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INTEGRATION, MIGRATION,
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AFTER THE ENTRY INTO FORCE
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POLYGAMOUS FAMILY RELATIONS AND PUBLIC ORDER

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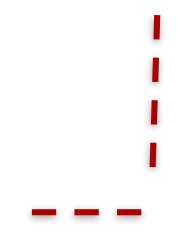
Associazione Avvocati
Matrimonialisti Italiani
Sezione Distrettuale di Firenze



FONDAZIONE
DE GASPERI

Globalization

Multiculturalism



POLYGAMY

Recognition of the validity of polygamous marriages performed abroad



PUBLIC POLICY

in view of historical, social and cultural development

LOGICAL PREMISES:

- Polygamuos marriage ≠ Polygamous family
- Pluralism in family patterns
- Reconsideration of marriage as a 'private act', under worthiness control

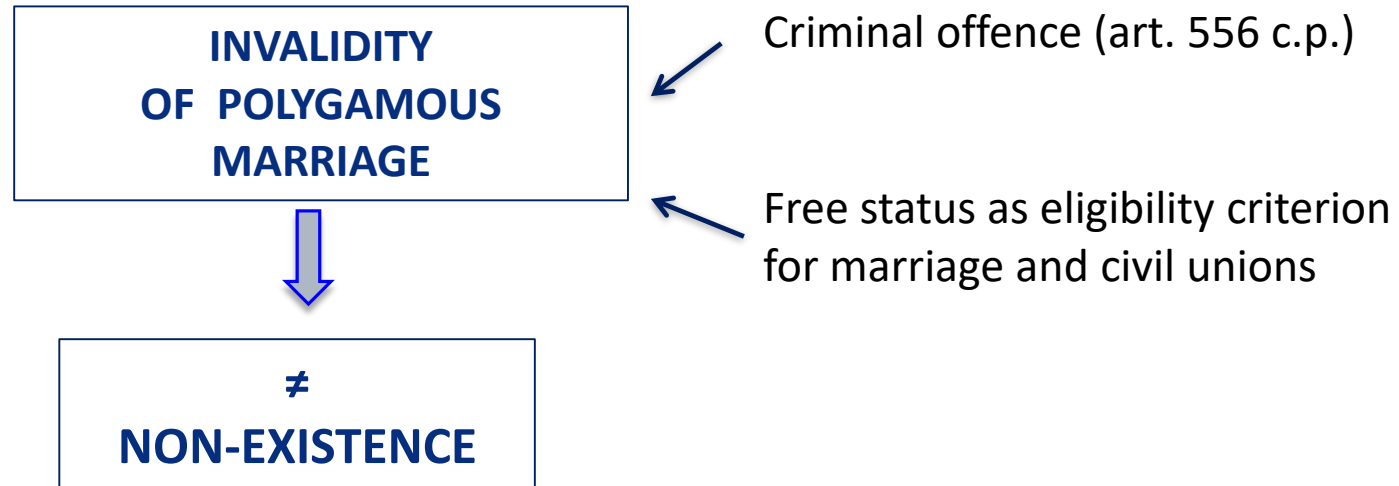
Legal relevance of family
as 'social group'
(art. 2 cost.)



Control of conformity with public policy is about **reasonable balancing** among fundamental principles

→ Polygamous family could be worthy of protection, if intended to contribute to physical and mental development of each member

- **POLYGAMOUS FAMILY INVALIDITY AND EXISTENCE**



(Limited) effects:

