to obtain seats in the KNA (exception made for Christians).
6. It is not permitted to combine a Council position with that of Public Staff.
7. An electoral committee is to be established in order to supervise the proceedings of the election. The duties of this committee include the positioning of ballot boxes, establishing local committees, and provide guidance to the electorate (Stansfield, 2003:124-126).

The committee also set conditions for candidature. Again, the conditions were set with reference to established liberal democracies. A candidature for the KNA must meet the following criteria:

1. She/he has to be a civilian of Iraqi Kurdistan and a resident in Iraqi Kurdistan.
2. She/he must be 'fully qualified' and over 30 years old.
3. She/he has to be literate.
4. She/he should not have committed violations of moral codes.
5. She/he should not have committed murder or larceny.
6. She/he must not have been involved in crimes planned by the central government against the population of Iraqi Kurdistan (Stansfield, 2003: 126).

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<sup>5</sup> The Iraqi Kurdistan Front formed in May 1988. The front was an umbrella covering the Kurdish political parties of Iraq, including the Kurdistan Democratic Party and the Patriotic Union of Kurdistan. It was established so to organize opposition activity against the Government of Iraq. (Stansfield, 2003:92).

In addition to the name, other modifications have been made regarding Parliament. Currently there are 111 seats in the Parliament (KRG 2010 URL). The legal age for a candidate has now been lowered from 30 to 25. The number of seats assigned to minorities such as Christians have increased, and there is a legal quota mandating that the Parliament must be comprised of at least 30% female members (KRG 2010 URL).

The Parliament had set duties in accordance with their own protocol and they are:

1. To legislate laws.
2. To decide and debate the critical issues facing the Iraqi Kurdish people, and determine the legal relationship with the Iraqi Government.
3. To name the prime minister.
4. To support or criticize ministerial offices.
5. To determine development strategies for the population.
6. To supervise the activities of the executive offices.
7. To form investigation and oversight committees when required.
8. To establish an internal system of administration to determine its possessions and appoint staff to offices.
9. To form permanent and interim committees to regulate the internal system.
10. To keep records of indictments and try civil servants who breach the oath of honor (Stansfield, 2003:133).

According to official statements from the KRG, however, the Parliament has three main functions:

- *To examine proposals for new laws;*
- *To scrutinize government policy and administration;*
- *To debate the major issues of the day (KRG 2010 URL).*

The Parliament has a number of set committees that work on the areas to which they are assigned. One of these committees is women's rights (KRG 2010 URL).

### **Amending the personal status law**

Personal Status, a term first used in Iraq in 1917 in the Shari'a Courts Act. In Iraq, Personal Status was undefined but rather specified the areas to which it was related:

*(i)The waqf: conditions; beneficiaries of their allocation; administration; and the guardian;*

- (ii) Status, including being alive, dead, missing or absent;*
- (iii) Legal capacity and the accidents thereto;*
- (iv) Betrothal, marriage, prohibited degrees, registration and proof;*
- (v) Material rights and duties, dower and maintenance;*
- (vi) Repudiation of marriage;*
- (vii) Parentage and degrees of kinship;*
- (viii) Custody and fostering;*
- (ix) Maintenance of descendants, ascendants and other kin;*
- (x) Guardianship, wills, acts taking effect after death and questions of inheritance. (Nasir, 2009: 35).*

*The Iraqi Constitution of 2005 legally sanctions the existence and authority of the Kurdistan region by recognizing it as an official regional government:*

***Article 117:***

*First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.(UNIRAQ 2005 URL)*

The Iraqi Constitution of 2005 also gives certain rights to regional governments, allowing them to amend laws within their own region, using unambiguous language to explain the nation's concept of regional authority:

***Article 115***

*All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute (UNIRAQ 2005 URL).*

Article 115 confirms the validity of a region's right to exercise a large measure of power over itself. Based on the article, a conclusion can be drawn that over juridical matters, for instance, personal status law, the Kurdistan region can come to its own verdicts using its own laws. The Iraqi Constitution does not say that personal status law is an exclusive power of the federal government, and thus, according to Article 115 of the Iraqi Constitution, the Kurdistan Region's law is given priority within its own region.

Article 115 of the Iraqi Constitution is significant in that it delegates significant legislative authority to the regional government and gives legitimacy to regional law.

However, it does not specifically address how regional laws can come into existence. This is addressed in Article 121:

**Article 121**

*First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government (UNIRAQ 2005 URL).*

The second part of article 121 further affirms the regional governments' rights to amend the application of a national legislation:

*Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region (UNIRAQ 2005 URL).*

The Personal Status Law is national legislation which the Kurdish Regional government can amend within their own region.

## **History of Iraqi Personal Status Law & the KRG amendment**

Prior to 1959, Iraq had no civil law presiding over personal status matters. There were efforts made in the 1940s and 1950s to change that (Efrati, 2005: 579-580 URL). Following the 14 July Revolution in 1958 that replaced Iraq's monarchy with a republic, a personal status law was drafted. In December 1959, the law was issued, Law No. 188. The law was based on Islamic law; however, it presented new bold reforms. Women's shares in inheritance were now equal to men's and polygyny was greatly limited. Women activists participated in the legislative process as specialists preparing the law (Efrati, 2005: 580 URL). Law 188 was amended once in 1963, after the Ba'ath Party came to power (Efrati, 2005: 581 URL).

After the 2003 invasion and subsequent toppling of Saddam Hussein's regime, Iraqis attempted to yet again change the Personal Status Law. In December 2003, the interim Iraqi Governing Council passed a decree (137) to abolish Iraq's Personal Status Law, replacing it with Shari'a in matters regarding marriage, divorce, custody of children, inheritance and all other matters concerning the personal lives. This meant that jurisdiction over these affairs were to return back to religious authorities. Protests flared throughout the country, from Baghdad to the Kurdish city of Suleimaniyah (Efrati, 2005: 577-578 URL). Two months after it was issued, the 137 decree was cancelled (Efrati, 2005: 586 URL).

Before discussing the Amendment itself, it is important to shed light on how passing laws takes place in the Kurdistan Parliament. Laws can be proposed to the Parliament by two main sources; parliamentary councilors and the Council of Ministers. Councilors have the right to propose laws to the Presidium, which represents the opinion of ten or more Members of Parliament. The Council of Ministers, however, can suggest proposals to the Parliament, which enters it into the agenda of Parliament (Stansfield, 2003: 134). When a draft of a motion is agreed on, it is then sent to the Permanent Legal Affairs Committee and the committee relevant to the proposal. The draft is then distributed to the Parliament through the leaders of the Parliamentary blocks. The proposal is then returned to the Presidium with comments and redistributed. By this point the draft has made its way to the agenda of Parliament to be open for discussion by all members. If a proposal comes from the Council of Ministers, then there is a similar arrangement of commentary and the confirmation of the proposal requires the majority vote in the Parliament (Stansfield, 2003: 134).

Dilan, Member of Parliament from 2005-2009 and member of the Women's Rights Committee in the Parliament during the amendment of the Personal Status Law, was at the forefront of the events taking place inside and outside of Parliament. She explained the chain of events during a fieldwork interview in April 2010.

A number of law suggestions were presented to the Women's Rights Committee regarding amendment of the Personal Status Laws. Nearly 10 000 people were involved in preparing the bill for Personal Status Law. Researchers, academics, regular people and religious scholars were all asked to help modify and improve the bill. The MPs belonging to the Yezidi and Christian faiths were satisfied with the bill as well. She is not sure how many paragraphs they wished to change, but in the end 25 were amended. The bill was sent off to parliament, and parliament discussed and sent it off to the government. The bill stayed for a considerable amount of time with the government, and the government later returned with a new draft. Apparently it was not accepted by those hoping to amend the law as it was, according to them, a step down from the original Personal Status Law. The government's draft was not accepted by the Women's Rights Committee. A conference was arranged, attended by everyone from NGOs to religious scholars, and everyone seemed to disagree with the government's draft.

As a result of the general dissatisfaction with the government's draft, a committee was formed by the government itself. The committee consisted of two MPs and a number of



religious scholars. By the end, the committee had five female and five male members. Committee was called “The review commission for the draft law on the amending Personal Status Law”- *Lijnat muraja’at qanun mashru’ ta’dil qanun al ahwal al shakhsiy*<sup>6</sup> - *Lîjneyi pêdaçûnewêy pirojêy yasai hemwar kirdîni yasai barî kesayêft*<sup>7</sup>. The committee met in Erbil, at the city’s university. They never reached a joint decision because the female members wished to prohibit polygyny and the male voted to keep it.

Dilan explains that during the discussions of amending the Personal Status Law, the whole Kurdistan region was watching in suspense. It shook the streets of Kurdistan. No law or amendment has ever created such movement in the Iraqi Kurdish society. Members of the committee were stopped on the streets, either to receive praise or criticism for their involvement in forming the new draft law. The Personal Status Law was widely discussed both among academics and religious scholars. Imams in their Friday prayers accused the secular members of the committees of blasphemy. Their reasoning was that the amendment was against the laws of Shari’a. Member of Parliament Hero, who was a sort of “Guest of Honor” at the Women’s Rights Committee in the Parliament, offering legal advice, shares a similar story. The reactions from religious groups were quite negative, and many of them acted in a threatening manner towards the female committee members working on prohibiting or limiting polygyny. Many of the women received death threats. The reactions to the amendment were so strong that Hero feels the people needed time to “cool down”, and further change of the Personal Status Law should not be done yet. She even goes as far as saying that that no one would dare go near the Personal Status Law and suggest amendments anytime soon. The discussions at Parliament regarding the amendment were sometimes taken out of context or wrongly paraphrased, which led to many mosque goers resenting and opposing the amendment of the Personal Status Law.

### **Conditions to polygyny; are they really limiting it?**

Amending the polygyny conditions in this context clearly also means adding to it. In the amended article, the judge is no longer responsible for assessing whether or not a man wishing to marry an additional wife is equipped to do so or not. It is stated in the first part of the article that it is no longer up to the judge but that the required evidence must be presented to the court. This is a clear contrast to the former law where the judge’s conclusion is the basis

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<sup>6</sup> Name of the committee in Arabic.

<sup>7</sup> Name of the committee in Kurdish (Sorani).

for decision. From what can be read here, the judge is now responsible for receiving the evidence and keeping it for the court. One can wonder why the new law wishes to remove all power from individuals and rather give it to the written law itself. Paragraph g further strips the judge of his/her power as he/she is in no way authorized to withhold the penalties prescribed to the man who does not abide the marriage laws as stated by Article 3. It can be said that the new law affirms power in the written law and less in the hands of the people executing it. The amendment opens more power to women as they are now permitted by law to add in their marriage contracts that they refuse their husbands a second wife. The law of 1959 does state that a man wishing to marry more than one wife must have financial ability to support more than one wife, but the amendment has further developed the demand by asking for documentation of the man's ability to support more than one family. However, it is not stated what they should be. The 1959 law states that there must be a lawful benefit to the second marriage, however no examples are given to explain what constitutes a lawful benefit. The 2008 amendment states that one of the conditions under which a man can marry a second wife is that his first wife suffers from a disease that cannot be cured or results in her becoming sterile, is keeping her from marital cohabitation (interpreted by the author as sexual activity) and can be proven medically. This is perhaps the modification or the clarification of the 1959 condition that requires a lawful benefit from the second marriage. The 2008 amendment requires the man to submit a written declaration that he will treat his wives fairly and equally. Whether or not his marriage will be followed up by the courts or what the man can guarantee his equity with is not stated in Article 3 of the amended Personal Status Law of 2008.

Numbers from courts in the Kurdistan region show that in the time period between 01.01.2008 till 30.06.2008, there were 62 cases of second marriages. The numbers are the sum of the 13 courts from the Erbil district. In that time period Erbil had the highest count of second marriages, 28 in total. Counting the sum of all 13 courts, there were 6614 marriages recorded during 01.01.2008 – 30.06.2008 and out of all 62 were second marriages. The numbers from 01.07.2008 till 31.12.2008, however, show that out of the 7103 marriages recorded in the 13 courts, 82 of them were second marriages. The second marriage numbers are higher than the previous time period, and interestingly they include a time when the amendment to the Personal Status Law was implemented in the region. However, it is not possible to tell exactly when during the time period the second marriages were registered. If any of the second marriages were registered after November 13 then the conditions to second marriage must have been met. The chart showing numbers from 01.01.2009 to 30.06.2009

show a decline in second marriages. In this time period there were 50 second marriages registered in the 13 courts (Official court papers translated from Kurdish to English by the author of the thesis).

With the new conditions it is justified to presume that being granted permission to marry a second wife would be quite difficult. The plausible outcome would be that second marriages would drop to a considerably low number. However, 50 is still quite a high number, especially considering that between 01.01.2009 and 30.06.2009 there were 7428 marriages registered. However, the population of each area in which the courts operate is unknown.

Another possibility for this relatively high number is that judges are not following the new amendments. Informants during the 2010 fieldwork stated that judges are at times reluctant to follow the amendment and that it depends on their mood. A former MP and member of the Islamic Sisters Union said that some judges still follow and judge by the 1959 Iraqi Personal Status Law. She says this is because judges believe the 1959 law is detailed enough. Another reason to the judges' supposed reluctance to implement the new conditions to polygyny could be that the state has done a poor job in informing all of their personnel about the detail regarding the amendment of the Personal Status Law. Former MP and member of ISU claims that there is little information given to judges and lawyers about the amendment.

The tables showing the number of divorces registered in the 13 courts from 01.01.2008-30.06.2008 are 777 and for 35 of the cases the reason has been the man's second marriage (polygyny). From 01.07.2008-31.12.2008 however, the number of divorces had dropped to 716 and out of them 28 stated the man's second marriage as the reason for their divorce. The chart presenting the period after the amendment (01.01.2009-30.06.2009) shows that divorce rates in the Erbil district are stable as it drops to 715 and out of them only 14 state the man's marriage to a second wife as the reason. However, from the last part of 2008 to the end of the first part of 2009 (30.6. 2009), the number of couples divorcing due to the husband's second marriage has dropped to half.

