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SCHOOL OF GLOBAL STUDIES

Are polygamous marriages to be considered a human rights violation or a human rights realization in the contexts of Sweden and Tanzania?

Dissertation in Human rights, 30 higher education credits

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Abstract

This two-case study “*Are polygamous marriages to be considered a human rights violation or a human rights realization in the contexts of Sweden and Tanzania?*” focuses on whether polygamous marriages can be considered a human rights violation in line with Universalism and the violation of women’s rights, or a human rights realization in line with Cultural Relativism and cultural and religious rights, in the contexts of Sweden and Tanzania. The research consists of two components. The first is a desk review including a summative content analyses of State Reports, Concluding Observations and Shadow Reports of the latest sessions of the *Convention on the Elimination of All Forms of Discrimination against Women* (1979), the *International Convention on Economic, Social and Cultural Rights* (1976) and the *International Convention on Civil and Political Rights* (1976) for both countries to represent stake holders of women’s rights, cultural rights and religious rights. The second part of the research consists of a directed content analysis of four interviews conducted with one person working with women’s rights and one person working with cultural/religious rights in both countries. The results of the desk review show strong indications of polygamy violating women’s rights in Tanzania, and are not mentioned in relation to cultural or religious rights for any of the two countries’ reports. The results from the analyses of the interviews show the same, although with mixed components of cultural relativistic views. The conclusion focuses on the main result being that polygamous marriages are in violation of women’s rights suggesting a recommendation that polygamous marriages should not be considered a human right as long as it puts women’s universal human rights at risk.

The thesis consists of 19 746 words.

Keywords: Polygamous marriages, Universalism, Cultural Relativism, Human Rights

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Abbreviations

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

CRC - Convention on the Rights of the Child

CSO – Civil Society Organization

ICCPR - International Convention on Civil and Political Rights

ICRSCR - International Convention on Economic, Social and Cultural Rights

IÄL - Law on Certain International Legal Relationships related to Marriage and Guardianship

LMA - Law of Marriage Act

SDG - Sustainable Development Goals

UDHR - Universal Declaration of Human Rights

UN – United Nations

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1. Introduction

As the United Nation (UN) is the creator of, and the organization that monitors international law conventions, declarations, agreements and treaties signed and agreed on by almost all countries in the world, this international legal framework should be considered the ideal set of laws for any state and society to follow. The State Parties that have signed the conventions are obligated to follow the articles, and furthermore incorporate them into their national law. These human rights are universal, meaning that they are applicable to all human beings equally in addition to being indivisible—a condition that is stated in the preamble of the Universal Declaration of Human Rights (UDHR, 1948). In contradiction to the theory of Universalism, the theory of Cultural Relativism claims that no moral principles can apply to all cultures, and that cultures are relative, making human rights regarded differently in various and diverse cultures and, therefore, hard to implement in a universal way (Ishay, 2008). In this spirit, the phenomenon of polygamous marriages stands out as it is caught between these human rights theories. This in relation to women's right to not be discriminated against on the basis of gender in view of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and Universalism on one hand, versus people's right to practice their own culture and religion in the view of the *International Convention on Economic, Social and Cultural Rights* (ICESCR, 1976) and *International Convention on Civil and Political Rights* (ICCPR, 1976) and Cultural Relativism on the other hand. In the contexts of Universality and Cultural Relativism, and in the Western country of Sweden and the developing country of Tanzania, this master thesis will take on the contradictions polygamous marriages are facing in international human rights law through analyses of reports on CEDAW, ICESCR, ICCPR, as well as interviews with people who work with women's rights and people who work with cultural and religious rights.

1.1. Definition of used terms

According to the Oxford Dictionary (2017) the word *Polygamous* comes, via Latin, from the Greek word *Polugamos* that divided meant much/often (Polu) and marriage

(Gamos). Polygamy is the practice or custom of having more than one spouse, wife or husband, at the same time. According to this definition, polygamous marriages are not limited by number of spouses nor does it relate to the gender of the spouses involved. This means that polygamous marriages can be both men having more than one wife, women having more than one husband, and women and men having more than one spouse. The term simply means that a person has more than one spouse at the same time, regardless of gender (Oxford Dictionary, 2017).

Polyandry is a term that falls under polygamy, meaning that a woman is married to more than one man simultaneously. The term, according to Oxford Dictionary, refers to more (Poly) men (Andr) (Oxford Dictionary, 2017).

Polygyny is also a term that falls under polygamy that defines a man having more than one wife; more (Poly) women (Gunē) (Oxford Dictionary, 2017).

Bigamy is the offence of marrying someone who is already married. By this definition, polygamy in any form is illegal regardless of gender of the three (or more) spouses, as long as one is already married to another person (Oxford Dictionary, 2017).

In this paper *Polygamy* is sometimes used to mean *Polygyny*, i.e. the practice of men having multiple wives, for the purpose of not substituting words referred to from original documents. Because reports and laws, especially for Tanzania, often use the word *Polygamy* even where it does not include the opportunity for women to have more than one husband.

2. Research objective

This chapter will present the objective of this thesis and includes problem formulation, research questions, delimitation and scope, preconception and motivation and structure of the thesis.

2.1. Problem Formulation

According to the UN Department for Economic and Social Affairs population fact sheet on world marriage patterns, in 33 countries (25 in Africa and seven in Asia), polygamous marriages were legal or generally accepted in 2009. Additionally,

polygamy was accepted or legal for parts of the population in 41 countries. According to surveys carried out between 2000 and 2010, between 10% and 53% of women age 15-49 had co-wives (UNDESA, 2011).

Today, polygamy is often associated with men having the option of having multiple wives and not the other way around thereby limiting women's opportunities to do the same which some may find contravening gender equality.

Tanzania's supreme law, the Constitution of the United Republic of Tanzania (1977) has an article on gender equality saying:

"All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law" – Article 13 (1)

This is contradictory to the Tanzanian Law of Marriage Act section 10 (2) and 15 that allow men to have multiple wives and does not allow women to have multiple husbands (LMA, 1971). As this is a Tanzanian tradition, it is sometimes defended as a religious or cultural right.

In other countries, like Sweden, some assert that the state is not entitled to decide who or how many the individual citizen should be allowed to marry where liberalism and the right to marriage is used as an argument. This does not only apply to men having more than one wife, but also to women marrying more than one man, making the practice gender equal. The fact that the Swedish Marriage Code (1987) does not allow a person who is already married to marry someone else can for some seem like a violation of their human rights to culture or religion based on subjective reasons and motives.

Even the international laws state that everyone is entitled to practice their religion, participate in their culture, get married and not have their private life intruded upon, but they also state that women are equal to men. For me this seems both contradictory and confusing which is why I am writing this paper to try to get a better understanding of these universal human rights that are supposed to be the ultimate set of rules for all states to follow.

