The Nature and Effects of Stipulating Justice in Polygamy (Verse ۳ of Surah al-Nisā')

Abstract

According to verse ۳ of Surah *al-Nisā'*, a man can have more than one wife, provided that he can maintain justice among his wives. Some Shi'a and Sunni commentators and jurists consider the aforementioned condition to be advisory. In their view, stipulating justice for polygamy highlights the consequences of polygamy and the problems arising from it. According to this view, a man who, despite fearing injustice, proceeds to take another wife has not committed a sin, and his marriage is valid. In contrast to the aforementioned view, some commentators and jurists consider the apparent meaning of the verse to express the suspension of the legal permissibility of polygamy on the condition of justice, and consider it to be mandatory. The result of this theory is the religious prohibition of remarriage and punishment in the hereafter. Some have also considered the invalidity of the second marriage as probable. The current article evaluates the arguments of the aforementioned theories using a descriptive and analytical method and concludes that considering the condition of justice as advisory is contrary to the apparent meaning of the verse, contrary to the principle of mandatories, and the meaning of some narrations.

Keywords: Polygamy, Advisory Nature of the Condition of Justice, Mandatory Nature of the Justice Condition, Consequential Effect of the Condition of Justice.

Introduction

The conditional legitimacy of polygamy is based on the Holy Quran. In the third verse of Surah *al-Nisā'*, regarding the issue, it is stated:

"And if you fear that you will not deal justly with the orphans, and then marry those that please you of [other] women, two or three or four; but if you fear that you will not be just, then [marry only] one... That is more suitable that you may not incline [from the right course]."

In addition, verse ١٢٩ of the same Surah also relates to polygamy. In this verse, men who have more than one wife are addressed as follows:

"And you will never be able to be fair between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging..."

Contrary to the belief of some religious modernists (Abū Zayd, ١٩٩٩ AD: ٢٨٧-٢٩٣), there is no contradiction between the aforementioned verses. According to what is stated in the narrations, the meaning of "Justice" in the third verse of Surah *al-Nisā'* is "Maintenance" (*Nafaqah*), and in the ١٢٩th verse of the same Surah, it is "Affection" (*Mawaddat*) (Kulaynī, ١٩٨٦ AD/١٣٦٥ SH: ٥, ٣٦٢). In other words, the meaning of justice in the first verse is "Legal Justice," and in the second verse, it refers to the fair distribution of emotions, feelings, and heartfelt affection among wives (Shobayri Zanjani, ٢٠٠٠ AD/١٤١٩ AH: ١, ١٦).

Despite the consensus among Muslim scholars (from commentators to jurists) regarding the permissibility of polygamy, they differ in their interpretation of the third verse of Surah *al-Nisā'* and its related jurisprudential rulings. The author has elaborated on different approaches to the issue of polygamy in the Quran and the challenges associated with them in writing (Hedayatniya, ٢٠١٧ AD/١٣٩٦ SH: ٦٧-٩٨). The purpose of the current article is to clarify other issues related to it, namely, the advisory or mandatory nature of the condition of justice in the ruling on polygamy and its jurisprudential implications. There is also no consensus

regarding these issues: some Shi'a and Sunni commentators and jurists consider the condition of justice in polygamy to be advisory. In their view, conditioning the permissibility of polygamy on justice is a moral recommendation and an expression of the consequences of polygamy and the problems arising from it. From this perspective, it is not the case that remarriage is forbidden and entails eschatological punishment if there is fear or inability to act justly, and consequently, the marriage that has taken place is valid. In contrast to this view, some commentators and jurists consider the ruling in the verse to be mandatory. In their view, the apparent meaning of the verse indicates the suspension of the legal permissibility of polygamy on the condition of justice. According to this theory, remarriage without the aforementioned condition is religiously forbidden and entails eschatological punishment. Furthermore, some scholars have considered the invalidity of the second marriage in the aforementioned case to be probable. Polygamy is one of the prevalent issues in Islamic societies, and for this reason, research on the aforementioned issues is necessary.

Numerous studies have been published on polygamy, including: "Examining and Critiquing the Theories of Commentators in Explaining the Relationship Between the Condition and the Consequence of the Third Verse of Surah *al-Nisā'*" (Soltani Renani, ٢٠١٩ AD/١٣٩٨ SH: ٢٢١-٢٤٦); "Clarifying and Examining the Scope of the Appearance and Implication of the Verse Permitting Polygamy" (Sadeghzadeh Tabatabaei, ٢٠١٣ AD/١٣٩٢ SH: ٤٦-٦٣); "The Position of the Rule of No Harm in the Issue of Polygamy with Emphasis on a Comparative Study of the Five Schools of Thought." (Ghasemifar et al., ٢٠٢٣ AD/١٤٠٢ SH: ٢٦٣-٢٨٥)

"A Critical Inquiry into the Ruling on Polygamy" (Dehghani et al., ٢٠٢١ AD/١٤٠٠ SH: ١٥١-١٧٧); "A Re-examination and Analytical Study of the Implication of Verse ٣ of Surah *al-Nisā'* on the Principle of Monogamy or Polygamy" (Khani et al., ٢٠١٩ AD/١٣٩٩ SH: ٤٩-٧٠) and so on. Furthermore, numerous studies exist

regarding the definition and criteria for distinguishing between advisory (*Irshādī*) and mandatory (*Mawlawī*) rulings, including: "A Reflection on the Meanings of Advisory Ruling" (Marvasti, ٢٠٢٢ AD/١٤٠١ SH: ٣٠٩-٣٣٤); "A New Perspective on Mandatory and Advisory Rulings and its Methodological Outcome" (Arab Salehi, ٢٠١٣ AD/١٣٩٣ SH: ٧١-٩٠); and so on. None of the aforementioned articles have addressed the questions raised in the opening lines of this paper, and as far as the investigation has revealed, the current research problem lacks precedent.

In order to examine the aforementioned questions, the discussions in this paper are organized into three sections. The first section explains the definition and criteria for distinguishing between advisory and mandatory rulings. The second section of the paper examines the advisory or mandatory nature of the condition of justice in polygamy. And in the final section, the obligatory and declaratory effects of the condition of justice in polygamy will be clarified.

١. Definition and Criteria for Distinguishing Advisory and Mandatory Rulings

In this section, first, the definition of advisory and mandatory rulings will be presented, and then the criteria for distinguishing them will be explained.