With all of this information in mind, it is now easy to claim that we cannot be very sure if the amendment has had the effect of limiting polygyny to the degree desired by the lawmakers' who supported the amendment. Numbers of polygynous marriages have dropped since the amendment was passed; however, no one is quite sure if or how the new conditions to polygyny have been implemented by the judges. As the informants mentioned, the reasons

behind that might be the lack of information given out to courts and judges, or that judges choose to not follow the amendment as they disagree with the conditions.

## **Part 2: Analyzing Fieldwork Data**

### **Chapter 5: Polygyny & marriage**

The chapters in part two of the thesis deal with the data acquired from the interviews conducted during the fieldwork. The headlines in this chapter and the other ones following will be an indication of the topics that recurred during the interviews. In order to know who the different respondents and groups referred to are, look up in the appendix.

#### **Passive women**

The respondents from WADI speak freely about marriage. To them the problems within Kurdish marriages are related to both general abuse of women and that people are not aware of their rights within marriage. Chnoor from WADI says that women are financially dependent on their husbands and therefore endure painful marriages. She states that usually when Kurdish women experience rows with their husbands they leave their house and go back to their parents. Jamila says that the parents often push their daughter to go back to her husband. And when her parents refuse to take care of her or support her she sees no option but to go back to her bad marriage.

According to Pary, Kurdish society wants the woman to be more passive. The man has to take the first step in a courtship, leaving a woman waiting to be chased. It is also he who has to propose to her family and not vice versa. This, according to Pary leads to many women ending up unmarried and alone. Since it is a social taboo for women to chase men, the women must sit idly by and watch the men initiate any form of contact.

Respondents from WADI portray Kurdish women as victims; they are forced by their family to marry men they do not want. The abuse continues when their husbands treat them badly and make life unbearable for them. Her parents offer no support and push her back with her husband who for many reasons makes her miserable. The woman is a burden to her family and an object receptive for abuse by her husband. She is tossed back and forth between her family who do not want her and her husband who abuses her. So the passivity of women lead to them sometimes staying unmarried. Another phase of the passiveness occurs when the women face problems in their marriages but have little control over the outcome. What will this constant demand for passive women lead to? They are first passive single women, then passive married women and perhaps at the end passive first wives of a husband who has several?

## Pressure on both sexes

Common for all four respondents from WADI is that they seem to relate marriage to pressure. Pary is concerned with the pressure on Kurdish women to marry young. She seems to believe that there is a difference between the West and Kurdistan regarding proper age of marriage. She claims that Kurds think women should marry when they are in their early 20s, but Europeans believe the appropriate marriage age is between 30 and 40. She explains the state of the situation by saying:

*If a woman passes that age [early 20s] people say “oh how I wish she would get married” (Pary).*

Because of the constant pressure on women to get married, the woman internalizes the view of her being a “spinster”, even though she is in her late 20s. The woman, or so called spinster becomes therefore more susceptible to accepting a marriage proposal from a married man. Juwan says that there is additional pressure even when a woman is married. She is interrogated about why she is not having children right away:

*Even when you marry, after less than a year everyone interrogates you about when you are planning to have children (Juwan).*

According to the WADI respondents, pressure exists for both sexes. Pary says that when a man is over thirty and unmarried he is likely to begin searching for a wife. His family usually does the searching and the woman accepting such a proposal is most likely under pressure to get married as well. Pary believes arranged marriages like these are practical marriages, different from the rare love marriages where the couple engages in a secret relationship eventually getting married sometime later. She explains how the former type of courtship plays out:

*They find someone, and they talk about sensible things, they meet over a long period of time, he buys her the gold she wants and she agrees to marry him (Pary).*

The theme of pressure reenters as Pary explains that people tell girls that it is a shame they are not married. Pary says that she is being socially punished because her aunt refuses to visit her until she marries. Pary’s relatives believe she is ruining her life by staying unmarried. She mentions the word *heyf*<sup>8</sup> a few times, a word used by others about her unmarried status. Translated in this context it means shame or pity. Pary laughs and says she is too young to consider marriage. There is a sort of embarrassment in her voice when she says it, perhaps

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<sup>8</sup> The word is an Arabic word meaning wrong or injustice, used sometimes to convey the message of “What a pity!” or “Too bad” (Edit Cowan, 1994: p.259)

because she knows that 27 is an age where marriage probable. I believe that even though Pary revealed this information voluntarily, it was still a sensitive subject. It is apparent that she feels the pressure around marriage on a very personal level.

The WADI respondents discuss that the pressure to marry begins almost simultaneously with their graduation from university. They explain that while women are students they are discouraged from getting married, but as soon as they graduate, the pressure is on them to get married. This is a point with which all four women agree. They all have their say about this matter and Chnoor says that when women graduate they are required to marry:

*When you finish school you have to do it [get married] (Chnoor).*

When discussing unmarried women with the women of Halabja, they revealed that in their experience they see unmarried women as being constantly undermined by society. They even said that “spinsters” tend to be bullied and made fun of because of their unmarried status. Hero, who is socially far removed from women like those of Halabja, seems to think in similar ways as them. Hero has a PhD, has visited many countries and has served as Member of Parliament in two terms and it is perhaps difficult to think she would be undermined or bullied for being unmarried. Hero is in her late thirties and says that when she voted against polygyny many of her peers scolded her for doing so, and said that probably her only chance to marry would be with an already married man, so why would she stand in her own way of one day marrying. Her political decisions were criticized because of her personal situation. According to what she says, others seem to feel entitled to mention her unmarried status even in her professional life.

Perhaps all the pressure and undermining is what leads some women to marry an already married man. It is possible that women participate in polygyny to avoid the pressure and negativity tied to being unmarried. From what my informants reveal it is evident that they have experienced familiar and social pressure, social sanctions, undermining and even the questioning of their political and professional choices.

### **Choosy at first, second wife in the end?**

So what does all this pressure on the unmarried women lead to? Can it lead to a sudden panic and result in the unmarried woman accepting to marrying married men?

Jamila, who is married, says that the Kurdish society is preoccupied with others do. Women look at each other’s lives and wish to emulate, therefore many mistakes can be made

in life choices. She says her mother wanted to her to “eat from her own food”, meaning know what it is like to work and still be single, yet society (in the form of family and friends) put pressure on her to get married quickly. Jamila, with agreement from the remaining three, says that unmarried women see their friends married and living with their husbands while they themselves have to live elderly parents. Jamila thinks it makes the single women’s lives feel empty. Jamila adds that if someone asks unmarried women how they feel about being unmarried, they will say they are happy but that is just a façade. Inside they are unhappy with being single, and sad about the opportunities<sup>9</sup> they threw away. It seems as that Jamila believes that single women are perhaps choosy. To say that many unmarried women throw away opportunities seems as an accusation of choosiness. During the interview she often refers to her colleague Pary as someone who can back her claims about the single women’s desperation. It seems that the stigmatization of unmarried women is happening even during the group interview.

Sara from Jinan claims that “spinsters” have had many opportunities to marry but they have refused the marriage offers. Sara and Jamila’s views seem to be that women themselves refuse marriage offers, and end up lonely.

Single women are, as explained above, complaining that people are pressuring them on the issue of marriage and married women seem to be saying that unmarried women are to blame for their own “misfortune”. Sara continues to point out the choosy nature of unmarried women by saying that it is impossible not to have at least one person interested in marrying them. Can this be the truth in the Kurdish context? Claims from informants seem to be that women who are picky or choosy regarding men end up without the opportunity to marry a single man. This could perhaps mean that the women who are unmarried and experience pressure to get married are more open to marrying an already married man.

## **Ideas about good and bad marriages**

As mentioned earlier, Pary from WADI regarded the arranged marriages as merely practical. She says that problems in such marriages occur easier because there was no foundation for love to begin with. Jamila continues and says that that sort of marriage is not based on a real wish to be together base and any slight problem will be catastrophic for the marriage. Najwa, of the ISU respondents says marriages in Kurdistan are more stable than in the West, making her view the opposite of Pary’s and Jamila’s.

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<sup>9</sup> Opportunities in this context means chances to marry suitable men.



Najwa states that there is stability in “Eastern” families because men will not cheat and break up their families. The only explanation as to why men cheat is that they have strayed from the teachings of God, therefore stating that “a good” Muslim man will not commit adultery. According to Najwa, a Muslim woman never has to worry about her husband cheating on her; if he does not stray from Islam. Women living in the West do not have that luxury. They are not sure whether or not their husbands will commit adultery, because there is no way to ensure his fidelity. Najwa claims the Muslim woman has that guarantee. The Muslim man has a far better alternative than cheating; he can simply marry the new woman he desires. Western women will never have that reassurance. Because of this lack of reassurance, the Western family will collapse from the least amount of difficulty.

What is common for Pary, Jamila and Najwa is that they believe to know what is better for women in Kurdistan. All three women express their views on marriage and they see their opinion to be the correct one. No doubt, their personal experiences with marriages also affect them a great deal. Pary works as an attorney, both for the organization and independently. She says that many of her cases are often divorce cases. She witnesses problems with Kurdish marriages as an attorney and as she herself mentioned, within her own family. Pary talks about one of her relatives’ decision to marry a second wife despite of having both sons and daughters, and a “good wife”. This was impossible to understand according to her. Jamila also shared her personal experiences with the problems occurring in Kurdish marriages. In a addition to working in WADI and seeing problems that affect the women they help, her own father practiced polygyny and forced her big sister into an unwanted marriage. She reveals that both incidents had a negative effect on her and her family. Najwa of the ISU respondents has a sister who wished to marry a man already married, but because of the new amendment the man could not get married to her. The man’s first wife was battling cancer and as a result had gone deaf and blind. Because of her condition she suffers from angry outbursts, and she has been sick for 14 years.

*She [the wife] has been blind for seven years; she lives with her parents, and has not lived with her husband for seven years. [...] He went to the courts in Suleimaniyah and they refused to marry them. They got a health expert to examine the woman and decided she was still fit for “the marital life”. So a woman who is blind, deaf, she is even deaf now, has nerve issues, in what way is she still able to “be marital” (Najwa)<sup>10</sup>.*

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<sup>10</sup> The couple went to Kirkuk, a city where KRG legislation does not apply and got married there. Their marriage is still valid in the KRG areas.

Najwa herself is divorced, and was recently proposed to by a married man. Her family did not approve. She does not mention that she rejected the married man, leaving room to speculate that there is an additional reason behind her support for polygyny.

## **Duties, chores and responsibilities within a marriage**

When discussing the arranged marriages and their poor chances of being happy, Pary mentions that women in struggling marriages deal with the problems by throwing themselves into their housework and raising the children. She says it is wrong for the woman to ignore her husband and give more attention to other things:

*As a result of this love less marriage the wife often devotes herself to the home, to making good food and to her kids. She no longer wishes to live for husband or care for what he wants. She should live for him, get dressed for him (Pary).*

Pary continues to explain that a man goes out and sees other beautiful women and wants his wife to dress like them. According to Pary it is important that the wife pays attention to her husband and to her own exterior. Pary sees it as right that the wife lives for her husband, a phrase implying that nothing but absolute devotion to her husband is acceptable for the wife in a struggling marriage.

Dilan, a politician who was in the women's committee in the Kurdish parliament during the amendment, stresses that the individual's free choice should be prioritized in the Kurdish society. She even refers to the Iraqi constitution and how it says that the family is the smallest social community, meaning that the family is a micro version of the neighborhood or the town or city. Dilan wishes she could change the constitution and introduce civil law based on the will of the individual. Dilan seems to disagree with Pary, as she wishes for complete equality between the spouses.

During the individual interview with the general secretary of the ISU in Suleimaniyah she expressed her views on marriage and married life. Evin believes that being a wife is not just chores done around the home, but also being a social figure in her husband's day to day public interaction. This view coincides with Pary's statement about the wife's responsibility to be physically attractive for her husband and also dedicate her time to only him. Both Evin and Pary explain the duties and consequently, the flaws of Kurdish women in a marriage. They do not, however, mention the man's duties. Is the man not partly responsible for the marriage breaking down? What are his duties? Could the reluctance to discuss the role of the

husband in a failing marriage be because it leaves an opening, a reason for the man to practice polygyny?

There should be no doubt that the unmarried respondents had more to say about the issue of marriage and husbands than the married women. Their point of view differs naturally from those of the married women. Perhaps they were more vocal about the subject because it occupies them more than the married women. After reading this chapter it is perhaps understandable if the unmarried respondents are a tad bit obsessed with marriage. Facing the critical Kurdish collective society as an unmarried woman is never an easy task of education, career or political activism. The unmarried women are the ones experiencing the pressure, the accusations and the social stigma. They are also the ones who might end up being the second, third or fourth wife of a man.

## **Chapter 6: Polygyny & divorce**

According to some informants divorce is the next option if a man cannot marry a second wife. With the new amendment setting conditions for polygyny and therefore limiting it, it is evident that all married men who do not meet the demands of the new legislation must divorce their first wives if they want to marry other woman. The legal ramifications aside, it was important to find out what the informants think about divorce. Is it still a problem to be divorced woman in the Kurdish society? Is polygyny a better option than divorce? If a married couple is having problems, is it better if the husband practices polygyny or divorces his first wife and then looks for a new one? Should a woman whose husband wants to marry a second wife divorce their husband or stay married to him? One might believe it is impossible for men who want to marry second wife, since there are very difficult conditions to meet, however, there are still Kurdish cities outside of the KRG jurisdiction and other Iraqi cities where the amendments of the Kurdistan region do not apply. This leads to an examination of who would take the time and make the effort required to go outside their region (i.e. the Iraqi Kurdistan region) to marry another woman. The KRG will recognize it as a valid marriage. This loophole means that the issue of divorce remains pertinent. If a man decides to defy Kurdish law and travel outside the Kurdistan region to marry a second wife, could his wife threaten him with divorce? Additionally, can a man now threaten his wife with divorce if she refuses to let him marry another woman?