2.2. Research questions

The thesis main research question:

Are polygamous marriages to be considered a human rights violation or a human rights realization in the contexts of Sweden and Tanzania?

To answer the above, the question has been broken down into sub-questions which will represent two different types of research complementing each other in this thesis; one being desk review and the other, interviews.

Sub-question for desk review:

What do the country reports of CEDAW, ICCPR and ICESCR, their Concluding Observations from respective Committees and all Shadow Reports from CSOs of the last sessions of these conventions say about polygamous marriages in relation to human rights for Sweden and Tanzania?

Sub-question for interviews:

What do my two interviewees working with women's rights in Sweden (1) and Tanzania (1) say about polygamous marriages in the context of their countries?

What do my two interviewees working with cultural and religious rights in Sweden (1) and Tanzania (1) say about polygamous marriages in the context of their countries?

2.3. Delimitation and scope

In order to explain these questions this thesis will focus on data provided by the analyses of a desk review and interviewees for Sweden and Tanzania and draw conclusions and recommendations through the theories of Universalism and Cultural Relativism. It is a two-case study where the conclusion will take positions from both countries into consideration. The study focuses mainly on the research question regarding international human rights, and does for this reason not consider national laws or juridical aspects within the countries as doing so would make a different discussion.

The delimitations above were necessary due to the restricted scope of this study. More countries and more human rights, reports and interviewees with other stakeholders could have been examined, but were eliminated. Other theories, e.g. feminism, could also be explored, in addition to comparative methods between countries. The restricted time and space however limited this study to include the above delimitations, which is why I have to leave this to future research.

2.4. Preconception and motivation

My worldview, interpretations and values may have affected this thesis as for all researchers in qualitative studies, although I have tried to be as objective as possible throughout the process. As I was a fellow in a women's rights organization in Tanzania prior to this thesis I kept in mind that a big risk would be for me to carry a feminist approach in conducting the research and conclusion as there are a lot of oppression of women in Tanzania. On the other hand, being a white, blond, Scandinavian female social worker with a lot of faith in the Human Rights my main motivation for writing this thesis was related to a mixed fascination and frustration with universal human rights and the aspect of relative cultures which I prior to this master programme did not really understand. My interest in polygamous marriages is grounded in the above and the two following reasons: the first is my vision that everyone should be allowed to love however they want without the state's involvement, the second is related to a dilemma I experienced at my job at the Social Service Office in Gothenburg where I work with financial aid for unemployed adults.

In 2015, at the beginning of my studies in the master programme in Human Rights, I met with a Somali woman in my office at work. She was unemployed and pregnant. When asking her who was the father of her child she answered her husband. As spouses are obligated to economically support each other in Sweden, and the fact that her having a husband was unknown to me, I told her to register with her husband as spouses meaning they would get a common file and be treated as spouses by the system. This was a problem for the couple as the husband was already married and registered with another woman who was also the mother of his child. This other wife and child were refugees that had applied for Swedish citizenships, but had not yet come to Sweden. Would my client register as the wife of her husband, the consequence would be that the second wife would not be registered as his spouse

anymore, meaning she would not have the opportunity of getting a Swedish citizenship based on reasons of family reunion with her husband.

2.5. Structure

The structure of this thesis will start with a presentation of related research followed by information on relevant Human Rights in terms of women's rights, religious and cultural rights and the right to marriage. Following this, relevant background information about Sweden and Tanzania will be presented to provide context around the area of research. After this, an explanation of the theories, Universalism and Cultural Relativism, and a section linking the human rights and theories to polygamous marriages in Sweden and Tanzania will be presented.

The method that follows is a two-case study including Sweden and Tanzania that together will provide information for answering the research question. The method starts with a summative content analysis of Sweden and Tanzania's State Party Reports, Concluding Observations from the Committees and Shadow Reports from CSOs from the last sessions of CEDAW, ICESCR and ICCPR for both countries representing the human rights of women, culture and religion presented from the different stakeholders. Furthermore, a directed content analyses of interviews conducted with the four interviewees, two in Sweden and two in Tanzania, representing similar positions in the countries will follow. These include two people who work with women's rights and two people who work with cultural or religious rights.

Lastly, the interpretation of the findings based on Universality and Cultural Relativism will be the foundation for the conclusions and recommendations given.

3. Related Research

This chapter will present related research on polygamy in Sweden, Tanzania and research conducted on polygamous marriages and Human Rights, in addition to an explanation of why this research is relevant.

3.1. Polygamous marriages in Sweden

Recent research on polygamy and polygamous marriages in Sweden tends to include components of Islam, Sharia and foreign cultural differences as the baseline for the

polygamous marriages that exist in Swedish society today. It is often related to migration and globalization followed by people bringing their own traditions, religions and cultures to Sweden that in the case of polygamy is in contradiction with the norms of the Swedish society (Lababneh, 2014). Furthermore, this brings juridical and family related issues to the table regarding how the Swedish authorities handle cases of polygamy when the Marriage Code (1987) both makes polygamous marriages an offence and at the same time recognizes foreign marriages. This legal aspect seems to be the main angle of Swedish researchers on polygamy. According to Lababneh (2014), it has become more common for Swedish authorities to recognize foreign marriages following migration, otherwise, she says, all migrants would have to get married again when they come to Sweden. She further claims that Sweden has to accept polygamous marriages if they were entered into in a country where this is legal (Lababneh, 2014). The only principle that could dissolve a marriage by force is the *Order Public* (IÄL, 1:7 & 1:8a, lag 1904:26) meaning the marriage obviously is in conflict with the ground values of the Swedish justice system (Lind, 2016). This has however not yet come to usage on the matter of polygamy in Swedish courts. Though, according to Lababneh (2014), the principle in itself cannot resolve a polygamous marriage because polygamy does not interfere with the principal. Mideljung (2015) agrees with this and claims that Sweden should recognize polygamous marriages. He adds that if there is no obvious connection between discrimination of women and polygamous marriages this revolves around two different discussions. Lababneh (2014) goes further and claims that it is a human right for people to decide for themselves how to live their lives and which relationships to have based on free consents.

Furthermore, the Swedish media debate as of 2016 views polygamy as a subject for future discussion. Various newspapers (Svenska Dagbladet, Dagens Juridik, Forskning.se (2016)) published articles both in favor and against polygamous marriages related to an article written by Göran Lind (2016), a professor in Civil Rights at the University of Örebro. He addressed the subject describing the loophole for polygamous marriages in the Swedish law (because it recognizes foreign marriages) and suggested a resolution of marriage as a juridical contract in favor of some sort of family cooperative (Lind, 2016). He also acknowledged that a situation where three women share one man does not reflect gender equality. It violates

women's rights nationally (Marriage Code, 1987) and internationally in light of the European Convention on Human Rights (article 14, 1950), that also however contains articles involving freedom of religion (article 9) and protection of privacy and family life (article 8) and hereby does not provide a clear resolution to the matter (Lind, 2016). Furthermore, Lind discusses the monogamous Christian traditions in the pluralistic society of Sweden in relation to cultural rights, but leaves the prioritization of human rights to be answered by the legislators (Lind, 2016).