١,١. Definition of Mandatory and Advisory Rulings

Uṣūl scholars (experts in the principles of jurisprudence) divide commands and prohibitions into mandatory (*Mawlawī*) and advisory (*Irshādī*) based on the source of their issuance. Consequently, rulings are also divided into mandatory and advisory. Numerous definitions have been mentioned for these two terms, the citation and critique of which are beyond the scope of the current paper (cf. Kargariyan, ٢٠٢٢ AD/١٤٠١ AH: ٣٠٩-٣٣٤). In the well-known definition, a mandatory command is issued by the Sacred Lawgiver (Shari'a) from the

perspective of a "*Mawlā*," with the intention of motivating the obligated party (*Mukallaf*) to perform the commanded act (*Ma'mūrun bihī*), and reward is associated with its performance. In fact, in complying with a mandatory command, there are two benefits for the obligated party: One is the realization of the benefit present in the commanded act, and the other is the enjoyment of its reward in the hereafter. Disagreement with mandatory commands also has two consequences: One is the harm of performing the intended act, and the other is its otherworldly punishment. In contrast, an advisory command refers to a command that is issued by the Lawgiver solely with the motivation of guiding the obligated party to the benefit present in the act.

Advisory commands are issued by the Lawgiver (Shari') as an advisor or guide. Therefore, no afterlife punishment is incurred for disobeying advisory commands, and it has no effect other than realizing its detriment. An advisory command is like a doctor's order. If the patient follows it, they recover; if they disobey, their illness worsens or they die. However, there is no reward or punishment for it (cf. Anṣārī, ٢٠٠٧ AD/١٤٢٨ AH: ٢, ١٥١; Jazāyerī, ١٩٩٤ AD/١٤١٥ AH: ٥, ٣٠٦; Hosseini Firoozabadi, ٢٠٢١ AD/١٤٠٠ SH: ٤, ٨٤).

١,٢. Criteria for Distinguishing Between *Mawlawī* and *Irshādī* Rulings

Distinguishing between *Mawlawī* (obligatory) and *Irshādī* (advisory) commands and prohibitions is an important Uṣūlī (principles of jurisprudence) issue in deriving Sharia rulings. Therefore, criteria or yardsticks have been mentioned for it. In this section, two important criteria are discussed:

A) Commands and Prohibitions Related to Worldly Matters

The most important criterion for distinguishing between *Irshādī* and *Mawlawī* rulings is their connection to this world or the hereafter. If the Lawgiver's

command or prohibition is solely regarding worldly matters, the resulting ruling is *Irshādī*; if it relates to matters of the hereafter, it is *Mawlawī*. For this reason, acts of worship are generally *Mawlawī*, while rulings concerning transactions may be *Irshādī*. Many scholars of *Uṣūl* and *Fiqh* have explicitly stated or alluded to this criterion. As some jurists have written, what is understood from the words of the companions is that *Irshādī*, in the technical sense, indicates something that is more worthy and appropriate for the servant in worldly matters (Najafī, ١٩٨٣ AD/١٤٠٤ AH: ٢٩, ٣٩٦). This view can be observed in numerous sources (Majlisī I, ١٩٨٥ AD/١٤٠٦ AH: ١٤, ٢٧٨; Fāḍil Hindī, ١٩٩٥ AD/١٤١٦ AH: ٧, ٥٢١). Based on this principle, narrations regarding the necessity of concealing words that are difficult for non-Shias to understand are interpreted as *Irshādī* because these types of narrations were issued to protect the lives of Shias and prevent their suffering, and they relate to worldly matters (Majlisī I, ١٩٩٣ AD/١٤١٤ AH: ١, ٢١١).

Also, narrations prohibiting ablution (wudu) with water heated under the sun are advisory (*Irshādī*) because it causes vitiligo (ibid: ١٩٩٣ AD/١٤١٤ AH: ١, ٢٧٨).

Furthermore, narrations concerning the etiquette of cleanliness, bathing, and brushing teeth are interpreted as guidance (*Irshād*) and carry no reward or punishment, as they pertain to worldly benefits and harms (Majlisī, ١٩٨٥ AD/١٤٠٦ AH: ١, ١٥٠). According to some jurists, all prohibitions that are based on bodily harm or worldly corruption are considered advisory (*Irshādī*) (Mohaghegh Rashti, ١٨٩٤ AD/١٣١١ AH: ١٢٢).

B) Commands and Prohibitions Related to Rational Matters

One of the criteria presented for distinguishing between advisory (*Irshādī*) and obligatory (*Mawlawī*) rulings is the rationality of the issue. Wherever reason fully comprehends the benefits and harms in the chain of causes for rulings (such as the goodness of justice and the ugliness of oppression), it has an independent ruling. If

a ruling also comes from the Sharia, it should be considered an advisory (*Irshādī*) ruling. This is because with the existence of a rational ruling, there is no room for an obligatory (*Mawlawī*) ruling from the Lawgiver (cf. Arab Salehi, ٢٠١٣ AD/١٣٩٣ SH: ٧٧). Similarly, if reason understands the consequences of a ruling and arrives at a judgment, and a ruling is also issued by the Lawgiver in the same area, this ruling will be advisory (*Irshādī*) (ibid: ٧٩).

٢. The Advisory or Obligatory Nature of the Condition of Justice

In the third verse of Surah *al-Nisā'*, the ruling on polygamy is conditioned on justice. If a man fears that he will not be able to maintain justice among his wives, he should suffice with one wife: "...But if you fear that you will not be able to deal justly [with them], then [marry] only one..." The question now is whether the ruling to suffice with one wife in the aforementioned sentence is an advisory (*Irshādī*) or obligatory (*Mawlawī*) ruling. Some commentators, referring to the issue, have considered the advisory (*Irshādī*) or obligatory (*Mawlawī*) nature of the condition of justice as probable (Shirazi, ٢٠٢١ AD/١٤٠٠ SH: ١, ٤٤١-٤٤٢); however, they have not mentioned any reason for these probabilities. In the following discussions, we will examine and evaluate these probabilities:

٢,١. The Advisory Nature of the Condition of Justice

A) Arguments for Considering the Condition of Justice as Advisory

Some commentators have considered the condition of justice in polygamy as a moral and advisory (*Irshādī*) obligation and have written: Scholars have affirmed the validity of the marriage contract in all circumstances, and they have not ruled the contract invalid in cases where it is discovered that the husband is unable to provide fair maintenance.