### **Divorce seen as a bad thing**

According to Evin, if a man divorces his sick wife, he will have to either put her in a home for sick women or “kick her out”<sup>11</sup> to her parents’ house. She believes if they do not divorce or marry another wife, they might commit adultery, which is unacceptable. She states that divorce has many reasons and many solutions; however, if the goal is to prohibit polygamy, surely the rate of divorce will increase. Evin continues by saying that if a man wants something else from his life, or wants to escape from his responsibilities, he can use the limitation of polygyny as an excuse as it makes it easier for him to divorce his wife. According to Evin, divorce harms the women and is in the interest of men. She says that the reason that it is in the interest of men is because, following a divorce, the man does not have to take responsibility for two families in a financial or emotionally way. The man, she says, will belong to one household. Evin says divorce is for the man’s gain. However, she

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<sup>11</sup> A quote from the interview with Evin in March 2010.

contradicts herself slightly by saying that if the man had a conscience, he would still care about the children and wife he divorced. This means that Evin believes it is wrong to denounce all responsibility for one's children and former wife. If it is wrong, why did she not say that it is and express a desire to change the situation rather than accept it? It seems that both Evin and her fellow sisters at ISU believe that divorce should be avoided because it leads to the suffering for women. It seems that the woman being "abandoned" is a big issue for the ISU, and they believe that most of the time getting divorced results in the woman being abandoned. Therefore, to them it is better to "share" the husband with additional wives rather than get divorced. According to the women of ISU, polygyny was created to solve problems, and one of the problems it can solve is divorce. According to Evin, divorce should also be avoided when the wife is ill. To Evin, a wife's marital duties are not just cooking and taking care of children, but also to perform social duties with her husband. These duties are, among others things, visiting families and inviting families over for dinner. To Evin, it seems that divorcing a woman because she is too sick to be a "good wife" is like adding insult to injury. Therefore, to Evin, the option of marrying an additional wife is a better solution than divorcing the first one.

Interestingly, Evin also mentions a film she saw on TV which she believes to be French or English about this exact topic. She shares with me the plot – a rich man's wife falls off a horse and becomes paralyzed from the neck down and falls a type of coma in which she is awake but cannot communicate with anyone. The man then has an extramarital relationship with a woman who births him a daughter, his only heir. He falls in love with the "other woman" but, because he is Catholic, he cannot divorce his wife. In the end he decides to open the windows of his wife's bedroom and lets her freeze to death, as this is the only way he can be with his new love. For Evin, the answer was simple. Why did the Catholic faith not allow polygyny? It would help in situations similar to that of the film, she claimed. Interestingly Evin did not seem to have issues with divorce not being permitted in Catholicism. When told that perhaps polygyny is not needed in a country like Norway because the divorced woman is financially supported by the government, Evin replied:

*Yes, but they cannot give love to that woman. Love and affection cannot be bought by healthcare. The children need to see their fathers. The emotional needs for a man or for a father cannot be bought by money. If a man thinks he can take care of two families, and give them both attention, he should do it [keep both wives]. So no one goes unloved.*

*Instead of cutting all ties they can still be a family, and the society is also cruel. They scold her for him leaving. People are relentless (Evin).*

Evin's views, according to her, apply to a non-Islamic society as well. She feels that divorce, even in a "Western" society could mean loneliness and hardship for both the woman and her children. Evin rationalizes her views by stating that any man who can take care of two families at once (polygyny) should be allowed to do so because divorce, even in countries where women are financially independent, should be avoided.

Jala, also a member of ISU, remembers the time when polygyny was prohibited in the Suleimaniyah governorate and she experienced that it was an easy excuse for men to divorce their wives.

*Many women would have been happy with just staying with their husbands so they can keep their children and not ruin the home and their husbands marry another woman (Jala).*

According to Jala, divorce should be avoided because there are women willing to stay with their polygynous husbands and therefore keep their children and home. Jala also believes that divorce, and being at the risk of getting divorced, puts a mental pressure on women and confuses them, and therefore letting their husbands marry the second, third or fourth wife is the kinder option. Ziba says that, although polygyny is a not an ideal situation for the wife who will now have to share her husband, it would be worse if she left her husband. Ziba worries that the woman might not get the chance to raise her children, nor would she have any real chance of ever remarrying because of society's views on divorced women, which are that they are bringing shame upon their families and that they are more open to being sexually immoral. Ziba introduces the more emotional factor, love. She wonders about the mental and emotional situation of the woman who might still be in love with her husband but has to divorce him because of the restrictions on polygyny. She continues by saying that if a man still loves his first wife, can afford to keep two families, and his first wife still wants to stay with him despite him wanting to marry another woman, this should be enough reason to allow for polygyny without the current restrictions. Hanar is concerned with the rise of divorce and believes there should be more awareness around it instead of polygyny, which to her is more of a solution to problems than a problem in and of itself. According to Evin, one factor that might increase divorce is the fact that many men were married too young. As they grow older, they might begin to realize that their wives are not what they really desire. Evin says the man will probably pursue relationships with other women. She compares it to someone being left hungry even after dinner. If he then finds no food left in the house, he will buy food outside. Evin explains that if polygyny is not allowed, the man will ask for a divorce or commit

adultery. To Evin it seems that adultery and divorce are equal, and therefore she would prefer to avoid it by allowing the unhappy man to marry a second wife. Jala also sees divorce as a much bigger problem than polygyny and adultery when she says that prohibiting polygyny will lead to the increase of divorce, something she believes to be wrong and unhealthy for society. The views of the ISU women come together in one sentence uttered by Hanar:

*We never encourage divorce (Hanar).*

Najwa however, goes on to differentiate between divorce asked for by the man and divorce asked for by the woman. She says that if a woman wishes to separate for a valid reason, it is her right according to Islam, but if her husband divorces her because he wants to marry a second wife, then that is a wrong and a woman should not have to endure such a situation.

During an individual interview, Evin mentioned affection as a big reason behind why divorce is not preferred. Evin measures affection in mathematical terms as if it is given in quantities. According to Evin, if a man divorces his wife because he cannot by law keep two wives, the divorced wife will be left with no affection. However, if he keeps her and his new wife, Evin explains, perhaps the first wife will still have 50 percent of his affection, or if he has three wives, 30 percent. Either way it is better, according to Evin, to have some percent of affection as opposed to no affection, meaning divorce is the least wanted outcome.

The ISU members in Erbil share quite similar thoughts with the ISU of Suleimaniyah. Shukri of ISU Erbil says that a woman without a man and a house has nothing and will forever feel empty. This means that divorce is bad for the woman as she will have very little to live for without a husband. Seiran of the Erbil ISU believes that in Europe women are better taken care of, whereas in Kurdistan the woman whose husband divorces her will be thrown out on the streets.

With these views in mind, there are informants who disagree with the view that divorce is either easy for the man or that it will be a natural outcome of limiting polygyny. Shara, an MP from the new opposition party Gorran, thinks that divorce will not be a natural outcome of limiting polygyny. According to her, very few Kurdish men will want to divorce their first wife in order to marry a new woman. Shara thinks divorce is an effort many men will not bother with. Now that polygyny is subject to many conditions almost impossible to meet, men do not wish to go through a great deal of trouble in order to marry a new woman. In this point, Shara's statement seems to stand in contrast to the ISU ladies' comments. The

ISU respondents say that limiting polygyny will increase divorce, which, they explained, would be disastrous for women.

Sara, the general director of women's rights organization Jinan backs up the statements made by the ISU ladies; however she sees the pressure on divorced women as a part of society she wishes to change, whereas the ISU respondents seem to have accepted that divorce leaves the woman oppressed and in pain. Sara says that the divorced woman will have no one to take care of her financially and no way of obtain financial security. ISU respondents saw this tendency as a regular or preferred part of society, while Sara saw it as a problem her organization would work for to change.

### **Divorce seen as a good thing**

Sara, the general director of Jinan, seems to see divorce as an acceptable part of society, though she wishes for more rights for divorced women. She says a woman can now threaten her husband with divorce if he wants to marry a second wife. The ISU respondents, however, thought the opposite, stating that the man can threaten his wife with divorce if she does not accept the second wife. Interestingly, Sara, like Evin, mentions Catholicism when discussing the issue of divorce. Catholicism, according to Sara, is an undesirable faith because it does not allow for divorce. Of course Evin, on the other hand, was unhappy with Catholicism because it does not allow polygyny.

*I am not against divorce, I am not Catholic. Instead of our society committing polygamy we should rather encourage the men to divorce the women they do not get along with (Sara).*

For Sara divorce is a good outcome for women because it might help them escape bad marriages or the situation where the woman has to share her husband with another woman. She is also aware that the result of divorce is usually bad for women in Kurdistan, as women are usually financially dependent on their husbands and parents. Dilan, the politician and former MP, does not see divorce itself as a problem either. She explains that divorce is the solution to polygyny. Granted, she is not an advocate of polygyny and she sees it as a problem. According to Dilan, separation is the only alternative if a man has feelings for a woman other than his wife. The couple should divorce and then the man is free to marry whomever he wants. Dilan's reasoning is that a romantic relationship between a man and a woman, be it marriage or a relationship, is very private and involving a third party is unnatural and bad. Because of this, divorce is a solution to a man's desire to be married to two



women. Like Sara, she wishes for a change in the situation of Kurdish women so they can be more self-sufficient following a divorce in the case that divorce is necessary.

The WADI respondents focused on a similar issue, namely that women are too afraid to ask for a divorce because they believe they will lose all of their rights. They mention the stigma of asking for divorce, that others might label the woman promiscuous or accuse her of wanting a divorce because she wishes to have relations with men other than her husband. Chnoor from WADI states that the situation is as the ISU respondents explained.

*The woman asks if my husband does not pay for me who will? Who will I live with, who will take care of me? (Chnoor).*

Pary, also of WADI says that, before a man considers polygyny, he should seriously consider divorce. If he is not happy with his marriage, then the answer is not to bring another woman into it but to divorce the woman he is unhappy with. Pary is, however, still aware that divorce is usually not socially acceptable in Kurdistan, so she presents a quite groundbreaking solution, something not yet uttered by other respondents who do not view divorce as a necessary negative thing.

*If more and more men did that [divorced their wives], then the idea of a divorced woman would not be so strange, it would lose its taboo image (Pary).*

## **Is divorce a solution or a problem?**

*Divorce has many reasons and many solutions (Evin).*

The difference between the respondents appears when they talk about solutions and problems. For the NGO and politician respondents, polygyny is the problem, and a solution to it might be the spread of divorce. In order for divorce to be more accepted, more women need to divorce, fight the stigma associated with divorce, and rely on themselves. In that way, polygyny will no longer be a threat to women. The ISU respondents, however, view divorce as the problem. They fear divorce might be spreading in society and, with it, a sort of sexual immorality<sup>12</sup>. Therefore, to the ISU respondents, polygyny is the solution to the problem of divorce. They do not fear the spread of polygyny; rather, they fear the spread of divorce in Kurdish society.

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<sup>12</sup> Sexuality will be discussed in its own chapter.

## **Conclusion**

It is clear from the data that the respondents who believe divorce to be a negative are the more religious women of the Islamic sister's union, while the respondents who work in NGOs or the Parliament are more positive towards divorce. However, it should be clarified that the politician and NGO respondents do not encourage divorce; rather, they see it as a way for women to escape polygyny. In their view, divorce is the best alternative available when the husband wants to marry another woman, either as a real action, a way to liberate oneself from the oppression of the husband, or even simply as a threat made to the man so he will think twice about marrying a second wife. To Member of Parliament Shara, it is very difficult for a man to divorce his wife, so if she threatens her husband with divorce, he will most likely not marry a second wife. For the ISU respondents, however, it seems that divorce is very simple for the man to consider. They were concerned with the threat of divorce spreading. For the ISU respondents, divorce was not a good option in any situation. In fact, as written earlier, they wished to inform the Kurdish society about the ramifications of divorce, as though it is always the worst possible outcome for the woman. The difference between the ISU respondents and the others is that, to the ISU informants, the man threatens with divorce if his wife does not agree to accept and live with the second wife, while the NGO and MP respondents think the woman can use divorce as a device to threaten husbands with if they should choose to marry another woman. It is evident that both groups (ISU and more secular respondents), despite their distinctly different views of who can use divorce as a threat, realize that divorce is a detriment to the lives of Kurdish women. They reflect on their society's stigmatization of divorced women, including not allowing them to keep their children, turning them into social outcasts, not accepting remarriage, and perhaps the biggest social problem for women, the total financial dependency on men. The difference lies in what the different respondents wish to happen in the future. The more secular respondents wish to make divorce more accepted in the Kurdish society, so women will not have to stay in polygamous marriages while the ISU respondents wish to stop divorce from spreading in Kurdish society and polygyny is for them a way to do so.

## Chapter 7: Polygyny & sexuality

Since the Kurdistan region is a gender-segregated and patriarchal society it is easy to assume that sex and sexuality are taboo subjects not often discussed. That assumption turned out to be wrong in this case as sexuality was one of the subjects that the respondents wished to discuss the most. Some of the issues discussed regarding sexuality were unrelated to the subject of polygyny, however it was important for me to learn that sex is a subject commonly discussed among the Kurdish respondents. Upon studying the subject of sexuality yet again, it is easy to understand why it is closely linked to polygyny. Many of the respondents are convinced that a man's sexual needs cannot be fulfilled by one woman and therefore he will either commit adultery or marry a second wife. The respondents also believe that a man's sexual desires are often uncontrollable to him and therefore to avoid having children out of wedlock, who in the Kurdish culture will have no rights, it is better to let a man marry an additional woman who can satisfy his sexual needs. Many of the respondents believe that women's sexual desires are not in the same category as men, women do not have the same *sexual appetite* as men. Women's sexuality was also discussed as something to guard and take care of. The respondents revealed that even though the women do not have as big of a sexual desire as men, they are still need of affection and physical contact. And again, for the woman not to commit sexual acts with men she is not married to she has to marry and often the only option is to marry an already married man. The respondents also made interesting assumptions regarding female sexuality, and how women might practice their sexual desires if not married.