3.2. Polygamous marriages in Tanzania

Polygamous marriages in the Tanzanian context are also a sensitive topic because they are backed by religions in addition to being morally and legally accepted in communities (Diggos, 2007). The research that has been conducted carry influences from women's rights activists condemning polygamous marriages on one side and people who defend them for various reasons on the other. The discussion has different perspectives as to defending women's rights, presenting advantages of polygamous marriages and representing the aspects of religion and culture in the Tanzanian society at large. The researches that are carried out seem to have mixed results and conclusions based on the above, but what they have in common is the focus on the consequences polygamy may have for women's human rights.

Whilst some argue that polygamy in Africa is inconsistent with the human rights of women and their children by violating gender equality including the potential for different treatment of wives, women's dignity and impoverishment through potential divorce and inheritance conditions (Mubangizi, 2016), a recent study carried out in villages in Tanzania claims the title; *No evidence that polygynous marriage is a harmful cultural practice in northern Tanzania* (Lawson, 2015). These researchers concluded that polygamy could be in women's strategic interests in relation to greater access to wealth in terms of owning land and livestock, higher food security and their children having higher weight for high scores implying healthier physics. Overall the analysis found that polygyny has no negative group-level consequences on wellbeing (Lawson, 2015). Polygamy is further defended as household cooperatives with shared workload and physical safety in addition to sociobiological reasons arguing that women outnumber men in Tanzania based on the estimation that women consists of 51 percent of the population and live an average of five years longer than men. All

these positive effects are also defended by the fact women need to give their free consent, and are hereby never forced to get married (Howland, 2014).

On the other hand, a study conducted on HIV transmission in Tanzania claimed that polygamous married women had a three times higher risk of getting HIV and are more likely of getting other sexually transmitted diseases than monogamous married women (Diggos, 2007). Another conclusion drawn for Moshi region is that polygamous husbands are more likely to impose violence on their wives than monogamous husbands (McCloskey, 2005). Women's rights advocates also argue that polygamy is oppressive, emotionally damaging for women, rooted in gender inequality and brings problems concerning inheritance and divorce. They call upon the government of Tanzania to prohibit polygamy based on ratifications of UDHR (1948) and CEDAW (1979) (Howland, 2014). This is backed by Solomon (2016) who conducted a survey interviewing women living in polygamous marriages in Somalia that concluded that some psychological effects for the women included amongst other isolation, abandonment, jealousy, loneliness, stress, competitive feelings and social stigma related to number of wives (Solomon, 2016).

3.3. Polygamous marriages and Human Rights

In relation to Human Rights and international conventions, Gaffney-Rhys (2011) claims that there are no human rights instruments that actually prohibit polygamous marriages, but rather most often they provide mixed and conflicting messages on the matter (Gaffney-Rhys, 2011). The only instrument that expressly considers polygamous marriages is the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003). This African document only encourages monogamous marriages in Article 6, but also provides for equal rights for men and women in marriage (Gaffney-Rhys, 2011). Following this, internationally we see that there exist different opinions regarding polygamous marriages, women's rights and cultural rights. As we have seen above, researchers claim that polygyny in contexts such as Tanzania violates several of women's human rights. It also clashes with Western norms including various countries that prohibit bigamy, where making it an offence often raises issues concerning the legal status of immigrants (Kühn, 2017).

3.4. Relevance of research

This research on polygamous marriages in Sweden is timely relevant as we have seen within the recent media debate above which is connected with migrants coming to Sweden, although it is also relevant for Swedish people who would prefer this lifestyle. This raises the question of considering how people's relative cultures that are not included in the Swedish norm can be acknowledged and recognized. We know that migrants will continue to come to Sweden and that this will increase the need for Sweden to have a coherent answer of how to treat migrants involved in polygamous marriages. This research contributes to this debate because the Swedish law, as seen above, is contradictive in itself, and because Sweden has signed international law instruments which this thesis aims at making recommendations to.

This research is also timely relevant for Tanzania as polygamous marriages are a continuing issue for women's rights activists concerned about women's universal human rights, and for people who claims it as religious and cultural rights. As the research aims at making recommendations for international law which Tanzania is party too, the recommendations made will even include recommendations for Tanzania that hopefully will provide elements of resolution to the debate.

4. Background information

This chapter will present information on relevant human rights to provide context around the area of research being women's rights and rights concerning culture, religion and marriage. After, relevant background information on the two countries examined in this thesis, Sweden and Tanzania, will be presented to provide a broader picture of the context of the countries.

4.1. Human rights

4.1.1. Universal Declaration on Human Rights

The United Nations came into existence officially on the 24th of October 1945. Today, the United Nations has 193 Member States (UN, 2017), and over 560 multilateral Conventions are deposited with the number growing every year (UN Treaties, 2017).

In addition to the UNs nine Core Conventions of International Human Rights Instruments, one of the most known documents is the UDHR that was the first document to proclaim that fundamental human rights are to be universally protected as a common standard for all people of all nations.

On culture, the UDHR, article 27, states;

“... everyone has the right freely to participate in the cultural life of the community”.
– UDHR, article 27.

This implies that no one has the right to dominate, direct or eradicate any culture of any persons. In the context of human rights being bound to the belief that culture is important and valuable, and that lives are affected by the culture one belongs to, denying anyone their culture or heritage could be the same as denying the person's identity. In this context, the same is stated for conscience and religion. As stated in the UDHRs article 18, for individuals or in communities, private or public, there is a freedom of thought, including teaching, practice, worship and observance (UDHR, 1948).

In relation to gender in UDHR, all people are born free, equal and entitled to all human rights without discrimination on the basis of sex which is stated in the declarations second article. UDHR acknowledges that men and women are equal before the law and in marriage, which is stated as “equal” in article 7 and 16 referring to marriage not just as a “women's issue”, but as an issue of responsibilities and opportunities for both men and women in the human right to get married (UDHR, 1948).

4.1.2. The rights to Culture and Religion

A few decades after the proclamation of the UDHR, in 1976, the ICCPR entered into force and is today considered one of the nine core international human rights instruments in addition to the ICESCR of the same year. The declarations aims to ensure that the civil and political human rights, as well as economic, social, cultural human rights from the UDHR are domesticated into the law of the Member States (ICESCR & ICCPR, 1976). Especially interesting for this paper are the ICCPR's article 23 and ICESCR's article 10 about marriage in addition to ICESCR's article 15 about the right to culture and the ICCPR's article 18 about the right to religion.

“The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life...” - ICESCR, 1976, article 15.1(a).

“The steps to be taken... shall include those necessary for the conservation, the development and the diffusion of... culture.” – ICESCR, 1976, article 15.2.