Perhaps this is because the latter part of the noble verse, namely the phrase "*Dhālika Adnā allā Ta'ūlū*," implies that the condition of observing justice is advisory and a counsel, not a legal religious ruling. This is because engaging in polygamy with fear of not being just exposes a person to religious problems in marital relationships and creates economic difficulties for him (Faḍlullāh, ١٩٩٨ AD/١٤١٩ AH: ٧, ٦٢). We will discuss the first part of the argument regarding the validity of the marriage contract despite the non-observance of the condition of justice later. However, regarding the second part of the argument, we must say:

The advisory nature of the condition of justice is based on the fact that the verb "*Ta'ūlū*" in the final part of the noble verse is derived from the root "'*Āla-Ya'ūlu*," which is a hollow verb (*Ajwaf*) with "*Yā'*" as the middle letter, meaning poverty and destitution or having dependents. As Shafi'i interpreted the phrase (*allā Ta'ūlū*) as "*Allā Takthar 'Iyālikum*" (do not increase your dependents), and *Zamakhsharī,* justifying Shafi'i's statement, said: "'*Āla-Ya'ūlu*" means paying the cost of living, and those who are providers (with dependents) inevitably have to pay a heavy cost (cf. Zamakhshari, ١٩٨٦ AD/١٤٠٧ AH: ١, ٤٦٨).

If the verb "*Ta'ūlū*" means neediness or having dependents, then the ruling related to it, which is limiting oneself to one wife, will be advisory. This is because, as previously mentioned, advisory rulings pertain to the worldly consequences and repercussions of human actions. Furthermore, the final sentence of the noble verse also explains the wisdom behind limiting oneself to one wife, which is having many dependents and being unable to meet their needs.

These matters are worldly problems of polygamy, and according to the principle previously stated, these types of rulings are advisory. A similar issue is the Quranic command of arbitration in verse ٣٥ of Surah *al-Nisā'*. In this verse, it states: "And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they desire reconciliation, Allah will cause it between

them. Indeed, Allah is ever Knowing and Acquainted [with all things]." According to some jurists, the disagreement between spouses and the fear of discord is a worldly matter, and therefore, the ruling on appointing an arbitrator is also advisory (Fāḍil Hindī, ١٩٩٥ AD/١٤١٦ AH: ٧, ٥٢١).

B) Objections to Considering the Condition of Justice as Advisory

As mentioned in section one, some commentators consider the condition of justice in the verse under discussion to be advisory and have presented arguments for their claim. As will be explained below, several objections are raised against this view:

١) Linguistic Objection: As stated, considering the ruling mentioned in the verse as advisory is based on the assumption that the final sentence means being burdened with dependents or being needy. However, this interpretation has a linguistic problem. Linguistically, the word "*ʿĀl*" is derived from the root "*ʿAyl*," which is hollow-Yā' (containing a "Yā'" as the middle radical) and means poverty and destitution. In contrast, in the verse under consideration, it is derived from the root "*ʿAwl*," which is hollow-*Wāw* (containing a "*Wāw*" as the middle radical) and means injustice; because its present tense form is "*Taʿūlū*." Therefore, "(*Allā Taʿūlū*)" means "(*Allā Tajūrū*)" and "(*Allā Taẓlimū*)" (Ibn Manẓūr, ١٩٩٣ AD/١٤١٤ AH: ١١, ٤٨١; Zabīdī, ١٩٩٣ AD/١٤١٤ AH: ١٥, ٥٢٧). Of course, this root (hollow-*Wāw*) has also been used to mean "Having Dependents"; however, the preferred word in this sense is "*Aʿāl, Yuʿīl*." Furthermore, the verb "*Taʿūlū*" does not mean having dependents; because the word "*Muʿīl*" is from the form *Ifʿāl* (*Aʿāl, Yuʿīl*).

٢) Interpretive Objection: The aforementioned interpretations are not consistent with the context of the noble verse; because the focus of the verse is on observing equity and justice and avoiding injustice in marrying orphans and multiple wives. Therefore, if the end of the verse is about poverty and wealth, it is not consistent with the context of the verse (Jawadi Amoli, ٢٠١٨ AD/١٣٩٨ SH: ٢٧١-٢٧٢). Thus, it seems that the majority view is correct and the verb "*Taʿūlū*" means oppression and injustice, and as a result, the ruling derived from the noble verse is also mandatory.

٢,٢. The Mandatory Nature of the Condition of Justice

Another possibility regarding the nature of the condition of justice in the permissibility of polygamy is that the ruling is of the type of mandatory rulings. In the discussions of this section, the supporting arguments for this possibility will be explained.

A) The Primary Presumption of the Mandatory Nature of Religious Commands and Prohibitions

Although some scholars of principles of jurisprudence (*Uṣūl*) and jurisprudence (*Fiqh*) have considered the requirement of the primary presumption in divine commands and prohibitions to be advisory (Muhaghegh Rashti, n.d.:١, ٢٦٧), according to the belief of the majority of them, in case of doubt about the mandatory or advisory nature of religious commands and prohibitions, the primary presumption is that they are mandatory.[١]

In other words, the principle is that the Lawgiver (Shari') is in a position of legislation and authority. Given this, to prove the authoritative (*Mawlawī*) nature of the condition of justice in polygamy, there is no need to present evidence; rather,

---

١. (https://www.eshia.ir/feqh/archive/text/arafi/tarbiat/٧٧/٧٧٠٩٠٩).

the issue is the reverse, and those who consider it advisory (*Irshādī*) must provide evidence. However, the arguments for this view have already been examined, and its problems explained.

B) Evidence of the Authoritative Nature of the Condition of Justice in Verse ٣ of Surah *al-Nisā'*

Apparently, the ruling to suffice with one wife in the event of fear of injustice is authoritative. The final sentence of the verse in question, "...*Dhālika Adnā Allā Ta'ūlū*," is the wisdom behind the legislation of the aforementioned ruling and supports its authoritative nature. Most Shi'a commentators consider the verb "*Ta'ūlū*" to be an *Ajwaf Wāwī*, derived from the root "*'Awl*." This verb means "*Māla*" and "*Jāra*," and it signifies deviation from justice or oppression (cf. Shaykh Ṭūsī, n.d.: ٣, ١٠٨; Ṭabrisī, ١٩٥٢ AD/١٣٧٢ AH: ٣, ٨; Rāwandī, ١٩٨٤ AD/١٤٠٥ AH: ٢, ١٠٠; Ṭabāṭabā'ī, ٢٠١٠ AD/١٣٩٠ SH: ٤, ١٦٩; Jawadi Amoli, ٢٠١٨ AD/١٣٩٨ SH: ١٧, ٢٧١). Most Sunni commentators have also chosen this interpretation (cf. Fakhr Rāzī, ١٩٩٩ AD/١٤٢٠ AH: ٩, ٤٨٩). According to this interpretation, the meaning is that marrying only one wife is closer to ensuring that you do not deviate from justice and do not transgress upon the rights of women (Ṭabāṭabā'ī, ٢٠١٠ AD/١٣٩٠ SH: ٤, ١٦٩). It is clear that oppressing women and transgressing upon their rights is religiously forbidden (*Ḥarām*) and entails punishment in the hereafter. Consequently, the ruling mentioned in the verse in question is authoritative (*Mawlawī*).