### **Why men's sexual desires have to be controlled through polygyny**

Najwa, from ISU brings up the topic of men's sexuality. To her the man has sexual energy that he will have to use somewhere, and if he is not allowed to marry several women he will engage in sexual relationships with women he is not married to. To Najwa, men have primal sexual desires and in order to avoid "immorality" it is better to allow polygyny. Najwa believes that adultery and extramarital affairs are a European concept not practiced in Kurdistan, however, if polygyny is limited, adultery and affairs will spread in Iraqi Kurdistan as well. Evin seems to be expressing the same views as she sees polygyny as a way to prevent the spread of immorality.

*It is like when someone has not been full at home, he wants to go out and buy a sandwich. If you stop someone from doing that, you allow divorce, allow adultery. What if he impregnates his mistress, what is this poor child to do? (Evin)*

The unfulfilled sexual desires of men will lead to them having sexual relationships to women they are not married to. Evin is using quite strong imagery when she compares a man not allowed to exercise and act on his sexual desires to a starving man in need of food in order to function. Najwa expresses the views and even uses the same imagery as Evin when explaining the situation of a sexually unfulfilled man.

*It is like when someone is hungry and hungry all the time (Najwa).*

It seems as though the respondents from the Suleimaniyah ISU question the very idea of monogamy for men. Ziba is quite clear in her views regarding this issue:

*Women are not able to love more than one man, but a man can love more than one woman. Men need to have sex, and women can sometimes not fulfill their sexual needs (Ziba).*

Najwa also shares this view as she claims that in every country there is a form of polygyny. She says that men who cannot practice polygyny in Tunisia are known to keep two women in their household. Najwa says that it is better to have the man marry them so sexual intercourse with them becomes *halal* rather than commit *zina*.

*Some men have a sexual instinct that will not be met by just one woman. What is he to do with the rest that is still there? If he does not release it somewhere he will be an unsuccessful person with no abilities (Najwa).*

Najwa is saying that unfulfilled sexual desires within men could have detrimental ramifications for the family as the man will commit adultery. Keeping his sexual desires under lock will make the man a less functioning human being.

Ziba is also weary of controlling the man's desires and says that putting too much pressure on something will cause it to explode. By this she means pressuring the man to limit his sexual relationships to just his wife might result in him figuratively exploding, meaning that he will commit adultery.

The respondents from the ISU in Erbil also emphasized the importance of having the man's needs met. Seiran of the ISU in Erbil says that there are women who cannot please their husbands sexually and that to her is a very valid reason for him to marry another woman. Aliya, also with ISU Erbil mentions Western culture as a model Kurdistan should not emulate.

*The men in Western countries are trapped, and therefore turn to other things. Zina<sup>13</sup> spreads. Their social lives are different, they have little mercy for each other, and they are not very social with each other. Immorality has spread. If they had polygamy they could prevent that (Aliya).*

From this it seems Aliya also agrees with the other ISU respondents that having a man in a monogamous marriage will only push him to be sexually immoral.

A respondent challenging such views is politician Dilan. Dilan objects to the classical concept that men who marry two wives marry widows and older unmarried women, and therefore are helping society. According to her, the typical polygynous man will marry a younger more attractive woman because he is driven by his sexual desires.

*They also say that the man has a different nature [from women]...My father is a man, so is my husband, son and brother. I have male friends. I have not seen any of them be wolves. Men are not wolves. Men have feelings and emotions. If a man is not fulfilled with his wife then that is a shortage within the man that he has to fix (Dilan).*

Dilan resents the notion that men have an uncontrollable sexual urge that must be met with polygamy. She believes men are equal to women regarding emotions and if the man feels he is not getting what he needs from his wife then the problem is with him and not his wife. He must then do something about it, and from her earlier comments she could mean that he should divorce her and find someone who fulfills his demands. Dilan also presents a view quite interesting considering that she has earlier in the interview emphasized the liberation from general and traditional ideas such as inequality between man and woman. She also supports the liberation of females, yet adds this rather traditional comment:

*But sex is not everything. Life is a great deal richer than that. There are bachelors and bachelorettes who lead very rich lives despite being unmarried (Dilan).*

The last part of the quote indicates that according to Dilan there are people in Kurdistan who are not practicing sex and that if there are people not having their sexual needs met, they should not necessarily search to have them met either through marriage or relationships.

The ISU respondents can be said to have the opposite view of Dilan regarding the man's nature as they seemed to victimize the man and suggest that a man is passive when it comes to controlling his desires. To them, resisting his sexual urges is futile, he is a man and needs to be satisfied. Therefore, if the man is "hungry" as the ISU respondents said, he should be allowed to marry another woman and keep his first wife. For the ISU respondents it is important that a man can unfold himself sexually.

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<sup>13</sup> Arabic term for fornication.

The respondents from WADI say similar things as the ISU respondents, only WADI respondents find the male sexual behavior as unacceptable. Jamila from WADI thinks it is outrageous when men marry a second wife, as it is always because of the man's own sexual pleasure. However, even among the WADI respondents there are women who believe that men are different from women in regards to monogamy and sexual desires. Juwan says that if a man is prohibited from marrying a second wife he will convince himself that he has the right to commit adultery. Perhaps it should be mentioned that Juwan wear hijab and seems to have slightly more conservative views than the other WADI respondents. That is revealed yet again when Pary and Jamila of WADI react to Juwan's comment:

*Men and women are different, whether we like it or not. Women who marry stop having desires; at times they do not even have time for one man let alone several. Men are different, it is after they marry that their desires increase. That is when he wants to try other women (Juwan).*

When Pary and Jamila disagree with Juwan and she defends her views by saying that if a man was indeed allowed to marry several women he would run out of excuses to commit adultery. Pary and Jamila respond and say that when opportunities such as polygyny are given to the men it sends a message that men are in power. Jamila says that if the problem between a man and his wife is sex then he must communicate with her and tell her how he prefers things to be, and attempt to improve their love life instead of marrying another woman.

For many respondents, especially from ISU the male sexuality is feared and is believed to create issues. The ISU respondents warn against the limiting of polygyny as it will unleash the male sexual desires and cause chaos for women.

*The rights of women will be annihilated; the man will have ten mistresses (Rukhosh).*

Ziba mentions the rights of the woman as well, warning that if polygyny is prohibited, and limiting it is like a prohibition, the woman's rights will be gone with it.

*Let us say polygamy is prohibited, what happens then. So he fancies a woman, divorces his wife and marries her. Or he cheats. Are the rights of women then protected? (Ziba)*

Hanar even mentions the word "fear" as she responds to Ziba's comment by saying:

*The fear lies there [in the aftermath of limiting polygyny] (Hanar).*

Rukhosh and Ziba are not alone in equating the rights of women with marriage. Evin starts up a discussion during the group interview and is able to get all the respondents involved. They discuss the lost rights of women and children who are outside of any legal ties with the man.

Evin and the other respondents talk about the problems with having a mistress and how it can be prevented through polygyny.

## **Why women's sexual desires have to be controlled through polygyny**

Evin of ISU is concerned about the obsession men have with women's bodies. She says whenever a woman is concerned; the religious edicts only discuss her menstruation and postpartum bleeding.

*Women are only discussed in the realms of how they should fast and how their menstruation affects their praying and fasting (Evin).*

Jamila of WADI shares similar views as she explains that in the Kurdish society women's rights issues are brought up but they are often focused on the female's sexuality and body. She says everything is related to the woman's sexuality, and the fact that women's lives and their rights are more intricate and complex is not recognized. Society, she says, will begin to fear that women will become sexually immoral if their rights are discussed, and fear that their families' honor will be in jeopardy.

*They narrow everything down to that little part of a woman's body (Jamila).*

Yet, women's sexuality to Evin presents a very important problem. When a woman is sexually active with multiple partners, how will she know who the fathers of her children are? Evin's solution is to let women marry men who already have wives as she seems to think that women who are sexually promiscuous are just looking to be in a marriage.

*Is it not better to prevent the increase of bastards rather than polygamy, at least then children know who their fathers are (Evin).*

The notion that women have a different sex drive than men is mentioned by both ISU and WADI respondents. Juwan of WADI says that after a woman is married she has little desire for sex. The ISU respondents say that men have a sexual appetite that merely one woman cannot fulfill, implying that a man has far greater sexual needs than a woman.

However, many of the respondents admit that even women have sexual needs that they need to have met. Niyan from the ISU respondents in Erbil talks about the issue as if she is confessing a big secret. She says that women are also in need of closeness from a man.

*Why lie, let us admit that the closeness of a man is very nice. Women and men need sex. And women who are deprived from it [sex] need to marry to fulfill that need. Some do not get sex so they become prostitutes, or masturbate (Niyan).*

To Niyan, a woman who is not having her sexual needs fulfilled turns to prostitution. It is a highly interestingly perception that women who work as prostitutes are doing so to fulfill their own sexual desires. Not only Niyan, but the more secular and Islam-critical WADI respondents think similarly. Pary of WADI says the woman needs physical attention, someone to love, to be close to another human being. She says that none of this can be done unless the woman is married. Therefore it is clear that Pary is convinced that having sex with someone one is not married to, is morally wrong. She then says that if a woman chooses not to marry a man, she may turn to prostitution in order to have her sexual needs met. By this logic, those men who are not sexually fulfilled turn to prostitutes and the women who need to be sexually fulfilled will become prostitutes. The respondents seem to think that in prostitution both the man and the woman's sexual needs are met. This shows the respondents views on female sexuality. It seems as though the concept of women performing sexual acts without enjoying them is unthinkable to some of the respondents. Niyan and Pary cannot see any motivation for selling one's body other than sexual pleasure. This seems to resemble internalization; that the women have internalized male thoughts on sexuality, that women enjoy sex even if it is with a stranger and he is paying for it. Pary continues and says that women that do not wish to sell their bodies in order to have their sexual needs met instead marry a man who already has a wife.

## **Views on sexuality**

It is safe to say that sex and sexuality is a much discussed issue among the respondents, especially the ones from ISU and WADI. The obsession with sex is not strange when the respondents of WADI begin to explain their line of work and their experiences with the organization's beneficiaries. Pary and Juwan also work as lawyers outside the organization's and tell stories of cases where wives seek divorce because of the husband's impotency. They say that there are women who have been married over four years yet never had intercourse with their husbands. However, the women are shamed and reprimanded by family because it is not a very good trait in a woman if she is openly complaining about being sexually unfulfilled. Pary is especially verbal about these issues and says that Kurdish women are shamed into not asking to be sexually pleased by their husbands because of the social taboo. She says that Kurdish men have little to no knowledge about sex as well, and when both sides are not communicating it creates marital problems which might result in polygyny. According to Pary, the biggest problem between men and women is "the bed", as she puts it. Jamila, who



also has strong views on the issue of sexuality, says that between couples there is no romance or communication.

*People here do not believe in such things (Jamila).*

The women from WADI suggest that the “fault” might often be with the man, as he has little knowledge about sex and when he fails to have a satisfying sex life with his wife, he is convinced by family that she is the one who cannot please him properly and he searches for a second wife.

The WADI respondents talk yet again about the shame and taboo in women discussing sex and their own sexuality. Pary makes a harsh statement:

*60-70% percent of the relationships between husband and wife in Kurdistan is equal to rape<sup>14</sup> (Pary).*

She says she is basing this on her experiences in the court and working with WADI and what she hears and sees in her surroundings. Pary explains that in the courts, most divorce cases are related to sexual problems between the husband and wife. Jamila agrees by bringing up social researchers who found out that divorces usually occur because the couples are not sexually compatible. Jamila says women are not able to or not willing to fulfill their husbands’ desires. The last comment sums up the fact that during the interviews, however critical the respondents are of men, women are still the object and the man is the subject.

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<sup>14</sup> The informant did not provide for any real statistics, it is her own claims.

## Chapter 8: Polygyny & religion

Although religion has been a theme throughout the chapters and has been brought up by every one of the respondents, it needs to be discussed in a separate chapter in order to address a few important issues. The first issue was whether the informants preferred secular law or religious law based on the classical interpretations of Shari'a to be basis for Kurdish laws in general, and, more specifically, family law. Since family law often directly concerns women in a far greater capacity than men, the issue of preference might come down to whether secular law or Shari'a law provides greater protection for the rights of women.

Secular or non-religious law is difficult to define as there are many versions of such laws. During the interviews there was an understanding based on the informants' responses that whatever was not Shari'a-based law was secular law. Informants used the term "Western Law" at times. It was understood that they associated secular law with 'Western' law.

At the risk of challenging the respondents too much, which was not the intention of the interviews, they were never asked what Shari'a or Islamic law means to them. Through the course of interviews it became clear that certain respondents knew more about different variations in Shari'a legislation, while others knew only of the classical traits such as polygyny, inheritance, witnessing and divorce. It was not necessary to go into detail and ask informants to define secular law and Islamic law during the context of the interviews since there was a general consensus as to what both laws meant for informants. Ultimately, the real issue was whether informants wished for the implementation of what they view as Western laws, or keep and perhaps even add more laws based on Shari'a and re-interpretations of the Shari'a as well as the Quran and Hadith.

The second issue dealt with the respondents' view of Islam and what they believe the religion really says about polygyny. It might be simple to justify the prohibition from a secular, modern standpoint on the grounds of human rights concerns. However, how easy is it to justify prohibition through God's word itself, the Quran? The respondents who oppose polygyny could discuss the cruelty and needlessness of polygyny by using modern laws, human rights conventions, and perhaps even other non-Muslim religious laws, but they would realize that this would have little to no effect on the believing Muslim who sees God's word and God's demands as final. Can they, through using God's word, or more precisely their interpretation of God's word, show believers or even convince themselves that God does not

wish polygyny to happen? If the aforementioned issue is to be useful in a study, it is important to turn the question upside down and ask how one can justify, through God's word, the practice of polygyny. Respondents often used concrete wording from the Quran to prove that polygyny is needed and allowed, and some simply responded that God's word shall be obeyed and not tampered with. Others, however, used other themes to justify the practice of polygyny. Even though the concept of sharing and caring about another woman's needs is mentioned in the verse that deals with polygyny, some respondents viewed the Islamic teaching as being one of mercy and plenty. Therefore, according to some respondents, sharing ones marital bliss with another woman who has neither bliss nor husband was considered very much in the Muslim spirit.