The word culture includes a way of life or a *“a coherent self-contained system of values and systems that a specific cultural group reproduces over time and which provides individuals with the required signposts and meanings for behavior and social relationships in everyday life”* as Yupsanis (2012:349) puts it in his discussion of the term in article 15 of ICCPR. This “way of life” or “coherent self-contained system of values and systems” is by the Article a right for everyone to take part in, and states should take necessary steps for its conservation, development and diffusion.

As for religion, ICCPRs article 18 states that:

“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” - ICCPR, 1976 Article 18.1.

The article also mentions that limitations to the article must be proscribed by law as well as *“... necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.” - ICCPR, 1976, Article 18.3.*

4.1.3. The rights of Women

The Convention on the Elimination of Discrimination against women (CEDAW) was adopted in 1967 and stresses that discrimination against women is unjust and constitute an offence against human dignity and that women are to enjoy the same social, cultural, economic, civil and political rights as men (CEDAW, 1967, Article 1). In other words it requires the state to eradicate all discrimination of women in these areas making women equal to men (Smith, 2014).

Interesting for this paper is also Article 2(f) that states the following for the State Parties to undertake:

“To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women” – CEDAW, 1967, article 2(f).

4.1.4. The right to Marriage

As we have seen above, UDHR states the right to marriage in its Article 16 acknowledging that men and women are equal before the law in marriage.

Furthermore, marriage is mentioned in both ICESCR (Article 10) and ICCPR (Article 23), but as a right only in ICCPR which states that:

“The right of men and women of marriageable age to marry and to found a family shall be recognized.” – ICCPR, 1976, Article 23.2.

The two articles from the two conventions both stress that free and full consent are required for entering a marriage and that the family is the natural and fundamental unit of society.

CEDAW also contains an article (16) regarding marriages. It stresses that men and women have equal rights in marriage, especially in relation to the right of getting married, free choice of spouse, free and full consent, equal rights and obligations and more.

Although all four human rights instruments mention marriage as a human right and equal right none of them mentions anything specifically about marriage being a monogamous union, or who and how many people can get married to. It is hereby unclear if the Declaration and the Conventions are open towards polygamous marriages or not.

4.2. Sweden

The Scandinavian Kingdom of Sweden located in Northern Europe is documented back to year 1000. Sweden is a constitutional monarchy with parliamentary democracy (Sweden, 2017).

Sweden has an estimated population of 9.9 million as of 2016 with a population density of 24 people per square kilometer as of 2015 (WB, 2017). 23 percent of the population is below the age of 20 and about 86 percent of Swedes live in cities. The

population consists of approximately 50 percent female and 50 percent male with a population growth of 0.8 percent per annum and life expectancy for men being 79 years and 83 years for women (Sweden, 2017).

Sweden is classified as a high-income country and rates as number 14 out of the 188 countries and territories in the Human Development Index of 2015 which places it in the high human development category. In the Gender Inequality Index of 2014, Sweden ranks as number 6 out of the 155 countries included (UNDP, 2016).

In Sweden, 64 percent of the population are members of the Church, even though only 29 percent claim to be religious. Other big religions are Uniting Church, Islam, Pentecostal, Catholicism and Syrian orthodox, but statistics are unknown as it is illegal to register people's beliefs in Sweden. In total, 17 percent of the Swedish population was born outside the country which may be affected by the big amount of migrants that comes to Sweden every year (Sweden, 2017).

4.2.1. International law

Sweden has signed 15 and ratified 14 out of the 18 Core International Human Rights treaties with exceptions of the Optional Protocols of ICESCR (2013) and CRC (2014) and the Convention on Migrant Workers (2003). Sweden has also signed but not ratified the Convention to Protect People from Enforced Disappearance (2010) (OHCHR Indicators, 2017).

Some key international agreements that protect women in Sweden include principles of equality as spelled out in the UDHR (1948) and the CEDAW Convention (1979), the Beijing Platform for Action (1995) and the SDGs (2015).

Some key international agreements that protect culture and religion in Sweden include principles spelled out in ICCPR (1976) and ICESCR (1976) and the UDHR (1948).

Regionally, the Charter of Fundamental Rights of the European Union (2009) is relevant for Sweden and includes the freedom of religion, thought, conscience and belief in worship, teaching and practice of it (Article 10) and the respect of cultural, religious and linguistic diversity (Article 22) in addition to articles of equality between men and women and non-discrimination.

4.2.2. National law

Sweden is a Civil Law country with its Constitution of 1974 including four fundamental texts as the countries' supreme law. Other sources of law presented in order from second to fourth include the Statutes, Court Decisions and Legislative history (Library of Congress, 2015).

In Sweden's Constitution (1974) human rights are protected in the Instrument of Government, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression (Mänskliga rättigheter, 2017). Women's rights are specifically protected in the Instrument of Government and the Discrimination Act (2009) and 90 percent of Swedish legislative framework contains a gender analysis (CEDAW/C/SWE/CO/8-9, 2016). The only recommendations of legislative change the CEDAW Committee made in their Concluding Observations of Sweden's eighth and ninth Country Report was the need for Sweden to define discrimination against women in line with the Convention and to ensure that rape is defined by the lack of consent from the victim.

The right to culture as well as freedom of religion is protected in Sweden's Constitution (1974) through non-discrimination of groups and equality in society including public institutions to combat discrimination on the basis of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the private person (Mänskliga rättigheter, 2017).

4.2.3. Marriages

By the end of 2013, 31,4 percent of women and 31.5 percent of men in Sweden lived as registered or married couples and the number of divorce was high; about half of the number of new marriages per year (SCB, 2015). As we know from the chapter of *Previous Research* polygamy is illegal in Sweden even though Swedish newspapers, presented that there are more than 300 cases of polygamy in Sweden registered by Swedish government which is motivated by the fact that Swedish law accepts marriages contracted in foreign countries where polygamy is legal (Svenska Dagbladet, Dagens Juridik, Forskning.se (2016)). However, none of these newspapers provide a source regarding where this information came from.

It is the Marriage Code (1987) that regulates marriages in the Swedish law and states that a married person cannot enter another marriage (chapter 2. §4). The Swedish Penal Code (1962:700) further criminalizes polygamous marriages with fine or prison up to two years for both parties in the new marriage (chapter 7. §1). However, Law on Certain International Legal Relationships related to Marriage and Guardianship (1904:26) recognizes foreign marriages that were legally entered into in the state of which the persons got married (chapter 1. §7). This law means that a marriage has to be recognized by Sweden if it was entered into by citizens of a country that allows polygamous marriages, and in the country that allows it (Lind, 2016)

4.3. Tanzania

The United Republic of Tanzania which includes Mainland and the Revolutionary Republic of Zanzibar and became independent of British colonial rule in 1961. Tanzania has a multiparty democratic system (TDHS, 2015-16).