It might be said that the final sentence of the noble verse is an advisory (*Irshād*) pointing to something in which there is benefit for the servant (of God). However, it must be remembered that advisory (*Irshād*) here is in its general sense, and most religious rulings are advisory in this sense, and this does not contradict the religious prohibition of the act and its punishment in the hereafter. Whereas, the

meaning of the ruling being advisory in the specific sense refers to the worldly consequences of actions, for example, its benefits and harms for the servant (*Mukallaf*) (Najafi, ١٩٨٣ AD/١٤٠٤ AH: ٢٩, ٣٩٦). In reality, whenever the criterion mentioned in the evidence for a ruling indicates the benefits and harms of the obligated person (*Mukallaf*), the ruling is advisory; whereas, in the issue under discussion, the criterion mentioned pertains to the rights of others. Consequently, the ruling is authoritative.

٣. The Obligatory (*Taklīfī*) and Legal (*Waḍ'ī*) Effects of the Condition of Justice

According to Sharia law, rulings are divided into obligatory and declaratory based on their relationship to the actions of the legally competent individual (*Mukallaf*). According to some jurists, an obligatory commandment is a Sharia enactment that relates directly and without intermediary to the actions of servants (Nā'īnī, ١٩٨٣ AD/١٤٠٤ AH: ٤, ١٧٥). Obligatory (*Wājib*), recommended (*Mustaḥab*), forbidden (*Ḥarām*), reprehensible (*Makrūh*), and permissible (*Mubāḥ*) are the five categories of obligatory rulings (cf. Ḥakīm, ١٩٩٧ AD/١٤١٨ AH: ٥٨). The other type of Sharia ruling is a declaratory commandment, which refers to a Sharia enactment that does not involve instigation or restraint and does not relate directly to the actions of servants (Nā'īnī, ibid.). Examples include validity and invalidity, purity and impurity, etc.

The issue under consideration in this section is the jurisprudential effects of stipulating justice in polygamy in terms of obligatory and declaratory rulings. Specifically, our question is whether it is obligatory to be content with one wife when fearing injustice to them, and if so, is the marriage valid or invalid? Accordingly, it is necessary to pursue the discussions in this section in two parts:

٣،١. The Obligatory Effect of Stipulating Justice

As mentioned, the question is whether it is obligatory to be content with one wife when fearing injustice to wives. If so, violating this ruling is a sin and entails punishment in the hereafter. Some commentators have written about this issue: Multiple wives are certainly forbidden with the fear of not being just (Rashīd Riḍā, ١٩٩٣ AD/١٤١٤ AH: ٤, ٣٥٠). Others have written: The condition that exists in Islam for polygamy is that a Muslim man must be confident in implementing justice between his wives, and it is forbidden for someone who does not have such confidence to take more than one wife (Qarḍāwī, ١٩٨٨ AD/١٤٠٩ AH: ٢٩٦).

From the statements of some commentators, it appears that being content with one wife in the aforementioned case is a moral ruling. As they have written: The last part of the verse, namely the phrase "That is more suitable that you may not incline [from justice]," implies that the condition of observing justice has an advisory and exhortative aspect, not that it is a legal Sharia ruling; because engaging in polygamy with the fear of not being just exposes a person to problems in marital relations and creates economic problems for him (Faḍlullāh, ١٩٩٨ AD/١٤١٩ AH: ٧, ٦٢). Based on the aforementioned view, observing justice between wives is not a Sharia obligation, and consequently, failure to observe it will not entail punishment in the hereafter. For the reasons mentioned below, the aforementioned argument is flawed:

١) It was previously mentioned in detail that the condition of justice has an advisory aspect if the verb "*Ta'ūlū*" in the final part of the noble verse means neediness (*Taftaqirū*) or having a large family (*Takthirū 'Īyālakum*). However, these possibilities are linguistically weak and do not align with the context of the verse. The majority of Imami and Sunni commentators have interpreted the verb to mean injustice to women and transgression against

their rights, and as mentioned, the ruling in the noble verse is prescriptive (*Mawlawī*).

٢) There is no necessary connection between a ruling being advisory and the negation of its obligatory nature. It is possible for something to be advisory and, at the same time, be emphasized by the sacred law and be a religious obligation. To clarify this point, an example is necessary. It is narrated from Imam *Ṣādiq* (AS) that he said: It is not appropriate for a Muslim woman to be naked in front of a Jewish or Christian woman, because they will describe what they have seen to their husbands:

"It is not appropriate for a woman to be uncovered in front of a Jewish or Christian woman, because they will describe that to their husbands." (Kulaynī, ١٩٤٣ AD/١٣٦٣ AH: ٥, ٥١٩)

According to some jurists, the verb "*Lā Yanbaghī*" (it is not appropriate) at the beginning of the narration means "*Lā Yajūz*" (it is not permissible) and is evidence of "Prohibition" (*Taḥrīm*); however, in this narration, a rationale is mentioned that does not qualify for prohibition or even dislike (*Karāhat*), and that is the phrase "*Li Annahunna Yaṣifna*" (because they will describe). This sentence indicates that the mentioned ruling is an ethical advisory (Khu'ī, ١٩٩٧ AD/١٤١٨ AH: ٣٢, ٣٠). This view has been criticized by some others, who have written about it:

"For what reason, if something has an ethical aspect, can it not have a prescriptive (*Mawlawī*) ruling? Reason is one of the four proofs, and according to the law of concomitance, the judgment of reason reveals a prescriptive (*Mawlawī*) religious ruling; because the rulings of the Sharia are subject to benefits and harms, and when reason perceives the ugliness of something, for example, it considers injustice ugly, then a ruling of religious prohibition also arises. It should not be said that because there is a rational judgment for the ugliness of injustice, then

injustice does not have religious sanctity, and similarly with regard to harm, which reason considers ugly. Therefore, the advisory nature of a ruling from the side of reason should not be taken to mean the negation of a religious ruling. Rather, a religious ruling is concomitant with it." (Shobeiri, n.d.: ١, ٣١٥)

A distinction must be made between rational commandments that are part of a chain of cause and effect. In cases where the judgment of reason is in the chain of causes of rulings, such as the judgment of the ugliness of oppression, a authoritative ruling is discovered from that judgment, and guidance and reason do not contradict the *Mawlawī* commandment (ibid.: ٣١٦).

In our discussion, namely the shared condition of justice in polygamy, the issue is similar. Justice among wives is not something that can be reduced to moral precepts or advisory commands, thereby negating its obligation. In the third verse of Surah *al-Nisā'* (chapter ٤ of the Quran), instead of "If you know," the expression "If you fear" is used to convey the importance of the matter and to eliminate the possibility of oppression and encroachment on the rights of women in general.