### **Islamic or secular based law**

The respondents from WADI do not agree on whether they want Shari'a to be the basis for family law in Kurdistan. Pary and Jamila prefer a civil law based on secular ideas, while Juwan, the only informant among them who wears hijab, says that she disagrees with her two colleagues. Juwan says Shari'a comes from an honest source, the Quran. She says it is humans who are misunderstanding Shari'a, and that Shari'a solves problems in society such as fornication. Juwan says if it was not for Shari'a, men would fornicate but through polygyny they can avoid that. Jamila is clear about wanting a secular law; however she says that it does not necessarily have to be that way. She believes religion should be separated from state because religion is something personal and should be kept away from public laws. Jamila says that every Muslim should be very knowledgeable about their religion regarding practice, ethics and theology. She says the way Kurds practice Islam now is wrong. Jamila admits that she has not studied the Quran, but she knows whatever subject is discussed there is written in a detailed and pure way. She says the problem is that no one reads the Quran themselves, and they rather rely on the rendition of their parents or the mullah in the mosque. Jamila says she is told by people who read the Quran that whatever is written there is very pure and true. Jamila contradicts herself because she also listens to others regarding the Quran instead of reading it herself. Chnoor, who has been quiet about the subject of religion in state laws so far, expresses her opinion by saying that the word of God in the Quran might have been to some use today if it was left untouched and untarnished. Chnoor is suggesting that the Quran and its teachings are useless to people because of the different interpretations made by people. Jamila says that she prefers laws based on secular principles because she feels that secular ideas allow for more benefits for women. However, she says she is apprehensive about the

dominance of secular law over religious because women might be labeled as promiscuous and immoral. Interpreting Jamila's statements, it seems that she would rather change Islamic laws to make them more women-friendly rather than remove religion from law all together. It also seems she is scared of how others judge women based on what law is either demanded or enacted. Pary believes that religion and state should be separated because she thinks religion is a private matter and it should be up to the individual if they want to practice religion or not.

*It should stay as something personal and far away from the state and those in power (Pary).*

Pary prefers a secular law and secular agenda for the Kurdistan region. She says she wishes this because, if laws are secular, there will not be any insulted parties or religious conflicts because no one would be accused of tampering with the word of God.

*You can reinterpret the Qur'an but you cannot change it and therefore changing a law based on the Shari'a is impossible (Pary).*

Jamila says the Kurdish society is a Muslim one, and the society thinks that whatever has come from Islam has to be protected and removing it or changing it will be compared with trying to change or remove the essence of the religion. She says that people are convinced polygyny should remain because it is allowed in Shari'a as they know it. Jamila blames religion for the misery of women with husbands who are married or who will marry another woman.

*They see polygyny as a solution for women who are older and unmarried. That is not the solution because they do not realize that that is also injustice. It is all connected to religion and nothing else (Jamila).*

Sara, general director of the NGO Jinan says she undoubtedly chooses a secular law over Shari'a. Sara says Kurdistan is a secular region and therefore Shari'a should not be the basis for any of the region's laws. Sara says the fact that Kurdistan is a secular region is the reason the Personal Status Law was amended in Kurdistan. In spite of her other statements, Sara expresses that Shari'a should be one of the sources for the region's laws, but not the main source. She wishes, however, to stress that she herself is secular.

*The Personal Status Law should be based on many things and not have one of the sources be the main source or basis (Sara).*

Sara says something similar to the WADI respondents; that legislation based on Shari'a will be impossible to discuss or challenge. She says if the laws speak in the name of God, there will be no discussion allowed. Therefore, to Sara, a secular law written by people is a much

better option. Sara views Shari'a as laws that suited the times during their development and thinks they should only have been practiced then and not now.

Dilan, former Member of Parliament and politician in the Kurdistan Communist Party, wants to remove the Personal Status Law all together and replace it with what she calls a civil law. Dilan says she respects the Shari'a and all laws based on religion however she does not believe in basing people's private family affairs on something holy. Dilan understand Shari'a as something holy and says she practices Shari'a in her private life in the sense that she was married in an Islamic ritual and that she leads her private life as a Muslim. She thinks however that life has to develop and evolve, and she believes the use of Islamic law stagnates the natural development of human life. Dilan says that if it was up to her she would create a civil law based on the will of man regardless of tribal traditions and religious demands. Dilan is somewhat contradicting herself. In addition to claiming that she practicing Shari'a despite belonging to a party with an atheist ideology, she also says she views herself being a religious person. However, when she continues speaking, she says she that although she respects imams and religious clerics, she has obvious issues with religion. Dilan adds even more confusion when she expresses that she tries to never do anything that goes against Shari'a. She then clears up some of the confusion by admitting that she tries to abide by Shari'a because society requires that of her. Dilan believes that mixing religion in with state affairs will only damage religion and therefore Shari'a should be left out of Iraqi Kurdish Law. She then addresses her critics by saying that her final account is with God and no one can judge her and her views.

*Rules and laws change according to the times. Life is not holy in the way that they have made Shari'a and religion holy (Dilan).*

It is apparent that Dilan has had many conflicts with Islamists and other critics of her thinking as she is defensive at times and seems to feel the need to justify her views. She says that there are different interpretations within everything in Islam. She points to Osama Bin Laden and says according to his interpretation of Islam he is a Muslim, with a tone indicating how preposterous she believes this interpretation is.

The two other politicians, Shara and Hero, both expressed that they prefer the separation of state and religion. Shara says that women are better protected through secular laws. She does, however, say that she realizes that Kurdistan cannot have secular laws at the moment.

*Religion has its own respected and holy place and should not be mixed with politics. I still however have to respect the reality of this country. That is the fact of the society we live in today. (Shara)*

Hero says that she does not want Shari'a to be the basis for legislation, especially not with respect to marriage. She sees secular laws as a better solution considering how Islamic laws are being practiced in Iraq. Hero however changed her mind and later expressed that she could accept Shari'a as being one of the sources of legislation, just not the only source.

Shukri from the ISU in Erbil does not necessarily want Shari'a to become the only basis for family law. She says laws can change with the times and that there are parts of the law one can change and parts that are unchangeable. She does not clarify what can be subjected to change and what cannot be. Since Shukri is an ardent opponent of limiting polygyny, it can be assumed that allowing a man to marry four wives is an unchangeable part of Islamic law according to her. Aliya joins Shukri by saying that if sources other than the Shari'a are added to family law, it must not cross any boundaries set by Shari'a, though these boundaries are not made clear. Shukri adds that there are issues in their daily lives that neither the Quran nor Shari'a has dealt with, and therefore other laws can be implemented. Seiran agrees and says Iraq has always adopted laws from other countries, so it can continue doing so as long as no laws violate the boundaries of Islam.

The respondents from ISU in Erbil are not against adding other sources than the Shari'a to the Iraqi Kurdish family law, however, they never refer to these other sources as secular laws. Although it can be assumed that they are referring to non-religious laws, as that might be the only alternative to the classical Shari'a interpretations, the respondents seem reluctant to utter anything regarding secularism and secular ideas, which they clarified during their interviews to be anti-Muslim and usually adopted by immoral people.

Ziba from the Suleimaniyah ISU wants only Shari'a to be the basis for family legislation. Her reasoning is that, since she believes in God, she knows that God knows what is best for humans. However Ziba is not content with the lack of *ijtihad*, independent thinking or interpretation of Shari'a and objects to the reliance on the interpretations of old *ulama*. Ziba, also says, in agreement with the respondents from ISU in Erbil, that certain things can be changed within Shari'a while others are out of the question.

Evin from ISU in Suleimaniyah prefers Shari'a to be just one of the sources of legislation. She says she sees no hindrance to using other sources but does not specify to which sources she is

referring. Evin says that in Islam, the source of legislation is not limited to the Quran and the traditions (*sunna*):

*We have qiyas, ijma and istiftsar<sup>15</sup>. If a human rights law is to be made in Europe today and it did not contradict the basics of our religion we would have no reservations against it. We want Shari'a to be one of the main sources of legislation, just one (Evin).*

It is apparent that Evin wishes to highlight the rich and vast Islamic sources from which a legislator can draw.

Other informants from ISU Suleimaniyah also explained that Shari'a was vast and consisted of many sources and interpretations. Jala from ISU stated that the different schools of law are there to make life easier for people. From her statement, it is clear that she believes that Shari'a should be the basis for family law. Hanar from ISU in Suleimaniyah also shares this view.

*Shari'a is very vast, it has many ijtihads, and it leaves lots of room for change and discussion but has its own circle and is limited. If you leave those lines it means you have faked Shari'a (Hanar).*

Ziba says that she recognizes the tendencies made apparent from the limitation of polygyny; that the secularists are attempting to drag the country towards a more secular direction. She adds that, as a country, Iraq has not clearly defined where they stand with regards to legislation. Ziba says Iraq as a country has not characterized itself as one or the other so therefore the country has a mixed legislation of both Islamic law non-Islamic laws.

Jala makes a last attempt to argue that the Kurdish society only needs Shari'a as a basis for its laws.

*Before removing it [polygyny] by law you can instead show that it is bad by using religion. You should let that person's conscience make him not practice polygamy, and not make him escape from law [break the law and marry in another region] (Jala).*

## **Justifying prohibition or consent of polygyny through Islam**

Juwan from WADI says that if one really reads what is said in the Quran, it does not say anywhere that a man *can* marry four women. She says that the Quran is saying that if a man absolutely is forced to have more than one wife, then he must treat both or all as equals. Pary then says that, according to the Quran, no one can be fair but God so therefore a man cannot

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<sup>15</sup> Inquiry

be fair and fulfill the demands of polygyny, and therefore no man should be allowed to practice polygyny. Jamila from WADI says that no one from the committees set to amend the polygyny law really know how to read the Quran and properly interpret what it says. Jamila and Pary, both quite critical of polygyny, say that the Quran really has allowed polygyny and that it is that particular verse men use as an excuse to marry more than one woman.

*Those people say that since polygamy is in Shari'a then they must agree with it (Jamila).*

Sara says that, in the way she reads the Quran, there are very strict conditions to polygyny, and adds that either men follow and obey by every single verse in the Quran or not choose any verses to follow at all. Sara is very sure that no man can ever manage to be fair to two women at once, so no man should ever be allowed to practice polygyny. Sara also adds that the Quran has a particular purpose that does not include obeying and copying its every word. She believes the verses were revealed in order to improve the lives of people and not to force them to perform literal practice of complying with its every word. In the process, Sara expresses her dismay with the Kurdish society and their incorrect focus on religion.

*We are teaching people the wrong things. We are teaching them that polygamy should be done because it is in the Quran but not teaching that one should not steal or kill or lie. Society is full of people conning others and full of liars and thieves. Religion is not just about praying. I see myself as more of a Muslim than most of these people. Therefore I do not have to pray or fast, I believe what has been descended to me is that I should be a good person and not steal and lie. The biggest prohibition which is to take a life, the men here do it. Many men kill their wives. They pray on the streets but at their stores they lie to you and take your money. I believe religion is here to make us better people (Sara).*

Shara, who is currently an MP, says that there are different interpretations of the Quran and different ways to approach these interpretations. She says everyone reads the Quran differently and, when she reads the holy book, she can clearly read that polygyny is neither allowed nor wanted.

Even though the ISU respondents are supporters of polygyny, some of them still say that the ideal number of wives is one even if God has permitted up to four. Hanar says during the ISU interview that the ideal is one according to the Quran. Jala, also from the ISU, says that God has allowed polygyny but God has also set restrictions. She says learned men will say that the man wishing to practice polygyny has to be examined mentally, financially and in other ways, all according to true Islamic teaching. Najwa from the ISU says that the principle in Islam is one wife, however, polygyny is allowed in certain situations.



The main argument from supporters of polygyny, the ISU respondents, is that God has allowed for polygyny and therefore He knows that humans need it. On several occasions Jala, Najwa, Evin and Ziba said that God knew that His words would be needed as they are convinced that polygyny solves many problems in the Kurdish society. The ISU respondents from Suleimaniyah believe that in a Kurdish society that is different from the Western society, where sexual relationships, cohabitation before marriage and divorce are accepted. These reasons are also why the respondents from Suleimaniyah ISU support polygyny. They are otherwise in agreement with the earlier respondents who said that no man can really be fair to all or both his wives. Jala says that it is stated that no man can really be fair and therefore polygyny is never encouraged by the ISU unless it functions as a last resort in order to avoid immorality and divorce. An interesting issue arises here; the ISU respondents know that a man can never treat his wives equally yet they do not wish to search for options other than polygyny for the couple. They justify polygyny by saying that it is “the last resort” and “a bitter medicine” however a medicine nonetheless. The ISU respondents do not however reflect on the fact that it might be a sin if a man fails to meet the demands set by God.

Some respondents from ISU in Erbil are, however, more sure in their belief in the fairness of a man. Niyana from the ISU in Erbil says that since God has allowed it by writing it in the Holy Quran, and no one can question or touch the word of God. She says God has left no room for change, however the key word in the polygyny issue is equality and that can be required. The members of the ISU in Erbil are torn and are not unanimous in their trust in the ability of the male to be fair. Seiran says that too many men abuse the *ayah* about polygyny and therefore polygyny is not preferred according to her. Whether or not she wishes to prohibit or limit polygyny does not come out clearly in her response. As mentioned before, Aliya from Erbil says that the demand to be fair has to be taken seriously because no man can ever be fair to his wives and therefore she believes the Quran encourages him to stay with one wife. Shukri, however, believes in the man’s unilateral right to practice polygyny. As mentioned in earlier chapters, Shukri does not believe that a man needs any particular reason to practice polygyny. Her seemingly limitless support of polygyny comes with some restrictions, one of them being that only a pious man can practice polygyny because only he can be fair to his wives.