The population census last undertaken in 2012 reported a population of 44.9 million with a people projected population 50.1 million by 2016 (TDHS, 2015-16) and population density per square kilometer to 51 persons. The 2012 survey also showed that the population is predominantly rural and young with 46 percent being under the age of 15 and 26 percent under the age of five. The population is consisting of approximately 50 percent female and 50 percent male with a population growth of 2,7 percent per annum and life expectancy at birth being 62 years (TDHS, 2015-16).

The country is classified a low-income country and rates 151 out of 188 countries and territories in the Human Development Index which places it in the low human development category (UNDP, 2016). As for the Gender Inequality Index of 2014 Tanzania ranks as number 125 out of 155 countries (UNDP, 2016).

The population consists of 61.4 percent Christian, 35.2 percent Muslim, 1.8 percent folk religion, 0.2 percent other and 1.4 percent unaffiliated included in 852 registered religious societies within approximately 120 different ethnic groups (IndexMundi, 2016, UPR, 2011).

4.3.1. International law

Tanzania has signed and ratified 11 out of the 18 core international human rights treaties with exceptions of the two ICCPR Optional Protocols of 1976 and 1991, the Optional Protocol of ICESCR of 2013, the Convention on Torture with its Optional Protocol, the Optional Protocol of CRC and the Convention on Protection of Migrant Workers. Tanzania has also signed but not ratified the Convention to Protect People from Enforced Disappearance (OHCHR Indicators, 2017).

Some key international agreements that protect women's rights in Tanzania includes principles of gender equality as spelled out in the UDHR, CEDAW, the Beijing Platform for Action (1995) and the SDGs (SDG, 2015).

Some key international agreements that protect culture and religion in Tanzania include principles spelled out in ICCPR, ICESCR and UDHR. Tanzania also has laws concerning freedom of conscience, faith and choice of belief whereas everyone has the right to exercise their own religious believes (Constitution, 1977, Article 19).

Regionally Tanzania has signed key agreements e.g. the Declaration on Gender Equality in Africa (2004), the African charter on human and peoples' rights (1981), the SADC declaration on gender and development (1997) and the women's declaration and agenda for a culture of peace in Africa (1999).

4.3.2. National law

The Tanzanian legal system is based on English Common Law system with the Constitution of the United Republic of Tanzania (1977) as the countries' supreme law. Other sources of law presented in order from the second source to the fifth is; the statues or acts of the parliament, case law that derives from High Court or Court of Appeal, received laws and the Customary and Islamic laws. The Customary Law is only in effect when it's not in conflict with Statutory Law. The Islamic Law is only applicable to Muslims under the Judicature and Application of Laws Act (1920) and is empowering courts to apply this law in communities that follow Islamic Law in matters of personal status and inheritance (Nyanduga & Manning, 2006).

Tanzania's Constitution (1977) states that human rights are to be respected, that all are born free and that all are equal before the law on the basis of various personal characteristics including sex. Furthermore, the constitution stresses that no law in Tanzania shall make any provision that is discriminatory (The Constitution of Tanzania, 1977, Arts 12-13). However, according to the CEDAW Committees Concluding Observations Tanzania still has a long way to go to implement gender equality into its entire legislative framework (CEDAW/C/TZA/CO/7-8, 2016). The laws that are pointed out to be particularly discriminatory towards women, and are recommended to be amended or replaced are The Law of Marriage Act (1971), the Local Customary Law (declaration) order (1963) the Penal Code (1981), the Tanzanian Citizenship Act (1995), the Sexual Offences and Special Provisions Act (1998) and inheritance laws. These laws include amongst others discrimination against women in not making marital rape an offence, being silent on domestic violence and corporal punishment, containing different minimum ages for women and men to get married, in addition discrimination in inheritance rights and legalization of polygamy for Muslim men. The Committee also criticized the Constitution as well as Customary and Religious Laws and recommended them to be harmonized with Statutory Law and in alignment with CEDAW (CEDAW/C/TZA/CO/7-8, 2016).

4.3.3. Marriages

In Tanzania, 62 percent of women and 52 percent of men are in a marital union whereas 18 percent of the married women have co-wives and 9 percent of married men have more than one wife (TDHS, 2015-16). The number of polygynous marriages had decreased from 21 percent in 2010 to 18 percent in 2015-16 for women and from 10 percent to 9 percent for men. Furthermore, older women show more likelihood of having co-wives than younger women and women in rural areas are almost twice as likely to be in polygynous marriages than those in urban areas. Educational indicators related to polygamy show that less educated and poor women are more likely to have co-wives. Similar to women, men with less education in low wealth income households show more likelihood of having more than one wife (TDHS, 2015-16).

Polygamy is recognized by the Law of Marriage Act (1971) as the union in which the husband may marry another woman or women (Section 9: (3)). The marriages are, or

are intended to be monogamous or polygamous or potentially polygamous (Section 10 (1)). Section 10: (2) further elaborates that Customary and Islamic marriages are assumed to be polygamous and others are assumed to be monogamous, unless there exists a contract saying otherwise. Polygamy is here intended as polygyny because section 152 penalizes polyandry.

5. Theory

This chapter will present the human rights theories used in this thesis, Universalism and Cultural Relativism, in addition to a discussion linking the theories of human rights to the area of research, polygamous marriages in Sweden and Tanzania.

5.1. Universalism and Cultural Relativism

Universalism is a human rights theory that explains that all human rights are inalienable, indivisible, interdependent and interrelated (UNFPA, 2005). This is based on the content of UDHR (1948) but includes all human rights instruments.

Human rights are universal because “*All human beings are born free and equal in dignity and rights.*” - UDHR, 1948, Article 1.

This includes that all people possess the same rights regardless of

“... *race, skin colour, sex, language, religion, political or other status, nationality or social background, property*” - UDHR, 1948, Article 2.

The human rights are also inalienable because they can never be taken away from anyone. According to Universalism human rights are also indivisible and interdependent because all rights are equal in importance and none can be fully enjoyed without the rest. This means that political, civil, social, economic and cultural rights cannot be positioned in a hierarchal order because the denial of one right will compromise another (UNFPA, 2005). Universalism also includes that all rights are to be interpreted in the same way all over the world and are guaranteed by the state.

Human rights belong together as a set of ground rules of rights that can be enjoyed by all people everywhere (Donnelly, 2007). Universalists also claim that the human rights are interdependent and interrelated in terms of realization where the fulfillment of one often depends on the fulfillment of others (UNFPA, 2005). Universalism is often

associated with liberal persuasions connected with Western cultural values and individual civil and political rights (Ishay, 2008).

Cultural Relativism is the opposite theory and criticism of Universalism and explains that human rights are relative and are differently shaped in relation to culture which distinguishes that there is no universal interpretation of them. It considers that morality only can derive from a cultural context making external judgments or interference on and in cultures not legitimate, and that no culture is superior to another. The theory has however a long span from those who argue that there is no universal values to those who recognize that some values can be overlapping or partly universal (Shao, 2013).