٣،٢. The Consequential Effect of Stipulating Justice

According to a group of commentators, disregarding the condition of justice in remarriage does not affect the validity of the concluded contract. In the discussions of this section, we will first evaluate the aforementioned view and then examine the evidence supporting the consequential effect of the said condition.

A) Denying the Consequential Effect of Stipulating Justice

According to a group of jurists and commentators, violating the condition of justice in polygamy has no consequential effect. As some have written, the fear of not being just does not lead to the legal prohibition of marriage and its invalidity

(Shirazi, ٢٠٢١ AD/١٤٠٠ SH: ١, ٤٤١-٤٤٢). In their view, if someone proceeds with multiple marriages despite fearing the implementation of justice and the possibility of violating the rights of wives, his marriage is valid. This is because the ruling on polygamy is absolute, and the condition of justice is independent of it. Some Shi'a jurists, in response to the objection of the contradiction between the third verse of Surah *al-Nisā'* and verse ١٢٩ of the same Surah, which was raised in the words of *Ibn Abil 'Ujā'* with *Hishām ibn Ḥakam* (Kulaynī: ٥, ٣٦٢-٣٦٣), have responded as follows: The clearest answer to this claim is that the obligation of justice is not a jurisprudential condition for the validity of marriage; rather, it is an independent religious commandment that applies to individuals with multiple wives (Ṣadr, ١٩٩٩ AD/١٤٢٠ AH: ٦, ١٦٢).

Among those who have commented on this issue is *Shaykh Muhammad 'Abduh*.

"...And if you fear that you will not deal justly with the orphans, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one... That is more suitable that you may not incline [from justice]."

In his interpretive discussions regarding the verse pertaining to polygamy, he presents an analysis that can be summarized as follows: The permissibility of polygamy in Islam is a restricted matter accompanied by severe limitations; it seems permissible only in necessary cases, for individuals in need, on the condition of establishing justice and ensuring safety from oppression. If a thinker were to contemplate the consequences of polygamy in our time, he would be certain that no one can raise a community in which polygamy has become widespread, because a household with two wives sharing one husband is not well-ordered. Polygamy had benefits in the early days of Islam, but this is not the case today, and its harms are numerous, causing animosity and discord between wives and children (cf. Rashīd Riḍā, ١٩٩٣ AD/١٤١٤ AH: ٤, ٣٤٩ and ٣٥٠). He then continues: When, over

time, the benefits of something are lost and its harms take their place, there is no doubt that its ruling must be changed, and another ruling must take its place according to the times. This is because the principle dictates that averting harm takes precedence over attracting benefit, and polygamy is certainly forbidden when there is fear of harm (ibid.: ۳۵۰). *'Abduh* then concludes with these premises: From the prohibition of polygamy in the case of fear of unjust treatment between wives, one should not conclude that such a marriage is invalid; because the prohibition is an incidental matter and does not necessitate the invalidity of the contract (ibid.).

The aforementioned reasoning appears flawed and is not consistent with the apparent meaning of the third verse of Surah *al-Nisā'*. To explain the weakness of the reasoning, it must be noted that in the text of the aforementioned verse, two different verbs are mentioned for the ruling of the necessity of limiting oneself to one wife; one is "*Ta'dilū*" and the other is "*Ta'ūlū*." The Quran's statement in the aforementioned verse is as follows:

"...And if you fear that you will not deal justly with the orphans, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one... That is more suitable that you may not incline [from justice]."

Regarding the difference between the two verbs "*Ta'dilū*" and "*Ta'ūlū*," it should be said that, according to some interpretations previously mentioned, the second verb expresses the consequence of polygamy, while the first verb expresses the condition for the ruling of monogamy. It is clear that with the absence of the condition, the conditioned is also negated. This argument is supported by the opening sentence of the aforementioned verse, which states: "And if you fear that you will not deal justly with the orphans, then marry those that please you of [other] women." From this statement, it can be inferred that if there is a fear of

injustice towards orphans, marriage with them is not permissible. By the same reasoning, if there is a fear of injustice towards wives, limiting oneself to one wife will be obligatory. Consequently, the permissibility of polygamy is conditional upon acting justly, and considering the legitimacy of polygamy as absolute does not seem correct.

B) Establishing the Legal Effect of the Condition of Justice

Another possibility in this matter is that violating the condition has a legal effect. Consequently, if a person, despite fearing the inability to administer justice, chooses to marry another wife, in addition to the religious prohibition, his second marriage will be invalid (Jazīrī, ١٩٨١ AD/١٣٦٠ SH: ٣٨٨). Some contemporary scholars have written: It is not unlikely that one can infer from this verse that if someone fears that he will not be able to administer justice and then proceeds to remarry, his second marriage is invalid. This is because, in reality, polygamy in this verse is contingent upon the absence of fear of administering justice, and if there is a fear of not administering justice, it is commanded to be content with one wife (Mehrpour, ١٩٩٦ AD/١٣٧٥ SH: ٧٣). There are reasons that can be mentioned for this theory, which will be explained below.

١) The first reason for the constitutive effect of the condition of justice is the apparent meaning of the noble verse. In the third verse of Surah *al-Nisā'*, two rulings are mentioned, both of which are conditional upon equity and justice. The relevant sentences, in the order they appear in the noble verse, are as follows: "And if you fear that you will not deal justly with the orphans, and then marry those that please you of [other] women, two or three or four."

According to some commentators, "Orphans" refers to orphan girls (Makarem Shirazi, ١٩٩٢ AD/١٣٧١ SH: ٣, ٢٥٢), and according to the apparent meaning of the verse, marriage to them is conditional upon not transgressing their rights; otherwise, marriage to them is not permissible. This is because, as it has been said, with the absence of the condition, the conditioned also ceases to exist: "al-Mashrūṭ ʻAdam ʻInda ʻAdam Sharṭih" [The conditioned is non-existent when its condition is non-existent] (Shahīd Thānī, ١٩٨٩ AD/١٤١٠ AH: ٦, ١٨٣).

In the continuation of the first part of the aforementioned verse, regarding the issue of polygamy, it states:

"But if you fear that you will not be just, then [marry only] one or what your right hand possesses. That is more suitable that you may not incline [from justice]."

As some scholars have stated, the condition of justice for polygamy in this part of the verse apparently indicates that this condition is a legal condition for the validity and enforceability of the contract (Faḍlullāh, ١٩٩٨ AD/١٤١٩ AH: ٧, ٦٢). Although the aforementioned commentator attributes to other scholars the denial of the constitutive effect of the condition, his expression is such that it seems he does not agree with them.