Another concept perhaps not fully defined in any interpretation of the Quran but explored by the unified ISU is ‘sharing’. The ISU informants from Suleimaniyah seem to be linking the idea of sharing with sisterhood in the spirit of their faith. Ziba from the

Suleimaniyah ISU respondents says that she sees nothing wrong in sharing her husband with a friend. Ziba is not married but says that if she were she would see it as inhuman if she denied another woman the happiness she has if the other woman wanted to marry her husband.

*Why be selfish when you can share? You have to think of others as well. I could share a husband with a friend. Ideally I would want her to be someone I know or a good a woman. Why would I not share my happiness and husband with someone else? Why have everything myself when I can share my happiness with others. Then the other woman can be happy too (Ziba).*

Jala shares similar views and says that she could not deny another woman the chance to be married and be happy.

A respondent who would likely disagree is Hanar, former MP and ISU respondent from Suleimaniyah. She agrees that polygyny must remain in order to avoid bigger issues in society but she admits that she can never bring herself to accept the concept. Hanar says it would be very difficult to experience and challenges the other women by asking how they would really react if their husbands married another woman. After being challenged by Najwa, who says it is irresponsible of Hanar to claim that a woman has a right to deny or show clear dismay for the husband's practice of polygyny, Hanar replies somewhat passionately:

*I meant it is understandable that she is upset. It is God's will, and you have to accept it even though it is very difficult and hurtful. Who of us here likes to have her husband marry another woman? (Hanar)*

The women reply to her last question and they all say that no one really wishes that. Hanar continues in the same passionate tone:

*That is why it is my right to say that I dislike it. If I have to respect the rights of a woman who marries a married man I also have to be free to not want my husband to marry another woman (Hanar).*

Hanar advocates for the mutual respect of both the "new" and "old" woman's feelings. She explains, however, that even if a man chooses to practice polygyny, a woman does not need to let her husband's decision ruin her. She explains her view though her faith.

*In the religious sense I have to protect my existence. Sometimes when we talk to women in our organization whose husbands have married another wife I say: do not let your existence be defined by one man and feel destroyed once he marries another woman. You are the ruler of your own existence. True it is hurtful but I love my own existence more than my husband... It is better if a man marries upon me rather than have my existence tarnished. I have a right to resent it, I have a right to attempt to prevent it but if it happens to me I have to have patience (Hanar).*

## **Chapter 9: Polygyny as a remedy & as a problem**

Topics in this chapter are related to issues that were touched on in former chapters. These subjects touch on the social and marital life of a Kurdish person according to the informants. What happens when polygyny is a fact? Will there be problems, or will it solve problems the couple has been trying to solve? How do some informants justify calling polygyny a “medicine”? To what degree is polygyny detrimental, and how does it create problems for the couple or perhaps foursome? Is there one type of man who practices polygyny or is it only the man who is in real “need” who marries another woman? It is safe to say that both the Islamist respondents and the more secular ones had social and legal bones to pick with Members of Parliament that were instrumental in the amendment of the Personal Status Law and consequently the polygyny law. What are their complaints and how do the informants who were a part of the amending in parliament reply to the criticism?

### **Polygyny as a remedy for “illnesses” and bigger problems**

In their interviews, members of the Islamic Sister’s Union in Suleimaniyah preferred to explain polygyny as a solution to problems in a marriage. Polygyny, according to Ziba, cures diseases in the family and is not itself a disease.

*Polygamy is supposed to cure a problem (Ziba).*

Evin supports this view and says that polygyny was created to solve problems. When asked what sort of problems polygyny can solve, she gives an example.

*It can solve problems as in when a man’s wife is sick, so sick that she cannot function emotionally or physically (Evin).*

To Evin, bringing a new wife into a marriage that is suffering because of a sick wife will help the marriage. She explains that she feels pity for the man as he clearly cannot divorce his sick wife nor live alone with her either. Having the man marry a second woman, Evin explains, is the solution to this problem. She seems to say that the second wife will help the husband and she expresses pity for the man in this situation, though not for the sick woman. Evin explains that the reason she refers to polygyny as medicine is because it should only be used when necessary – when the situation calls for it. As she puts it:

*... It is medicine. And medicine you do not touch during good times, it is used during sick times (Evin).*

She expresses hesitation about the appropriateness of polygyny in all contexts and makes an effort to explain that it is a medicine only to be used in certain situations. She asked rhetorically:

*Would you prefer the spread of immorality? (Evin)*

Evin believes that when a woman is too ill or is somehow prevented from being a wife in the sense that she can clean, cook, fulfill her husband's sexual needs and represent him among others, then that constitutes a disease that perhaps a second wife can cure. In a similar way, if a man is tempted to fornicate and commit adultery with another woman, it is better if he marries the woman so to avoid immoral acts. Immorality is a disease best avoided by polygyny.

Jala takes the comparisons further by describing the medicine as something bitter.

*Because not everything that is bitter has to be bad for you (Jala).*

To Jala, polygyny might prolong the life of people, as medicine can. She makes the effort to explain that a remedy for an illness may not always taste or feel good but it is necessary.

*This remedy does not have to be for my stimulation, it can be forced on me but it can be remedying something heavier than what I am going through (Jala).*

Jala is saying something important in the above quote. She is saying that while a woman might be pained by her husband's marriage to another woman, it could in fact be protecting her from a far greater "illness". Ziba agrees with Jala's view.

*I cannot talk about this as a woman and how it would be heavy on my psychological state. True, it is not well and enjoyable for the woman but it treats a much bigger issue. It is better than the woman taking the other way, leaving her husband (Ziba).*

Ziba calls for neutrality when discussing polygyny as she, like Jala, realizes that polygyny can be difficult for the first wife to accept. However, she is certain that if polygyny is practiced, it is because it can prevent an even greater discomfort. Ziba adds that the reason she and the rest of the ISU respondents were against limiting polygyny was because to them polygyny was a remedy for something far more intolerable.

Jala talks about the preservation of family, the family unit.

*Family is the best thing we have. It is the source of our society. The world falls apart without families (Jala).*

The destruction of family is a condition that Jala believes to be worse than having another woman share her family with her. Polygyny is the remedy that will prevent the demise of the family which Jala sees as the source of the society she lives in. Jala uses yet another metaphor to explain the necessity of polygyny:

*They have cut off my leg, so how can I have solved something? Well, they cut it in order to save the rest of my body (Jala).*

This imagery describes how Jala views polygyny as being something that may frustrate women to the point that they wonder what the benefits are. The chief benefits, according to Jala and Ziba, are that the family stays intact. The family is the body, and a leg is cut off when another wife is brought into the family. However, through the addition of the new wife, the rest of the body is saved from meeting the same fate as the leg that was already removed.

### **The cases where polygyny solves problems**

After reviewing what sort of medicine polygyny is, it is natural to ask in which situations polygyny solves problems and serve as “medicine”. According to respondents with a supportive view of polygyny, one positive attribute of polygyny is that it can help the large number of unmarried, widowed and divorced women get married. Such women have to usually marry an already married man. The respondents from ISU in Suleimaniyah and Erbil presented the problem of the unmarried women and how polygyny would solve it. Although a problem they acknowledged, the respondents of ISU did not present the issue unmarried women as a very big problem. Niyani of the Erbil ISU says polygyny exists so to help the divorced, the widows and the spinsters. To her, it is a religious question.

*When the great God has sent an “ayah” to us, God knows that people are in need of it (Niyani).*

Niyani believes that since God has allowed polygyny, it must be for the good of mankind and therefore shall not be forbidden by humans. However, she is not sure to what extent polygyny can benefit the Kurdish society; she just believes that God has allowed it for some greater reason.

*Perhaps many of the social problems we have will be solved through practicing polygamy (Niyani).*

Gulan from the Erbil ISU explains that fornication would occur less frequently if all women allowed their husbands to practice polygyny. According to her, polygyny also solves the problem of spinsters.

*If we allowed our husbands to marry a second wife, there would not be so much zina in the world, and also not so many spinsters. There is so much immorality now, not among us because we are Islamists but in society in general. If more women accepted polygamy happening to them, immorality would not spread (Gulan).*

To Gulan, polygyny addresses and solves the issues she sees as dangerous for the society. She states that immorality does not take place among the families of the Islamic Sisters' Union because of their faith, but still she worries about the wellbeing of the whole Kurdish society and believes their problems can be saved through polygyny. The issue of sexuality has been mentioned before and its importance among the respondents has been expressed. Niyan of the ISU respondents discusses the sexual needs of women and how marrying them off, and if necessary to married men, can help them be satisfied sexually.

To Evin, of the Suleimaniyah ISU respondents, polygyny solves the problem of the sick wife who is faced with the possibility of being divorced and sent back to live with her parents. The arrival of a new wife solves the problem of having to send the first wife back to her family. The new wife must now function as a care taker for the first wife and as a dutiful wife for her husband. Polygyny to Evin also solves the problem of “bastards”, fatherless children. Evin mentions another problem that polygyny can solve; the restless man. She says there are men who feel unsatisfied with their families and wish they could get more out of their lives. Instead of divorcing the first wife, the husband can marry another woman and perhaps through her and the family she creates for him start to feel that his ambitions are realized. As mentioned in the divorce chapter, polygyny is seen by some respondents as a way to decrease divorce. Polygyny is indeed, according to the ISU respondents, a solution for divorce. According to Evin and Ziba, if a man is on the verge of divorcing his wife, then he should consider marrying an additional woman. Why marrying his second wife would help heal his problems with his first wife was not explained by the respondents. Ziba takes this view further and asks what a woman is to do if she finds herself in love with an already married man. She says that if the affection between the man and the “new” woman is reciprocal, the man will be forced to divorce his first wife given the current legal situation. Ziba concludes that if he was allowed to practice polygyny it would solve his dilemma of which woman he should keep.

The ISU respondents from Suleimaniyah talk a great deal about the problem of ill wives who are left without the ability to care for their husbands. Najwa shares her sister's situation, who wanted to marry a man whose wife had been bedridden for many years. Evin and Ziba mention sick women and the “poor” men who have to take care of them. They wish

to appeal to opponents of polygyny by presenting it as a humanitarian issue. As mentioned in earlier chapters, Evin even uses the plot of a film to explain why polygyny would be a solution for the characters' problems. According to Evin, when the man's wife fell ill, he should have been allowed to marry another woman to give him what his comatose wife could not. The man would then not have to deal with the thought of divorcing his bedridden wife or living alone without a wife who can have sex with him, cook for him, give him children and join him for social events.

The ISU respondents are almost unanimous in their view that if a man has a wife who he is happy with, who grants him children and has no illness should not marry other women. Ziba of the Suleimaniyah ISU respondents is an exception as she says that a man does not necessarily have to be in need of children, but can also have other reasons.

*Polygamy is not just about having children. It is psychological (Ziba).*

Ziba disagrees with the views that only a man whose wife is barren or sick is qualified for polygyny. To Ziba, if a man is not happy or satisfied with his wife then he should be allowed to practice polygyny. According to Ziba, polygyny is a solution to a man's mental dissatisfaction with his marriage or wife.

Erbil ISU informant, Shukri, also challenges the view that only a man whose wife is barren or sick can practice polygyny. Shukri disagrees with the idea of polygyny being only a problem solver. Shukri says that this sends a message that a woman has flaws, that she is lacking and somehow less worth. She challenges the view that a man should marry only if his first wife is sick or barren on theological grounds:

*That is not said in the Qur'an or Hadith. It is said if the man has the ability to marry a second he can (Shukri).*

Seiran from the Erbil ISU also explains the right of polygyny from a theological standpoint.

*She is lacking in front of her husband so I say that the man has a right granted to him by Shari'a to marry another woman. The woman who could not please her husband has to herself make way for her husband to marry another woman (Seiran).*

However, she also expresses her concern that many men are not using polygyny fairly. Seiran says that she is sure a man who wants to marry a second wife does not usually go for a spinster or a widow. Men, according to Seiran, marry younger and unmarried women, sometimes even teenagers.

*The catastrophe is there. The ones who want polygamy do not marry young widows in need of marriage. Polygamy does not solve that for you, it will create new problems as well (Seiran).*

Seiran talks about this concern for quite some time, and says that perhaps sometimes polygyny does not solve the issues it was set to solve.

It must, however, not be assumed that only informants from the ISU believe polygyny to be a “problem solver” in marriages. Juwan of the WADI respondents expressed that if a man was given the option of marrying more than one woman, he would be left with no excuses to cheating. She also added that she thinks men have much bigger sexual need than women and perhaps they would need more than one wife. Juwan feels polygyny is a solution to men’s sexual needs.

### **Cases where polygyny creates problems**

Under the former headline Seiran from ISU in Erbil was mentioned because she feared that sometimes polygyny might not always be a solution to problem but the reason behind them. Some respondents, like Seiran are wavering whether or not polygyny is a solution or a problem while other informants are very sure that polygyny only creates problems.

Hanar of the ISU respondents seems to be the most skeptical of polygyny. She says many men have misunderstood polygyny and therefore, if they are financially able, they will marry another woman. Hanar explains how men have misused Shari’a and are practicing polygyny for the wrong reasons. Jala agrees in a way and says that when men who are practicing polygyny are not familiar with Shari’a might misuse polygyny. Ziba says polygyny is sometimes misused by people and the outcome is often quite negative. Hanar even shares a saying that highlights her views on problems regarding polygyny.

*When rich, Kurdish men either marry another woman or kill a man (Hanar).*

This saying indicates that Hanar jokingly equates polygyny with murder. Jala says that when the word of God is used at people’s discretion and to their own gain, then the resulting polygynous marriages are not accepted by her and her political party. By this, she must mean that polygynous marriages done under wrong pretenses are problematic for her. The women from the Suleimaniyah ISU say that men who practice polygyny “just because they can” are wrong and their actions are not acceptable because they create problems for the men and their families.