According to Donnely (2007), Cultural Relativism is a reality because cultures vary in time and space and demands respect for differences. Because UDHR is based on individual rights it does not seem to take differences in culture in to consideration. Donnely exemplifies Cultural Relativism the same way as American Anthropological Association defines it; *"man is free only when he lives as his society defines freedom"* (2007:17). Howard (1993) seems to agree with this but takes it further to a level of Cultural Absolutism describing it as; *whatever a culture says is right is right (for those in that culture)*, (Donnely, 2007:17).

Furthermore, Ishay (2008) describes Cultural Relativism in relation to the fact that individual civil and political rights derives from a Western perspective with Western cultural values. In this perspective, she explains, rights about social wellbeing that connects with religious and cultural traditions are more important for people in developing countries (Ishay, 2008). Furthermore, the issue of cultural rights tends to occur when groups feel deprived of their political, social and economic rights. Ultimately, Cultural Relativism depends on how states decide to treat the UDHR (Donnely, 2007). Donnely (2007) exemplifies this as; *"Except in cases of genocide, sovereignty still ultimately trumps human rights."* – Donnely, 2007, Page 10

5.2. Problematizing Universalism and Cultural Relativism

As we have seen within the chapter of *Previous Research*, Sweden's cases of polygamy often relates to migrants traditions and religions in contradiction with the Swedish law and norm of monogamy. This tension makes a perfect example of Cultural Relativism and Universalism because Cultural Relativism relates to group

rights and respect for diversity of culture, but Sweden as a Western country focuses on universal individual rights within the Swedish law. Because no culture is superior to another in the theory of Cultural Relativism, Sweden seems to have its focus on Universalism when not acknowledging polygamous marriages for people who claims this is their right. Freeman (2011) points out that the implementation of human rights must be sensitive about cultural differences instead of “imperialistic” which is also required by them and reflected in the theory of Cultural Relativism. When Sweden denies the culture of people who claims polygamous marriages is their culture, Sweden is considerably not acting in a cultural relativistic way.

As seen in the *Previous Research* for Tanzania, polygamy, or foremost the recognition of polygyny has a strong connection with violations of women’s rights when it comes to gender equality because men have rights women do not have. The research is connected with universalistic values because it criticizes that polygyny does not include the same rights for women as for men, hence not providing the same rights for all individuals. The fact that polygynous marriages are legal in Tanzania shows however that the tradition and culture supporting polygamy are valued in the country in line with Cultural Relativism. Group rights are also reflected here as Muslim law recognizes polygamous marriages for this specific religious group which also is an element in the theory of Cultural Relativism. The previous research also shows that positive aspects of polygamous marriages in Tanzania involves groups, collective goods and social wellbeing like house hold cooperatives where higher food security, shared workload and physical safety are benefits deriving from the lifestyle. This, in addition to the fact that the population is predominantly rural, may show a need for groups and collective thinking in the Tanzanian society in line with Cultural Relativism, keeping in mind that Tanzania is also a developing country. Tanzania hereby shows tendencies of cultural relativistic elements that are also typical for previously colonized low-income countries (Ishay, 2008).

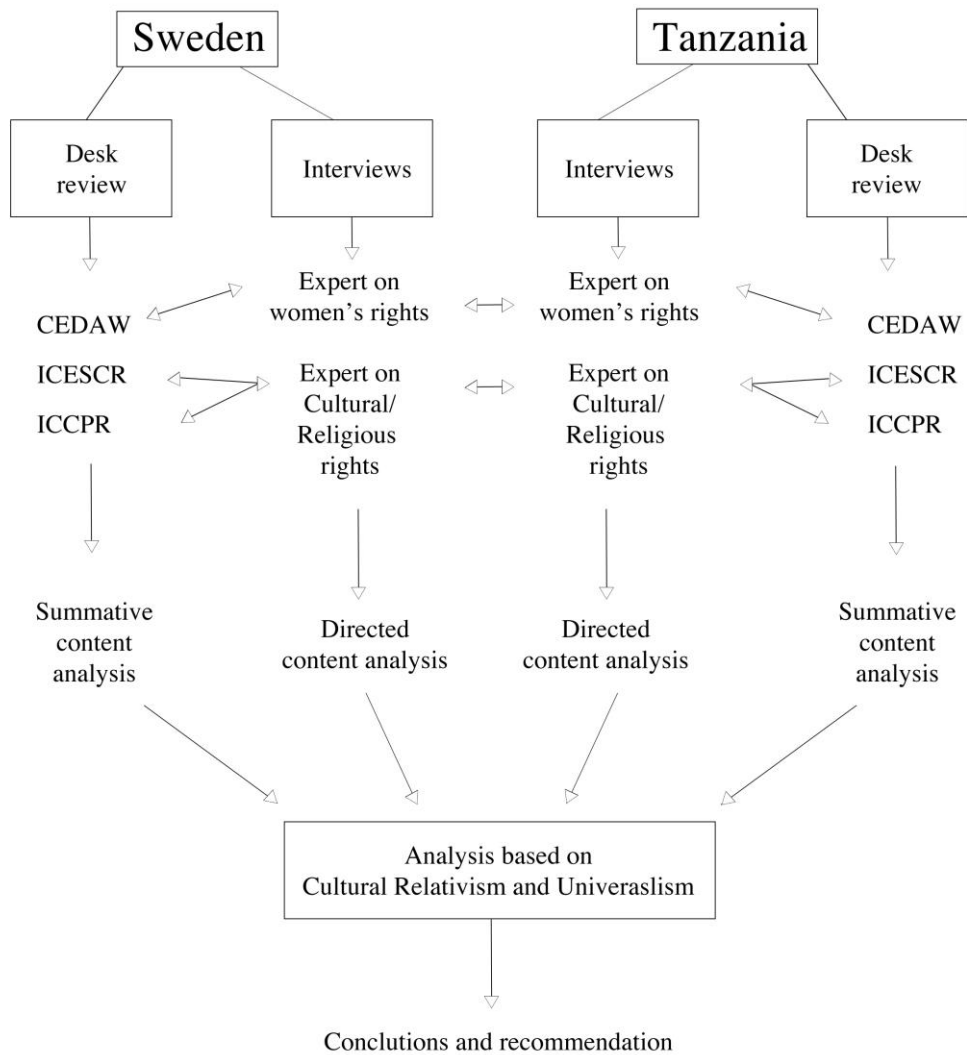
However, when talking objectively about the practice of actual polygamy under circumstances where there is no gender-based discrimination connected to restrictions in the practice, polygamy can be part of the culture for those who claim this is their culture without any direct connection to violation of women’s rights and compromises of Universalism. In this case, polygamy can reflect Universalism as no one has rights others do not have, and also Cultural Relativism as the interpretation of polygamy lies

within the individual's subjective choice and perception of its own culture or lifestyle (Donnelly, 2007).