٢) It appears from some narrations that opposition to divine rulings invalidates marriage. Among them is the narration of *Zurārah* from Imam *Bāqir* (AS) regarding a slave who married without the permission of his master, and after consummating the marriage, the master became aware of it. The Imam (AS) said: The decision in this matter is in the hands of his master. If he wishes, he can ratify it, and if he wishes, he can separate them. *Zurārah* says: I said to the Imam (AS): *Ḥakam ibn ʻUtaybah* and Ibrahim *Nakhaʻī* - from the jurists of the Ahl al-Sunnah - and their companions say: The origin

of this marriage is invalid, and the master's permission cannot rectify it. The Imam (AS) said:

"He has not disobeyed God, but only his master; so if his master permits it, it is permissible for him." (Kulaynī, ١٩٤٣ AD/١٣٦٣ AH: ٥, ٤٧٨) This slave has not disobeyed God, but only his master. Therefore, when the master permits and is satisfied, this marriage will be valid.

The aforementioned narration is considered weak (Allamah Majlisī, ١٩٨٣ AD/١٤٠٤ AH: ٢٠, ٢٧٤; ibid.: ١٩٨٥ AD/١٤٠٦ AH: ١٢, ٢١٩); however, another narration with the same meaning has been reported (Kulaynī, ibid.) which hadith scholars have described as "Good" (Allamah Majlisī, ١٩٨٣ AD/١٤٠٤ AH: ٢٠, ٢٧٥; ibid.: ١٩٨٥ AD/١٤٠٦ AH: ١٢, ٢٢٠). From the above narrations, it is understood that prohibition in a marriage contract leads to its invalidity. This is because the Imam, in explaining the reason for the validity of the marriage, stated: He did not disobey God, but disobeyed his master. That is, the marriage contract took place in the manner prescribed by the Sacred Law; therefore, his contract is valid. The implication of this sentence is that if he had disobeyed God and performed the contract without its legal conditions, his marriage would be void (Fazel Lankarani, ٢٠٠٢ AD/١٣٨١ SH: ٥, ٤٩٨). Some scholars of jurisprudence have used the aforementioned narration to prove that prohibition implies invalidity in contracts and unilateral acts (cf. Khu'ī, ١٩٨٩ AD/١٤١٠ AH: ٥, ٢٩). Therefore, it is not the case that a religious prohibition in contracts and unilateral acts never leads to invalidity.

٣) It may be said that there is no necessary connection between the obligatory ruling of prohibition and the declaratory ruling of invalidity. This may be true in individual rulings, because individual rulings have the aspect of the right of God, and acting against them is forbidden, and God will hold them

accountable. However, in social obligations where a benefit is assumed for others, sufficing with the obligatory ruling and negating the declaratory ruling entails the violation of a right and injustice to someone for whom a right is established. Some jurists, using the aforementioned reasoning, have inferred the divorce by the judge from verse ٢٢٩ of Surah *al-Baqarah*. According to this verse, a man must either keep his wife in a good manner or release her with kindness: "Either retain [her] according to acceptable terms or release [her] with good treatment." A group of jurists, in the case of the husband's refusal or inability to provide maintenance, have given the wife the right to refer to the judge and request a divorce from him. In this case, the judge compels the husband to divorce, and if he does not comply with the court's ruling, the court will proceed with the divorce (Khu'ī: ٢, ٢٨٩; Tabrizi: ٢, ٣٦١; Vahid Khorasani: ٣, ٣٢٧; Sistani: ٣, ١٠٨). In justifying how the right to request a divorce for the wife is inferred from the mandatory ruling of "Releasing with kindness" in the aforementioned verse, some have written: Although the meaning of the noble verse is a mandatory ruling, divorce is a constitutive ruling; however, in mandatory rulings where a benefit for others is assumed, custom infers the right of the other party from it (Araki, ١٩٩٨ AD/١٤١٩ AH: ٣٠٩).

To explain the reasoning, it should be noted that in the above example, the mandatory ruling of divorce for the husband alone is not sufficient to establish social order. This is because the husband may refuse to divorce his wife due to affection for her. Therefore, we must accept the wife's right to seek justice and judicial divorce. The same reasoning can be applied to the condition of justice between wives and the permissibility of polygamy. Therefore, it appears that justice is a necessary condition for the validity and effectiveness of the marriage

contract. This is because God Almighty did not permit polygamy in a state of fear of injustice.

٣،٣. The Requirement of the Principle of Precaution in Matters of Procreation (Furūj)

Despite the foregoing, the principle of precaution in matters of procreation requires adopting a path other than validating the marriage that has taken place or invalidating it. A number of jurists have emphasized this principle and used it as a basis for reasoning in marriage rulings (cf. Najafī, ١٩٨٣ AD/١٤٠٤ AH: ٣٢, ٢٨٦; Iṣfahānī, ١٩٩٥ AD/١٤١٦ AH: ٧, ١١٦; Mūsawī Bujnūrdī, ١٩٩٨ AD/١٤١٩ AH: ٤, ٣٣٥; Karakī, ١٩٨٧ AD/١٤٠٨ AH: ٨, ١١٨). Some have explicitly stated the fame of the aforementioned principle (Ṭabāṭabā'ī Ḥakīm, ١٩٨٣ AD/١٤٠٤ AH: ١٤, ٢٢٣). The most important reason for the principle of precaution in matters of procreation is the numerous narrations that have been specifically reported regarding it. The author of *Wasā'il* has dedicated a chapter to this issue and mentioned the narrations related to it (Ḥurr ʿĀmili, ١٩٨٨ AD/١٤٠٩ AH: ٢٠, ٢٥٨-٢٥٩).

Validating a marriage that has taken place despite the man's fear or inability to adopt fair behavior with his wives is contrary to the principle of precaution in matters of procreation. This is because, as explained, the apparent meaning of the noble verse is that the condition of justice is a requirement and the conditioned is negated in the absence of the condition. Also, invalidating a marriage that has taken place in the aforementioned case is also contrary to the principle of precaution. This is because it is not unlikely that the condition of justice is advisory or, despite being a requirement, lacks a constitutive effect.

Based on what was mentioned, if the first wife is dissatisfied with her husband taking another wife, the judge can compel him to divorce the second wife. Some

jurists, regarding the condition of abstaining from marriage, have adhered to this method and written: The apparent meaning of the evidence for the necessity of fulfilling conditions is the invalidity of the second marriage. However, this legal consequence is not commonly understood from the text. Furthermore, if there is doubt about the invalidity of the marriage, the principle dictates that it is not invalid. He then writes, in support of the second possibility: Compelling the husband to divorce the second wife is the right of the beneficiary of the condition (Shirazi, ١٩٨٨ AD/١٤٠٩ AH: ٦٧, ٦٩).