Seiran from the Erbil ISU states that since men practice polygyny based on their sexual desires and not real familiar needs, the men end up unhappy.

*He marries a child who is not his age, does not get along with her because of the age difference; he has only married her because he wanted her. On the other side we still have the problems of society, with spinsters and widows and divorced young women (Seiran).*

Seiran expresses worry over men who might think they have total freedom regarding polygyny.

*...anyone can marry whenever they would like to and then when they dislike her [the new wife,] they divorce her and be unfair to their wives. That to me is not acceptable (Seiran).*

Jino, also from the Erbil ISU, says that in this day and age men do not meet the conditions of being fair and being able to finance two families. She emphasizes that the fairness will never be achieved by any man and therefore polygyny will indeed create a problem.

*The problems then increase. Then society comes undone, because the second wife gets all the attention and the first is ignored. Her children will be ignored too (Jino).*

Aliya from ISU in Erbil asks how a man can really be fair if his wife is barren and his second gives him the children he longs for. To her this makes a man unable to fulfill the demand of fairness and Aliya thinks the best idea is to have one wife.

Seiran says the man will abandon the “first family”.

*We have no proof that that a man can be fair. There has never been a fair man, they cannot be fair. There is a saying that says: When the new arrives, the old is ignored. Same thing when we buy something new, we pay no more attention to the old (Seiran).*

However, Niyan and Shukri of the Erbil ISU disagree. Niyan says that the opposite can also happen – that a man appreciates his first wife more once he marries his second. Shukri says she is sure that if one of the wives is unhappy, it is the doing of the other wife, never the husband.

Niyan and Shukri’s points do not really succeed in proving that polygyny does not come with problems. Niyan is claiming that marrying a second woman makes the husband appreciate his first wife more than before. This actually creates problems; instead of the first wife suffering, the second wife will, as her husband might regret marrying her. Shukri’s point is shaky as well. She says that it is not the man’s fault if his wives argue. What she does not mention, however, is that even if the wives are the ones fighting, it is still the man who chose

to bring both wives into his lives and bring them into each other's lives as members of the same family.

Seiran shares a story about her brother in law who married a second woman because "he could" and it has ended in tragedy because his first wife treats his second wife as a rival in all respects and the second wife acts in a similar manner. The first wife is paying more attention to herself and her husband, leaving him slightly confused.

*That has created a problem, because the man is wondering why the first wife was not like this to him before. Now he is not getting along and is not nice to any of them (Seiran).*

However, for Seiran this was a cautionary tale for women and not men. She says that if the first wife had been better to her husband, he would have never married the second wife and made his first wife so jealous.

Shukri refuses to believe the problems of polygyny can be the man's fault. Nevertheless she admits that if problems occur because of polygyny, it is because the man is not a pious man, and only very religious men can practice polygyny. This contradicts her other statements, as she expresses many times during the interview that it is the man's prerogative regardless of his reasons.

Sara, general director of the women's organization Jinan, says problems occur even before polygyny is practiced. She says that when a man wishes to practice polygyny, he badgers his wife and threatens to throw her out of her home and take her children away if she does not agree to him marrying a new woman. Juwan has similar views and says that the problem with polygyny is that it creates complications from the moment the husband considers the idea. Juwan adds that men usually marry the second wife because of sexual desires and not real needs, and therefore the woman is used for the man's sexual purposes. Juwan says that the problem grows when the man becomes sick of the woman he married only because he desired her sexually and ends up leaving her.

Jamila, also from WADI, shares a personal story about her father's second wife. Jamila's mother had given birth to eight children including sons, so to Jamila her father had no other reason to marry another woman other than his sexual desires. Jamila's new "mother" was the same age as her oldest sister, 16 years. For Jamila's family, this created a big problem. Because of her father's wish to marry this particular girl, he had to give his eldest daughter to his new wife's brother. This was against his daughter's will and she was forced

into marriage with a man she did not want. Thus, Jamila's family experienced two major problems. Jamila says her mother had to suffer two losses; her husband marrying a younger woman and her daughter being forced into marriage. Jamila says her father's selfish choice created problems for the whole family. Expressing her grief, she says that her father's sexual desires ruined a whole family, and that they are paying for his mistakes every day.

Dilan, a politician with the Communist party of Kurdistan and former MP, says that polygyny is a humanitarian question and that it creates a problem in that it is inhuman. Dilan says the husband shatters his wife's self-esteem because he is telling her she is not good enough, and therefore he needs to marry another, better woman. To Dilan, a woman's dignity and self-esteem is crucial, and if a man compromises his wife's sense of self, he is causing an irreversible damage and a serious problem.

*Neither the first nor the second wife is happy. They do not feel fully dignified. That is my conviction; on the inside they are unhappy. The man has a wife, and when he marries the second wife his feelings become tied to two women. Because the first one is still there and there is something there that he feels for her (Dilan).*

One woman from the Halabja coffee shop expresses views similar to Seiran's from the ISU in Erbil. She says that the obvious problem with having two wives is that it is in the woman's nature to be jealous and competitive, and therefore a rivalry will occur and leave both women miserable. Another respondent from Halabja says that she is herself wife number two and she can attest to the fact that when her husband married her, he ignored and abandoned his first wife. A third woman from the Halabja coffee shop says she knows of a family where the man married a new wife but after some time, he ignored his second wife and abandoned her.

In the last Halabja informant's comment a new problem can be found, which is that a man might regret marrying a second woman and decide that his first wife suited him more. Taking these answers into account, it seems that the second wife is abandoned and perhaps even bitter about her situation. It would also leave the second wife in a very vulnerable situation.

### **Ideas about men who “usually” practice polygyny**

There are different views among respondents on what sort of man practices polygyny. Almost all the respondents, however, seem to believe that there is indeed a certain type of men that practice polygyny. For the NGO and MP and non-religious politicians, there was a common view that any man who practiced polygyny did it for selfish reasons and had absolutely no

need to do so. Therefore, to them it was obvious that an immoral and insensitive man is the kind that would practice polygyny.

To the ISU respondents there are two types of polygyny, justified ones and unjustified ones. The ISU respondents say that a religiously observant man is the only sort of man that can practice polygyny fairly. However, because he is pious he will most likely not do it because polygyny does not occur that often among religiously observant men. They say it has to do with a religious man's sense of conscience. According to the ISU respondents a devout man will carefully weigh all of his options and will not practice polygyny unless there is no other way out. This, they say is in contrast to the secular hedonistic man who is only concerned with his own wants and desires.

Juwan from the WADI does not agree with the ISU respondents. She says it is the religiously observant man who practices polygyny. However, she says, there is another group of men who practice polygyny, the hypocrites. To Juwan, these are the men who obey by some laws set by Shari'a as they know it, and ignore others as convenient for them. Juwan is angry with the hypocrite and selective adherence to laws and speaks as though the hypocritical men are standing in front of her.

*Man, you do not pray or perform any of the other pillars of Islam so why do you practice polygamy? You say it is sunnat and therefore you can do it (Juwan).*

It is implied in Juwan's statement that if a man indeed does practice the pillars of Islam and is a religiously observant man, then he can indeed practice polygyny. It could also mean that the man should perform his Islamic duties before practicing his Islamic rights. Sara, general director of Jinan, expresses a view agreeing with that of Juwan from WADI. She mentions the selective men who choose parts of what is said in the Qur'an and ignore others. Sara says that such men practice polygyny for their own gain and justify it by saying that God has allowed them to marry up to four wives.

Shukri from the ISU in Erbil says the right to marry more than one woman is for pious men, men who believe and practice their religion. Also according to Shukri, the men who oppose polygyny are the men who do not mind fornicating and committing adultery. In her view, the men who oppose polygyny are men who would most likely commit immoral acts, whereas a man who supports polygyny is a man who would practice it before thinking of committing fornication and adultery. From this it is apparent that, in Shukri's views, a man who supports is a much moral man.

The ISU respondents from Suleimaniyah agree that men who practice polygyny without really needing to<sup>16</sup> are usually secular men from parties other than theirs. Jala emphasizes that the head of their party, the Kurdish Islamic Union forbade his closest colleagues in the party from practicing polygyny. Perhaps Jala is saying that polygyny is not as socially acceptable as the ISU believe or want it to be.

*True he [head of the party] believes in the ayah, but not all of it. Just because we are an Islamic party does not mean we have opened the doors to polygyny. The percentage of polygyny within the secular parties is ten times higher than within our party.<sup>17</sup> We do not allow it, nor do we promote the prohibition of it. We do not condone it, yet we do not forbid it... (Jala).*

Considering that polygyny is forbidden for high ranking party officials, and the fact that Jala cannot explain why it is forbidden among the party's officials, it is perhaps a political strategy from the leader's side. Perhaps the KIU wish to contrast the other Kurdish party officials who are apparently known for their polygyny. Perhaps it is because the head of the party really does believe that polygyny is a thing of the past not to be practiced in modern times. The party may be fighting to keep it as an option in Kurdish society because of the impression that the need to limit polygyny is a ploy to diminish the role of Islam in society. This is a claim made by ISU respondents both in Erbil and Suleimaniyah. Hanar says that the secularists wanted to attack and insult Islam through the Personal status law.

*They want to hurt Islam! These [ideas that Islam is oppressive] are misconceptions about Islam. This is how they want women to hate Islam, through polygyny, witnessing and inheritance. They say "In inheritance you are half, in witnessing you are half and in marriage you are a quarter." In those three things they have made a weapon to make women dislike Islam (Hanar).*

## **The role of politics and politicians in the limiting of polygyny**

During many of the interviews, respondents were unhappy with the role of parliamentarians during the passing of the amendment. During the interview with the ISU of Suleimaniyah Members of Parliament, Jala and Hanar who participated in amending the polygyny law took no criticism and blamed many shortcomings in the law on their opponents' lack of cooperation. During a group interview with the Suleimaniyah ISU, former MP Hanar became defensive when other respondents criticized the former parliament and their handling of the

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<sup>16</sup> These needs have been discussed by the ISU informants before. They are referring to if the wife is barren or too sick to perform wifely duties such as sex and take care of the household, or if the couple is on the verge of divorce and bringing another wife into the household is thought of as salvaging the struggling marriage.

<sup>17</sup> There is no actual statistics that the informant is referring to. It is merely her way of expressing her views.

amendments to the Personal Status Law. Jala was also an MP during the amendment of the Personal Status Law and supported Hanar's statement. She says the first draft for the amendment was rejected by most members because, she felt, the draft was undermining Islam. From Jala's statements, it is apparent that the more secular MPs formed one group while the more Islamic oriented MPs constituted another. Each time the draft was changed due to protests from one wing, the other was dissatisfied. Jala criticizes the government for not informing women enough about their rights as mentioned the 1959 Personal Status Law. She says she wonders whether women will be informed by government that she and her colleagues amended the Personal Status Law in 2008. The existence of these different wings in parliament was apparent in Jala's comments when discussing *nafaqa*<sup>18</sup>. Jala says the secular MPs thought of *nafaqa* as belittling the woman. After spending some time discussing the gap between the MPs from Islamic parties and secular parties, Jala admits that part of the reason the amendment caused such strong reactions is because the law makers did not initiate any sort of campaign to inform citizens of the changes in the Personal Status Law. Jala also adds that she agrees with most of the changes done to the Personal Status Law except for the limiting of polygyny. She explains that KIU as an Islamic party stands out, not only in Kurdistan but among other Islamic parties in the world.

*We do not tie ourselves to one madhab. We have found things from the inner depth of Shari'a. We still accepted many of the changes made to the law that perhaps other Islamists would not. We did get to have our say. We also went back to the people to explain the amendment, and explained it through an Islamic view. We explained that these things are not against religion, it is natural within Islam. Some of the changes are good to a certain extent but we have a problem with the law not being imposed and that people are not well enough informed and it is therefore not implemented (Jala).*

Hanar agrees with Jala. She says it is through limiting polygyny that secular politicians and activists try to diminish the role of Islam in Kurdish laws.

*Whenever they wanted to change anything about the situation of women in the Islamic world they started with the Personal Status Law (Hanar).*

Hanar says that she also realizes that even though she agrees with the Iraqi 1959 Personal Status Law, she did want some changes to be made. Even though she criticizes the secular parties for voting for something she views as un-Islamic, she suggests that if people were ready for the amendment, she would accept it.

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<sup>18</sup> The marital support given by husbands to their wives and children

*Our society is one that needs to have things handed to them already boiled. If you give them something uncooked or raw they will misuse it. Polygamy for instance, they have misused it. They think that if a man has money then he can marry a second wife. They forget all the conditions attached to marrying a second wife. I meant that if they ever wanted to create suspicion around Islam, they would use the personal status law (Hanar).*

Hanar's statements agree with Jala's when she expresses that their party has credibility among other politicians, which was according to them evident during the discussions about the amendment in parliament.

*The whole spectrum used to wait for us to see if certain things were outside Shari'a or not. When we spoke, and linked it to Hadith and brought the ayah to them, then they accepted it because they know that we as a bloc or party will not bargain with Shari'a. It is not in our strategy. Our fingerprints are very apparent in all of it. Many of the other organizations said that if Islam is in the way you describe it then we accept it (Hanar).*

Hanar agrees with Jala's statements yet again when she says that the people need to be more informed about how the laws have changed in addition to being prepared for the amendments.

*Islam has opened many doors, has opened many ijtihads, but in every country, Western and non you need preparation. If you want to plant a seed, do you not first clean the ground for it? You have to mark off its area. You have to create an environment for it. Regarding the personal status law, the ground is not ready for it and we bring a foreign seed to plant in a ground that will not accept it. The secular organizations who want to annul the personal status law and replace it with a secular civil law, it is like a ground is ready to have a good seed planted in it and they bring a foreign seed that the ground will not accept. Therefore before you make a new law, amend one or implement it you need to make conscious the thoughts and views of families in particular (Hanar).*

Jala continues by saying that the representatives from the KIU fought for the rights of women by trying to keep polygyny. Both she and Hanar say that they were left with two choices; to prohibit polygyny or to limit it the way it is today. They both say they were not in doubt over which alternative to vote for. This, they say, left them bitter with the other Members of Parliament who left them with these two options.