6. Methodology

This chapter will present the overall research design, methodology for the analysis of the desk review, the methodology for the interviews and the methodology for the analysis of them as seen below in Figure 1.

Figure 1: Overview of methodology.



6.1. Over all research design

The overall design for this study is an explorative multiple case study representing the two cases of Sweden and Tanzania. Based on the research question, a two-case study

becomes suitable because the method aims at understanding and exploring complex social processes and international relations in the two different contexts (Yin, 2007). Unlike for historical studies or experiments that often focus on *how* and *why*, the sub-questions aims at understanding *what* the different documents and interviewees say and mean making a case study the best approach (Yin, 2007).

This is not a comparative study because the results from the two cases are not compared but used to answer the research question together. It also exemplifies opposites to gain a broader understanding based on the two different perspectives the countries gives. It focuses on a current and recent timeline, keeping in mind that some of the documents were written some years ago (between 2007 and 2016) based on the fact that sessions for ICCPR, ICESCR and CEDAW not are held every year and that the countries sometimes do not respect the deadlines of the State Party Reports. The interviews were conducted in March and April 2017.

The research design includes method triangulation meaning multiple methods are used because they include two sources of data from the two cases; a desk review including a summative content analysis of State Reports, Concluding Observations from the Committees and all Shadow Reports of CEDAW, ICESCR and ICCPR from the last sessions, and interviews with people who work with women's rights and people who work with cultural and religious rights from both countries including a directed content analysis (Yin, 2007). By the use of triangulation method, a broader approach to the research question can be reached providing more consistent and convincing results because they are strengthened by each other (Yin, 2007).

6.1.1. Selection of cases

The cases of Sweden and Tanzania were selected to represent one country where polygamy is illegal and one country where it is partly legal (polygyny). Even though Tanzania does not fully recognize polygamy, the arguments of culture and religion manifests a perspective that is valuable for this study. On the other hand, in Sweden where polygamy cannot be seen as the mainstream culture, this also manifests a valuable perspective of sub-cultures. Sweden and Tanzania are also interesting opposites because they represent different ends of the scale when it comes to issues relating to gender equality and development, considering that this study focuses on

revealing if polygamy can be considered a human rights violation or a human rights realization.

6.1.2. Obstacles and Trustworthiness

As always in qualitative studies the researcher's subjective assumptions may affect the process, end result and reliability of the study (Yin, 2007). This fact could also unconsciously affect my personal objectivity in conducting the study even though I wanted and tried to be as objective as possible. However, I personally felt like I could agree with the arguments coming from both sides during the investigation for the research which could mean that I did not take one side or the other and stayed objective.

Another obstacle is the application of external validity, which critics of case studies claim is fragile (Yin, 2007). But because this study is analytical instead of statistical resulting in theoretical generalizations when answering the research question the external validity seems high although more cases in reality could strengthen the result (Yin, 2007). This however, I leave up to future research. Because the methodology of the study is of high quality and thoroughly described and operationalized, and that other researchers could follow the same and get similar results, the study also proves high reliability (Yin, 2007).

6.2. Methodology for desk review

The sub-question for the desk review is the following:

What do the country reports of CEDAW, ICCPR and ICESCR, their Concluding Observations from respective Committees and all Shadow Reports from CSOs of the last sessions of these conventions say about polygamous marriages in relation to human rights for Sweden and Tanzania?

6.2.1. Sampling and selection of documents

The material/context units chosen to answer the research question consists of the country reports of CEDAW (1967), ICESCR and ICESCR (1976), the respective Committees Concluding Observations and all Shadow Reports submitted by CSOs for all the latest convention sessions for both Sweden and Tanzania (Bergström & Borèus, 2012). The same material is chosen for both countries to create symmetry in the study and consists of totally 60 reports, where 34 reports are Sweden's and 26

reports are Tanzania's (See *Bibliography of reports* under *Sources* for overview). These are all public documents that can be found at the Office of the High Commissioner of Human Rights web page¹ and were written from different perspectives for different purposes in addition to different functions. The Country Reports are written by the states as an obligation arising from an Article in the signed Convention with different reporting intervals² to inform the Committees about factors and difficulties in the fulfillment of the conventions. The Concluding Observations are written by the respective Committee for the Conventions and are also an obligation the Committees has made within the Conventions³ to report back on activities and make recommendations based on the examination of the Country Reports. The function of Shadow Reports is to supplement the State Reports and to participate in monitoring the relevant Convention (IHRL, 2001).

The CEDAW convention was chosen to represent women's rights and eventual violations in rights in relation to polygamous marriages; ICCPR was chosen to represent the aspect of freedom of religion and religious rights that one can claim to have in connection with polygamous marriages in both countries; and ICESCR was chosen to represent the cultural aspect of the practice of polygamy one also can claim to have in both countries. The Country Reports were chosen to represent the governments' view of polygamy in the contexts of the respective countries. The Concluding Observations were chosen to represent the human right committees' opinions as the UN and international law system and standard. The Shadow Reports were included to represent a big variety of stakeholders from different angles, and as rights holders of the conventions as the CSO's represents different interests that also may represent the opinions of the civil society at large. Even though all reports may not have mentioned polygamy specifically, all were taken into consideration because silence about something also can be considered a result.

One of Sweden's Shadow Reports⁴ for CEDAW was eliminated because it is a summary of another report submitted to the Committee. Two of Tanzania's Shadow Reports for

¹ www.ohchr.org

² CEDAW article 18, ICESCR article 17, ICCPR article 40

³ CEDAW article 21, ICESCR article 40, ICCPR article 19

⁴ Födelsehuset (2_submission for the session), 2016, *Short on Födelsehuset "The Birth House" report*, Accessed, 170412,

CEDAW were also eliminated because they are reports on specific matters and not purposely written for the CEDAW committee as they were presented as annex I and annex II⁵ to existing Shadow Reports written by the same organization including facts from these reports (OHCHR, 2016).

6.2.2. Selection of methodology

The context units will be analyzed by a summative content analysis which includes a coding instrument with both a quantitative and a qualitative approach, through quantifying the presence of certain chosen words/recording units combined with a qualitative component for the purpose of understanding the contextual use of the recording units (Shannon, 2005, Bergström & Borèus, 2012). It will quantify the appearance and/or frequency or lack of appearance of the recording units to understand if the recording units are subjects of interest in the reports, and to understand the qualitative content in a summative way by interpreting the context of the recording units. The method is chosen to explore usage and contextualize the chosen recording units rather than to impose meaning to them, and to provide information on how they are used to answer the research question of what the reports say about polygamous marriages (Shannon, 2005). It also provides information on whether the recording units are subject of discussion in the reports or not.