Conclusion

The investigations in this paper regarding the advisory or mandatory nature of the condition of justice in polygamy have revealed that the arguments for considering the aforementioned commandment as advisory are flawed, and it can be confidently stated that the ruling is mandatory. Consequently, marrying more than one wife is forbidden for someone who fears or knows that he cannot maintain justice among his wives, and it entails eschatological punishment.

Although many commentators and jurists from both Shia and Sunni scholars do not attribute a legal consequence to the condition of justice in polygamy, no evidence has been presented for this claim. Considering the principle of the mandatory nature of religious commandments, the context of the verse under discussion, and the content of some narrations, the invalidity of the second marriage is probable if the husband is unable to act justly among his wives. Nevertheless, the principle of caution in marriage dictates that one should refrain from invalidating the second marriage, and upon the wife's request and verification of the husband's inability to act justly, the court should compel him to divorce the second wife.

Sources

Holy Quran

Abū Zayd, N. H. (١٩٩٩). *Circles of Fear (A Reading in the Discourse of Women).* Lebanon: Arab Cultural Center.

Anṣārī, M. (٢٠٠٧ AD/١٤٢٨ AH). *Farā'id al-Uṣūl*. Qom: N.n.

Arākī, M. A. (١٩٩٨ AD/١٤١٩ AH). *al-Nikāḥ*. Qom: Nournegar Publications.

Dehghani, M; Sadeghpour, M. J. (٢٠٢١ AD/١٤٠٠ SH). "A Critical Inquiry into the Commandment of Polygamy." *Journal of Fiqh*. Vol. ٢٨, no. ١٠٧, pp. ١٥١-١٧٧.

Ḥakīm, S. M. T. (١٩٩٧ AD/١٤١٨ AH). *al-Uṣūl al-'Āmmah lil Fiqh al-Muqārin.* ٢nd Ed. Qom: The Ahl al-Bayt (AS World Assembly.

Hosseini Firouzabadi, M. (١٩٧٩ AD/١٤٠٠ AH). *'Ināyat al-Uṣūl fī Sharḥ Kifāyat al-Uṣūl.* ٤th Ed. Qom: N.n.

Ḥurr 'Āmilī, M. (١٩٨٨ AD/١٤٠٩ AH). *Wasā'il al-Shia.* ١st Ed. Qom: Al al-Bayt Institute (AS).

Ibn Manẓūr, M. (١٩٩٣ AD/١٤١٤ AH). *Lisān al-'Arab*. Beirut: Dar al-Fikr for Printing, Publishing and Distribution - Dar Sader.

Iṣfahānī, M. (١٩٩٥ AD/١٤١٦ AH). *Kashf al-Lithām.* Qom: Islamic Publications Office.

Jazāyirī, M. J. (١٩٩٤ AD/١٤١٥ AH). *Muntahal Dirāyah fī Tawḍīḥ al-Kifāyah.* ٤th Ed. Qom: N.n.

Jazīrī, A. R. (١٩٤٠ AD/١٣٦٠ AH). "Polygamy in Sunnah." *Majallat al-Azhar*. No. ٩.

Javadi Amoli, A. (٢٠١٨ AD/١٣٩٨ SH). *Tafsir Tasnim.* ٦th Ed. Qom: Isra Publishing Center.

Khani, M. R; Hesami, F; Oshrieh, R. (٢٠١٩ AD/١٣٩٩ SH). "An Analytical Re-examination of the Implication of Verse ٣ of Surah al-Nisā' on the Principle of "Monogamy" or "Polygamy"." *Journal of Quranic Researches*. Vol. ٢٥, no. ٢, pp. ٤٩-٧٠.

Khu'ī, S. A. M. (١٩٩٧ AD/١٤١٨ AH). *Encyclopedia of Imam Khu'ī*. Qom: Imam Khoei Revival Institute.

Khu'ī, S. A. M. (١٩٨٩ AD/١٤١٠ AH). *Lectures in Principles of Jurisprudence*. (Fayyaz, M. I. Writer). Qom: Ansariyan.

Khu'ī, S. A. M. (١٩٨٩ AD/١٤١٠ AH). *Minhāj al-Ṣāliḥīn*. Qom: Madinat al-'Ilm, Ayatollah al-Ozma Khoei.

Rashīd Riḍā, M. (١٩٩٣ AD/ ١٤١٤ AH). *Tafsir al-Qur'an al-Ḥakīm al-Shahīr bi Tafsir al-Manār*. Beirut: Dar al-Ma'rifah.

Soltani Ranani, M. (٢٠١٨ AD/١٣٩٨ SH). "A Review and Critique of Commentators' Theories on the Relationship between the Condition and Consequence in Verse ٣ of Surah al-Nisa." *Journal of Researches in Comparative Interpretation*. Vol. ٥, no. ١٠, pp. ٢٢١-٢٤٦.

Tabrīzī, J. (٢٠٠٥ AD/١٤٢٦ AH). *Minhāj al-Ṣāliḥīn*. ١st Ed. Qom: Imam al-Mahdi (AS) Complex.

Zamakhsharī, M. (١٩٨٦ AD/١٤٠٧ AH). *al-Kashshāf 'an Ḥaqā'iq Ghawāmiḍ al-Tanzīl wa 'Uyun al-Aqāwīl fī Wujūh al-Ta'wīl*. ٣rd Ed. Beirut: Dar al-Kitab al-Arabi.

Zabīdī, M. (١٩٩٣ AD/١٤١٤ AH). *Tāj al-'Arūs min Jawāhir al-Qāmūs*. Beirut: Dar al-Fikr for Printing, Publishing and Distribution.

Sistani, S. A. H. (١٩٩٥ AD/١٤١٦ AH). *Minhāj al-Ṣāliḥīn*. Qom: Office of Ayatollah Sistani.

Shubayri Zanjani, M. (n.d.). *Kitāb al-Nikāḥ (Book of Marriage)*. Qom: Raypardaz Research Institute.

Shahīd Thānī, Z. (١٩٨٩ AD/١٤١٠ AH). *al-Rawḍa al-Bahīyya fī Sharḥ al-Lum'a al-Dimashqīyya*. Qom: Maktabat al-Davari.

Shirazi, S. M. (١٩٨٨ AD/١٤٠٩ AH). *al-Fiqh: Mawsu'a Istidlālīyya fī al-Fiqh al-Islami*. Volume ٦٧. ٢nd Ed. Beirut: Dar al-'Ilm.

Shirazi, S. M. (١٩٧٩ AD/١٤٠٠ AH). *Tafsir Taqrīb al-Quran ilā al-Adhhān*. Beirut: Dar al-Wafa.