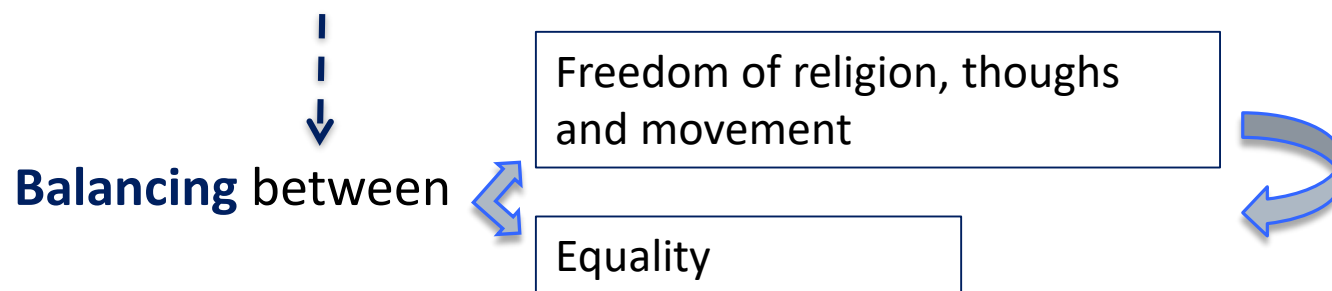
- Criminal relevance of polygamous marriage
- Filiation protection
- Succession (*i.e.* putative marriage)

↓

De facto polygamous family
could be worthy of protection

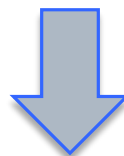
BUT

Generalised suspicion of violation of equal
dignity of the spouses (art. 29 cost.)



Any 'social group' is worthy of protection if the
choice of being part of it is free, conscious and
coherent with each member's dignity.

Dynamic conception of
PUBLIC POLICY

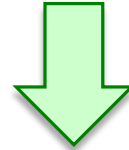


Public policy
has not a **NEGATIVE IMPACT**
(as a limit or prohibition),
but a
PROACTIVE ROLE
(as a purpose to be achieved)

- **LEGAL RELEVANCE OF POLYGAMOUS FAMILY**

**De facto polygamous family
is not illegal itself**

Its legal relevance depends on the worthiness of protection of each member's interests, with regard to the single specific family



The application of rules provided for *'family founded on marriage'* to *'family not founded on marriage'* cannot be excluded in advance, on the bases of a blind subsumption

A CONTROL OF COMPATIBILITY AND ADEQUACY COULD LEAD TO THE APPLICATION OF RULES ON...

- a) Compensation for damage resulting from close relatives' death or injury
- a) Compensation for damage resulting from domestic offence
- a) Criminal liability for domestic abuses
- a) Family business
- a) Interdiction and Legal disability

f) Inheritance rights of partner in occupying family home and taking over the lease agreement

g) Right of meeting with prisoners

h) Survivor's pension

i) Forced heirs protection

l) Social security benefit for families

m) 'Obbligazioni naturali'

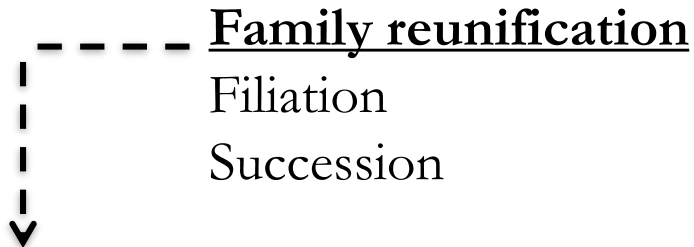
- EFFECTIVENESS OF POLYGAMPUS MARRIAGE PERFORMED ABROAD

A. Request for recognition of several marriages by a single person



Polygyny, as conceived in muslim culture, is contrary to public policy (artt. 3 and 29 cost.)

B. Polygamy as precondition for other situations



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graph TD; A[FAMILY REUNIFICATION] --> B[Art. 29, par. 1 ter, l. 15 July 2009, n. 94]; B --> C[BALANCING]; C --> D["- Territorial control  
- Stemming migratory flows"]; C --> E["- Best interest of the child  
- Cultural identity  
- Freedom in religion  
- Independent position of other spouses"]
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FAMILY REUNIFICATION

Art. 29, par. 1 *ter*, l. 15 July 2009, n. 94

BALANCING

- Territorial control
- Stemming migratory flows

- Best interest of the child
- Cultural identity
- Freedom in religion
- Independent position of other spouses

Control of worthiness of family patterns which
are extraneous to domestic traditions
in the light of **PUBLIC POLICY**

Balancing and evaluation of conformity to fundamental
principles or legislative provisions, which are indicative
of the Italian Republic
(and, as such, they may not be derogated neither by internal
provisions nor by provisions with foreign elements)

Italian Constitution protects each 'social group'
as far as it is functional
to the development of human personality