

Bahais say that their law teaches monogamy, yet the Kitab-e Aqdas allows two wives. A glance at the law in the Bayan may help to explain -- and also point to a way for Bahai family law to incorporate sperm and egg donation and surrogate motherhood as solutions to infertility.

From: Sen McGlinn
To: Bahai_Community@yahoogroups.com
Subject: Food for Brian's thoughts...
Date sent: Thu, 30 Nov 2006 23:53:17 +0100

The law allowing a man to have two wives (and in fact, vice versa, as is explained in the Bayan) still stands: it is in the Aqdas, and no-one can change that until the next Manifestation. There is a tablet from 'Abdu'l-Baha (cited below) in which he expressly says that he has not changed it.

The brief mention in the Aqdas refers to wahid 8 section 14 of the Persian Bayan, which says (translating from the French):

"If a man or woman proves incapable of having a child, it is legitimate for the spouse who is not infertile (whichever it may be) to marry again after having obtained the permission of the other party, but not without his/her permission [the Persian pronoun u applies to men or women] and the purpose is that a child be born of this spouse, male or female.

... In this world, the most exalted of the fruits that God has given humanity, after Faith in Himself, the Letters of Unity and in what has been revealed in the Bayan, is to gather [in the sense of harvest?] the fruits of his (bodily) existence so after his death, the man leaves a fruit which will mention him with praise. This (having children) has been ordained in the Bayan, in the most proper and most precise way. (What has been ordained) on this point is that if any incapacity (to produce) is found in one of the two spouses, the other spouse should marry in another ceremony with the permission of his spouse, so that a fruit of his existence may be manifest ..."

So far as I know, this law has not been abrogated. Many laws that are stated briefly in the Aqdas are detailed in the Bayan, and in many cases one has to have the Bayan on hand to understand what the Aqdas

is saying, because the Aqdas is so telegraphic. The general principle is that "The Bayan hath been superseded by the Kitab-i- Aqdas, except in respect of such laws as have been confirmed and mentioned in the Kitab- i-Aqdas." (Aqdas, note 108) but that a brief mention is taken as implying the whole of the previous law -- as in the case of the Aqdas' very brief mention of the forbidden degrees of marriage. So the Baha'i law does allow a second husband or wife, in the specific circumstance of infertility, and with the permission of the other partner, and by means of another ceremony.

This makes anonymous artificial insemination impossible, but it might be used as a basis for contractual artificial insemination, surrogate motherhood etc.. : it would be up to the UHJ and/or the National Spiritual Assembly to work out the details, in relation to national laws.

I think the reference to "another ceremony" means that this would be a different sort of marriage, but I would need to do more research to be confident of that. You would expect it to be a marriage for a fixed period, or until a child is conceived, but Bahai law does not always turn out as one would expect ...

Nevertheless, it is clear from the Aqdas text what both God would *want* us to do (under normal circumstances) -- we should marry one only, and accept childlessness if that is what comes to us. So there is a distinction between the law and the Will of God: the laws are the expression of the Will, but not its complete expression. The law changes from one cycle to another (thus the Baha'i law allows a second partner under specific circumstances) but the Will of God is the unchanging order of things, and in that unchanging order, monogamy is the norm. And as disciples of Baha'u'llah we seek to act in accordance with the Will.

Here are some of the relevant texts on bigamy:

"God hath prescribed matrimony unto you. Beware that ye take not unto yourselves more wives than two. Whoso contenteth himself with a single partner from among the maidservants of God, both he and she shall live in tranquillity." [Aqdas, K 63]

"You asked about polygamy. According to the text (nass) of the Divine Book the right of having two wives is lawful and legal (ja'iz). This was never (abadan) prohibited, but it is legitimate and allowed (halal

wa mubah). You should therefore not be unhappy, but take justice into your consideration so that you may be as just as possible. what has been said was that since justice is very difficult (to achieve), therefore tranquility (calls for) one wife. But in your case, you should not be unhappy." ['Abdu'l-Baha, cited in Amr wa Khalq 4: 174]

And the confirmation of bigamy seems to be still more clearly formulated in yet another passage:

"Concerning bigamy, this has been promulgated, and cannot be abrogated (mansuus ast, nasikhi nadarad). 'Abdu'l Baha has not abrogated this law. This is something from the tongues of the companions. But I say He [is that Baha'u'llah, or Muhammad?] has made bigamy subject to the precondition of justice. As long as someone does not attain certitude regarding the capability to practice justice and his heart is not at rest that he can practice justice, he should not be intent upon a second marriage. But if he should be sure and attain certitude that he would practice justice on all levels (and conditions) (dar jami' i maratib), then a second marriage is lawful. Just as has been the case in the Holy Land : the Baha'i friends wished to marry a second wife, accepting this precondition, and this servant (i.e., 'Abdu'l Baha) never abstained (from giving permission), but insisted that justice should be considered, and justice actually means here self restraint (daraji i imtina'); but they said, that they will practice justice and wished to marry a second wife. Such false accusations (concerning 'Abdu'l Baha's prohibition of bigamy) are the slanderous whisperings (zamazmih) of those who wish to spread doubts (in people's hearts) and to what degree they already succeed in making matters ambiguous! (Our) purpose was to state that bigamy without justice is not lawful and that justice is very difficult (to achieve)." [Amr wa Khalq 4: 174f]

Against this, there is a tablet cited in the Aqdas, note 89, in which 'Abdu'l-Baha says that polygamy is not permitted under the law of God. It may be that 'the law of God' here is the Will of the Manifestation as distinct from the laws of the Aqdas, but I think it more likely that this tablet was written for a Muslim and is talking about Islamic law, not Baha'i law. The law that made having up to four wives dependent on justice was in the Quran, 4:3:

"And if ye fear that ye will not deal fairly by the orphans, marry of the women, who seem good to you, two or three or four; and if ye fear that ye cannot do justice (to so many) then one (only) ..."

To which 'Abdu'l-Baha says

"In the Quran the word has been revealed "and if ye fear that ye cannot do justice (to so many) then one (only)...", indicating that in the presence of God the acceptable judgement is monogamy." [Amr wa Khalq 174- 5].

The two tablets I've cited that begin "Concerning bigamy, this has been promulgated, and no one must abrogate it ..." and "You asked about polygamy. According to the text (nass) of the Divine Book the right of having two wives is lawful ..." both clearly imply there has been some sort of misunderstanding, that people have thought that 'Abdu'l-Baha had changed the Aqdas law permitting bigamy and wrote to ask him about that, and he is writing back to correct that misunderstanding. Perhaps the tablet cited in note 89 was the cause of the misunderstanding. He proves that he has not cancelled the Aqdas text by reference to his own practice: "this servant never abstained (from giving permission)." Since he is the Perfect Exemplar, that also indicates what our attitude should be to childless couples who might want to avail themselves of this law.