Sadeghzadeh Tabatabaei, S. M. (٢٠١٢ AD/١٣٩٢ SH). "Explanation and Examination of the Scope of Appearance and Significance of the Verse Permitting Polygamy." *Journal of Jurisprudence and Principles*. Pp. ٤٦-٦٣.

Ṣadr, S. M. (١٩٩٩ AD/١٤٢٠ AH). *Māwarā' al-Fiqh*. Beirut: Dar al-Adwa' li al-Tiba'a wa al-Nashr wa al-Tawzi'.

Ṭabāṭabā'ī, M. H. (٢٠١٠ AD/١٣٩٠ AH). *al-Mīzān fī Tafsir al-Quran*. Beirut: Mu'assasat al-A'lami li al-Matbu'at.

Ṭabāṭabā'ī Ḥakīm, S. M. (١٩٨٣ AD/١٤٠٤ AH). *Mustamsak al-'Urwa al-Wuthqā*. Qom: Mar'ashi Najafi Library.

Ṭabrisī, F. (١٩٥٢ AD/١٣٧٢ AH). *Majma' al-Bayān fī Tafsir al-Quran*. Tehran: Naser Khosrow.

Ṭūsī, M. (n.d.). *al-Tibyān fī Tafsir al-Quran*. Beirut: Dar Ihya' al-Turath al-'Arabi.

Arab Salehi, M. (٢٠١٣ AD/١٣٩٣ SH). "A New Look at Mawlawī and Irshādī and Its Methodological Outcome." *Islamic Studies: Jurisprudence and Principles*. Vol. ٤٦, no. ٩٩, pp. ٧١-٩٠.

Allamah Majlisī, M. B. (١٩٨٤ AD/١٤٠٤ AH). *Mir'āt al-'Uqūl fī Sharḥ Akhbār Āl al-Rasūl*. Tehran: Dar al-Kutub al-Islamiyya.

Allamah Majlisī, M. B. (١٩٨٦ AD/١٤٠٦ AH). *Malādh al-Akhyār fī Fahm Tahdhīb al-Akhbār*. Qom: Ayatollah Mar'ashi Library.

Fazel Lankarani, M. (٢٠٠٢ AD/١٣٨١ SH). *Principles of Shi'a Jurisprudence*. Qom: Center for Shia Imams Jurisprudence.

Fazel Hindi, M. (١٩٩٥ AD/١٤١٦ AH). *Kashf al-Lithām 'an Qawā'id al-Aḥkām*. Qom: Mu'assasat al-Nashr al-Islami.

Fakhr Rāzī, M. (١٩٩٩ AD/١٤٢٠ AH). *al-Tafsir al-Kabīr (Mafātīḥ al-Ghayb)*. Beirut: Dar Ihya al-Turath al-Arabi.

Faḍlullāh, M. H. (٢٠٠٠ AD/١٤١٩ AH). *Min WaḥY al-Qur'an*. Beirut: Dar al-Malak.

Qasemifar, A; Razmi, M; Fouladiyan, A. (٢٠٢٣ AD/١٤٠٢ SH). "The Position of the Rule of *Lā Ḍarar* in the Issue of Polygamy with Emphasis on a Comparative Study of the Five Schools of Thought." *Ta'ali Hoghoogh Journal*. Vol. ١٤, no. ٣, pp. ٢٦٣-٢٨٥.

Qarḍāwī, Y. (١٩٨٨ AD/١٤٠٩ AH). *al-Ḥalāl wal Ḥarām fil Islam*. (Javaheri, M. H. Ed). Tehran: Islamic Propaganda Organization Publications.

Quṭb Rāwandī, S. (١٩٨٤ AD/١٤٠٥ AH). *Fiqh al-Qur'an*. Qom: Public Library of Ayatollah al-Uzma Mar'ashi Najafi.

Kargariyan Marvasti, M. (٢٠٢٢ AD/١٤٠١ SH). "A Reflection on the Meanings of Irshadi Commandment." *Islamic Law Studies and Foundations of Law*. Vol. ١٦, no. ٤٥, pp. ٣٠٩-٣٣٤.

Karakī, A. (١٩٨٧ AD/١٤٠٨ AH). *Jāmi' al-Maqāṣid fī Sharḥ al-Qawā'id*. Qom: Mu'assasat Al al-Bayt li Ihya al-Turath.

Kulaynī, M. (١٩٤٣ AD/١٣٦٣ AH). *al-Kāfī*. Tehran: Dar al-Kutub al-Islamiyya.

Majlisī I, M. (١٩٨٥ AD/١٤٠٦ AH). *Rawḍat al-Muttaqīn fī Sharḥ Man Lā Yaḥḍuruhū al-Faqīh*. Iran: Kooshanpour Islamic Culture Foundation.

Majlisī I, M. (١٩٩٣ AD/١٤١٤ AH). *Lawāmi‘ Ṣāḥibqarānī al-Mushtahir bi Sharḥ al-Faqīh*. Qom: Isma'iliyan.

Muḥaqqiq Rashtī, H. A. (١٨٩٠ AD/١٣١١ AH). *Kitāb al-Ijārah*. N.p.: N.n.

Muḥaqqiq Rashtī, H. A. (n.d.). *Badā'i' al-Afkār*. Qom: Mu'assasat Al al-Bayt (AS) li Ihya al-Turath.

Makarem Shirazi, N. (١٩٩٢ AD/١٣٧١ SH). *Tafsir Nemooneh*. Tehran: Dar al-Kutub al-Islamiyya.

Mehrpour, H. (١٩٩٥ AD/١٣٧٤ SH). "Two Short Discussions on Polygamy." *Journal of Legal Research*. Nos.١٦-١٧, pp. ٦٧-٧٨.

Mūsawī Bujnūrdī, S. M. H. (١٩٩٨ AD/١٤١٩ AH). *al-Qawā'id al-Fiqhīyya*. (Mohrizi, M; Derayati, M. H. Res). Qom: Nashr al-Hadi.

Nā'īnī, M. H. (١٩٨٣ AD/١٤٠٤ AH). *Fawā'id al-Uṣūl*. (Kazemi, K. Rec). Qom: Mu'assasat al-Nashr al-Islami.

Najafī, M. H. (١٩٨٣ AD/١٤٠٤ AH). *Jawāhir al-Kalām fī Sharḥ Sharā'i' al-Islam*. ٧th Ed. Beirut: Dar Ihya al-Turath al-Arabi.

Vahid Khorasani, H. (٢٠٠٧ AD/١٤٢٨ AH). *Minhāj al-Ṣāliḥīn*. Qom: Imam Baqir School (AS).