*These new restrictions are like the brother of prohibition<sup>19</sup>. It is as if they prohibited polygyny. We found it better that polygamy still was still allowed, so the rights of women are still upheld and defended. We were only fourteen<sup>20</sup>, other people than the Islamists voted to keep polygamy (Jala).*

Ziba of the ISU respondents calls the amendment elitist. She says that an elite group prefers limitations to polygyny. Ziba says they work for such restrictions because they are hoping to

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<sup>19</sup> A sort of Kurdish saying that in this context means the conditions to polygyny are quite similar to prohibition.

<sup>20</sup> The fourteen referred to are fourteen MPs who belonged to Islamic parties.

move the Kurdish region towards secularism. Hanar repeats her dissatisfaction with the government and the people responsible with implementing laws. She says that there are still judges who rule according to the 1959 Personal Status Law. Because of these tendencies, and because of the fact that any citizen of the Kurdish region can get married outside the region and not have to abide by KRG laws, Hanar is convinced that other politicians and activists fought to prohibit polygyny just to insult and diminish the role of Islam in Kurdish law. A marriage that has not met the new polygyny restrictions will still be valid in the Kurdistan Region<sup>21</sup>. Najwa explains how simple it is to marry your second, third or fourth wife outside the Kurdish region:

*They hire a lawyer to help them, charges them about 300 USD (Najwa).*

Other ISU respondents question how the parliament came to such a decision and complain about the fact that non-politicians were left out of the decision. Jala and Hanar react to the complaints by saying the process was very democratic and that everything was done openly and honestly. Evin complains that the amendment was first presented to people after it had already passed. Hanar disagrees and says that many women were asked to join panels and committees as advisors, but many refused. Evin rebuts by asking Hanar why it was then so hard to get one more known member of the ISU into one of the committees. During an individual interview, Ziba says that she was asked to join a sort of “expert” panel arranged by the parliament as she was a lawyer, but she refused. She felt that there was no point in getting involved because the secular politicians and government had already decided to change what they wanted regardless of what the different panels recommended.

Shukri from ISU Erbil expresses her disgust with the secular male politicians who on the surface speak of liberating women and women’s rights, but privately do everything from everything from patronizing prostitutes to having mistresses.

It might be easy to assume that the respondents from WADI would disagree with the views of the Islamic Sister Union since the organizations have different views on what best serves the Kurdish society. However, Pary, like the ISU respondents, criticizes parliament for amending the law in such a way. Also, like the ISU, Pary thinks the amendment should have been announced and people should have been informed by the MPs and the government regarding the changes.

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<sup>21</sup> As informed by current and former Members of Parliament.



*The law happened from above, with no decision from women...*

*The amendment should have been published in newspapers and discussed on TV so women knew this change had happened. There are educated women who still do not know their rights within marriage (Pary).*

Dilan was an MP during the time of the amendment and one of the women deeply involved in the process of amending the Personal Status Law. She says it was the Islamist parties that voted against her wishes. She explains that the public reactions were varied. Some praised her for limiting polygyny, while others criticized her for it. Like Jala's from the ISU, who said reactions were negative towards her participation in the amendment process Dilan also experienced similar reactions. Dilan says she struggled with coming to terms with the public's negative reactions toward her. She says she was contacted by Iraqi Kurds in the Diaspora who said they were disappointed in her for not making sure polygyny was prohibited. Dilan replies that there is nothing she could do about it since the issue was voted on; she could not stop a democratic vote within Parliament. Dilan says the result of the amendment is not what she desired, but she sees it as a good start. Her ultimate wish is to prohibit polygyny altogether. Dilan, like Jala and Hanar mentions that the opposing "wings" in parliament were 4 votes apart. Jala and Hanar said that since there was as little as four votes dividing them, it might be an indication that in the future polygyny will be prohibited. Dilan also says that since the votes were not far apart, it gives her hope that next time the issue of polygyny is up for debate in parliament, it can perhaps be prohibited.

When asked about the issue of the law only being valid within the Kurdish region, Dilan avoids the question and attempts to change the subject. However, when faced with the fact she cannot dodge the question she eventually replies.

*We had so much work to do we did not have time to foolproof the amendment. I hope they work on it now as busy as the new parliament is. The government should have issued instructions to all courts of personal status law and all judges dealing with Personal Status Law. They should be instructed on how to deal with those who leave their respective provinces to be able to practice polygyny without restrictions. We visited the judges Dohuk and Erbil and Suleimaniyah. Some do not agree with the amendment, so that is a problem in itself. But we must not be afraid because the law exists (Dilan).*

To current Member of Parliament Hero, who was also involved in the limiting of polygyny, there is an easy solution to the issue of people marrying outside of Kurdistan Regional Government jurisdiction. In fact, Hero claimed that there was no problem to begin with. To Hero, any court must investigate to which province the couple belongs and let them marry accordingly.

After reading articles and speaking to other Members of Parliament, it is evident that no judge or court is obligated to do so. Nowhere in the Iraqi constitution does it say that regional laws operate in that manner. Also, the issue of whether the couple came from different provinces with different laws on polygyny was never resolved.

Just as Dilan mentioned the negative responses from people regarding the amendment, Hero expressed her constant fear of threats from people that were unhappy with her involvement. However, whereas Dilan hopes the polygyny law can be further changed, Hero says that she refuses to approach the Personal Status Law for a long time. Hero says she is afraid to attempt to reopen the discussion regarding the Personal Status law. She does agree with Dilan that the current polygyny law is just a start.

A reason behind why Dilan wishes to keep pushing to prohibit polygyny could be that Dilan is no longer in parliament, and Hero might be apprehensive to revisit the issue of the Personal Status Law because she has already worked on the issue over the four last years during her tenure in parliament.

## Chapter 10: Conclusion

In order to understand the issue discussed in this Master thesis, we must remember that every single respondent believed their view was the most humane and just one. Both supporters and opponents of polygyny saw themselves as acting as defenders and protectors of the rights of women. Both said their society was in need of changes because they believed that the future would bring bad things for Kurdish women, and they believed that the region's legal system could be used to protect and assist women within society. With the main questions in mind – “Who represents Kurdish women?” and “Is polygyny really a solution to certain problems in the Iraqi Kurdish society?” – it is important to examine the informants' answers and their ideas for better solutions than those available today.

Polygyny might be detrimental to women; to their psyche, or to sense of worth, but there is an undeniable absence of other established social systems that can protect and provide women with tools to rely on themselves and not on men. Legal scholar Javaid Rehman asks if there are any rational reasons for legitimizing polygyny within the Shari'a and whether polygyny can be justified in light of international law (Rehman, 2010: 245). He argues that the ideal according to the Quran has always been one wife, and when the verse that is originally the source of the four wife legislation is interpreted as an unrestricted license to continue the institution of polygynous marriages, the spirit of the Quran is being defied (Rehman, 2010: 246). This point was emphasized by respondents who supported polygyny, as with the point that the Quranic ideal is monogamy as set by the Surat al-Nisa'. The Surat al-Nisa' was, at times, referred to by respondents who were against polygyny, referring directly to the text or merely commenting that it is known that no man can be fair to more than one wife. As the respondents who were against polygyny pointed out, polygyny might have served a purpose during the early days of Islam but this could not justify the continuation of polygyny in contemporary times. Javaid Rehman says that the historic reasons for justifying polygyny, such as surplus of women and loss of men in battle, are no longer acceptable (Rehman, 2010: 246). Interestingly, these are points that the pro-polygyny respondents brought up as reasons to support polygyny. However, they did use them to the extent that they became their main argument for polygyny. The main argument for the pro-polygyny respondents was the preservation of the rights of women, and that this can only be achieved by allowing polygyny without its current conditions<sup>22</sup>. Pro-polygyny respondents repeatedly

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<sup>22</sup> The conditions as set by the 2008 amendment.

explained their worry regarding the plight of women who would be divorced or left unmarried as a result of the restrictions being placed on the practice of polygyny. They believed that limiting polygyny would only be detrimental to women and leave them without any rights, as women in Kurdistan are not as financially independent as women in the West. The advocates for the prohibition of polygyny were of another perception. They believed the rights of women were neglected and ignored by the abuse of the polygyny law, as mentioned by Rehman, when he points to the fact that the Quranic verse allegedly allowing polygyny is used as an unrestricted license to practice polygyny (Rehman, 2010: 246). The anti-polygyny respondents used this argument to say that since the right to polygyny has the potential of being abused, it should be abolished. This, of course, leads to an important question: what are the alternatives to polygyny? This is where we find the respondents to show the widest gap between different views. While the anti-polygyny respondents spoke of an overall change in the mentality and socio-economy of the Iraqi Kurdistan region, the pro-polygyny respondents referred to the immediate relief of today's situation in order to improve the situation of women. The respondents who were pro-polygyny believed that, without polygyny, women would suffer not only mentally but also financially, and the price paid for the limiting of polygyny would not only be paid by women but also by their children. Often respondents mentioned the fate of children born out of wedlock. They would have no rights and no claim to their father's capital or future inheritance.

The respondents who were against polygyny argued for a more thorough change in Kurdish society. While they perceived deficiencies in the Iraqi Kurdish socio-economic situation, they held unwaveringly to the belief that there are ways to improve the plight of women without having to restore to polygyny. Informants expressing these thoughts often mentioned that prohibiting polygyny and supporting divorce are ways in which the Kurdish society can be convinced that it is time for a change. Anti-polygyny respondents also shared a habit of looking far into the future. They realize and acknowledge that the financial and social situation for today's women in society is very bad in many respects, but nonetheless wish to push forth changes not familiar for society; changes that they hope can contribute to a new way of seeing women's place in society.

What both anti-polygyny and Islamist respondents have in common, however, is their dissatisfaction with the 2008 amendment of the polygyny law. Their mutual dissatisfaction is caused by two different understandings of what is right and what is best for society and, despite having very different beliefs; they are united in their unhappiness with the outcome of

the amendment. Among the two respondent groups, there are Members of Parliament who participated in the amendment of the Personal Status Law. They argued in Parliament based on their view of polygyny and endured criticism from their non-MP likeminded co-activists for their failure to get the conviction of their “group” legislated. Since the law regulating polygyny is in a state of limbo, as the practice of polygyny is only allowed with severe restriction, no side is really satisfied or feels they have gained the right to decide what is best for women in the KRG.

Leaving the legislation around polygyny open for interpretation is perhaps an intentional strategy pursued by some politicians. Following a heated debate, the final result is ambiguous as to whether it leans towards the Islamists or the secularists’ preference. However dissatisfied with the outcome of the amendment that either side may be, both groups also indicate that they are happy with the legislation and see it as a small victory for themselves and look forward to further moving the legislation in their preferred direction. This indicates that both sides wish to “own” the current legislation, each in their own way. The Islamists’ goal was to make sure polygyny was not prohibited, while the goal of secular activists was to prohibit polygyny altogether. For the time being, the current limitations have put anti-polygyny activists closer to this goal than ever before in the history of Iraq. Both sides have obviously not given up on wanting to be responsible for Kurdish women or wanting to act as their voice. They are not letting go of the notion of “knowing what is best for the women of Kurdistan”. This thesis was not attempt to find out who “really” speaks for women in the KRG, nor does it claim that these two fractions are the only ones present in the Kurdistan Region. It merely attempts to show these two significant parts of a much larger picture, a picture being drawn by women and for women. During this process there is a fight for power as well as a fight to improve the situation of women, and these groups are very willing to dedicate their professional and personal lives to this fight.

## **Appendix:**

### **Names of respondents and organizations**

All names of respondents have been anonymized in addition to one organization.

#### **Jinan<sup>23</sup>**

Sara - General director for the organization Jinan. The organization works on different projects all aiming at combating violence against women and about raising awareness on issues regarding women.

### **Respondents from WADI**

WADI is an organization that works to inform on and combat female genital mutilation (FGM) among other women related issues (wadi-online 2011 URL, stopfgmkurdistan 2011 URL).

Pary - Working at WADI and Women Law Center (WOLA) Pary is a lawyer

Juwan - Also a lawyer working for WADI and WOLA

Jamila - Social worker working in WADI's campaign against FGM

Chnoor - Journalist working for WADI

### **Respondents from Islamic Sisters Union (ISU) in Erbil**

Kurdistan Islamic Sisters Union is a women's organization belonging to the political party Kurdistan Islamic Union (KIU), also known as *Yekgirtu* in Kurdish. In this paper the Kurdistan Islamic Sisters Union will be shortened to ISU. On the ISU website it is stated that they are an independent organization (Khushkan 2009 URL), however it is known throughout the Kurdistan region that they are run by the KIU. It is also a fact they presented to the author during the interviews. Their claim of independence may refer to the fact that they are non-governmental.

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<sup>23</sup> The name of the organization has been anonymized.

## **Respondents from Islamic Sisters Union (ISU) in Suleimaniyah**

Jala - Member of Parliament from 2005-2009

Hanar - Member of Parliament from 2005-2009

Shawbo - Working for the organization

Evin - General secretary of the Organization and English professor at Suleimaniyah University. Evin also participated in an individual interview

Rukhosh - Active within the organization

Ziba - Lawyer and member of the organization. Ziba also participated in an individual interview.

Najwa - Active within the organization

## **Member of Parliament**

Hero - MP from 2005-2009 and reelected for another four years from 2009-2013

Shara - MP from 2005-2009, switched parties to join the opposition party and is sitting in parliament for them 2009-2013

## **Politician**

Dilan - Member of Kurdistan Communist Party and known women's rights advocate. She was a Member of Parliament during 2005-2009

## **Halabja coffee shop**

The women from the coffee shop in Halabja are not mentioned by name as the discussion after the lecture by the WADI employees was limited

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