The method further enables the possibility to go through the large amount of context units easily and quickly to find information that is relevant and classify them into efficient categories in relation to the research question. Content analysis is for this purpose an efficient way to reduce the material (Schreier, 2013). Although an

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SWE/INT_CEDAW_NGO_SWE_23095_E.pdf

⁵ *Center for Reproductive Rights (submission for PSWG) - Annex I*, No date provided, *Forced out: Mandatory Pregnancy testing and the exPulsion of Pregnant students in tanzanian schools*, Center for Reproductive Rights, Accessed 170412, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TZA/INT_CEDAW_NGO_TZA_20781_E.pdf ;

Center for Reproductive Rights (submission for PSWG) - Annex II, No date provided, *Forced out: Mandatory Pregnancy testing and the exPulsion of Pregnant students in tanzanian schools*, Center for Reproductive Rights, Accessed 170412, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TZA/INT_CEDAW_NGO_TZA_20782_E.pdf

argumentation analysis would also be suitable in relation to the overall research question's pros and cons nature, this would require a thorough reading of all sections of all reports which would be very time consuming (Shannon, 2005). Because the reports are based on presentation of facts, methods that focus on underlying meanings like narrative analyses, ideological analyses or term history analyses would not provide an accurate answer in addition to also being very time consuming (Shannon, 2005, Bergström & Borèus, 2012).

6.2.3. Coding instrument

The coding instrument for the context units is developed as a word search at first to quantify the recording units and to establish an understanding of whether polygamy is a relevant issue in the reports or not. Sometimes, the more frequent words are mentioned in a text the more relevance the words have for the respective report (Bergström & Borèus, 2012). Because of that, the recording units are carefully chosen to represent the interest area of the research question.

The recording units; *Polygamy*, *Polygyny* and *Polyandry* are chosen because they have a direct connection to the research question. Furthermore, the recording units including all tenses of *Wife*, *Spouse* and *Marriage* are chosen because they may have a connection to the research question and relation to polygamy even though they may not have been directly mentioned in the reports. Lastly, the recording units including the marriage legislation of the respective countries; *The marriage code* (Sweden) and *The Law of Marriage Act* (1977) and the acronym for it, *LMA* (Tanzania) are chosen to understand whether the report presents a conflict in law or not, and also because it can be interrelated with the violation of rights. The word *Husband* is not chosen as a recording unit because of the research's focus on women's rights and because the code unit *Spouse* would cover this aspect.

The second part of the coding instrument includes the qualitative component describing the contexts of the recording units in the reports to get a better understanding of how they were mentioned in relation to polygamous marriages. The summative content analysis allows keywords to derive from the review of the literature, which is why this method is suitable for the material that includes so many different variable contexts for the recording units (Shannon, 2005). This part of the analysis has given a lot of data where not all recording units were connected with

polygamy. The result however, implicates problems the countries have implementing the recording units in the different conventions which made an interesting result in relation to the subject of the research.

The same method and recording units was used for all context units for both countries to ensure symmetry and a consequent method for accurate findings.

6.2.4. Data collection technique

As the format of the context units varies from doc, docx, pdf, html and “other” the first step in the analysis was to copy and paste the content into a Word Document (if this was not the original format) making it easier to do the word search in the writing programme. For the words starting with the same letters, it was enough to type in the common first letters to get the wanted overview and counting. After doing this, it was important to make sure all appearances of the recording units counted did not appear in headlines, footnotes or content overviews to not count them were the context had no or little meaning for the research question. When doing this, the variable context of every recording unit mentioned were analyzed to get the meaning of why the word was mentioned and if it was relevant to the research question. The recording units that were not mentioned in the reports are not commented in the analysis even though all were included for every report.

6.2.5. Weaknesses and Trustworthiness

As an insurance of trustworthiness a trial coding was carried out in the pilot phase to ensure the most accurate coding instruments for the context units. It involved some of the context units being coded twice using the same coding instruments with approximately a week in between to ensure that the coding instrument was clear and making the result the same both times. The outcome was the same both for the quantitative- and the qualitative part ensuring quality of the coding instrument and strengthening the analysis consistency and validity (Shannon, 2005).

The summative content analysis method is however limited by the lack of attention to the broader and underlying meanings in the context units, as the case for most content analyses (Shannon, 2005). The recording units are therefore developed not to miss these underlying meanings and to create more credibility which is also created

through the fact that I as a researcher got very familiar with the material and country contexts before the start of the study (Bergström & Borèus, 2012).

A common problem for the validity of content analyses includes the researcher not recognizing the contexts of the recording units. This risk has been avoided by the qualitative part of the analysis where all contexts are taken into consideration as part of the result. But as for all qualitative researches the matter of subjectivity may have affected the reliability of the study which is why the contexts of the recording units were analyzed as objective as possible (Bergström & Borèus, 2012).

An advantage in terms of validity is the fact that the context units are public documents that can be read and analyzed at any time as a source of criticism of the study. They have also been written before this study and not as an effect of it and the same methodology is used for analyzing all of them (Yin, 2007).

Other factors of credibility includes that the material is limited by the last sessions of each convention, not providing a historical aspect that may have shown a different approach by the countries, committees and CSOs on the subject of polygamy.

6.3. Methodology for interviews

The sub-questions for this part is:

What do my two interviewees working with women's rights in Sweden (1) and Tanzania (1) say about polygamous marriages in the context of their countries?

What do my two interviewees working with religious and cultural rights in Sweden (1) and Tanzania (1) say about this in the context of their countries?

6.3.1. The interviews

Interviews are used in this research with the aim of complementing the research in the desk review to get a deeper understanding and discussion of the subject. It explores the different interviewees experience and arguments to why or why not polygamy can be considered human rights or a human rights violation. The research is hereby approaching the subject from different angles and the result will reflect the same. Semi structured interviews therefore seemed most suitable because the aim was to

explore and understand the interviewees' meanings of polygamous marriages. Another reason this was chosen is that structured interviews might have provided shorter and less reflected answers as follow up questions and clarification of questions should be avoided according to this method. The possibility of clarifications and follow up questions was especially important considering potential language barriers that might have occurred. The interviews were face-to-face interviews, through Skype or in person, which made it easier to ask follow up questions and create trust that often provides better answers (Kvale & Brinkman, 2014).

6.3.2. The interview guide

The interview guide (see Appendix 1) contains a description of the research and me as a researcher in addition to clarification of ethical questions the interviewees might have had aiming to be as honest as possible with the interviewees. This also involved considerations of the Swedish Science Counsel's (2002) four ethical research principles including information, consent, confidentiality and usage. The interview guide was sent to all interviewees before the interviews for them to prepare and be informed about questions and circumstances. I also gave all interviewees the option of answering in writing if preferred considering the direct questions and time-use as I experienced all as very busy at their work. However, none of the interviewees chose this option.

The questions were formulated to get information in relation to answering the research question on how polygamous marriages can be understood in the context of women's rights and religious and cultural rights in the respective countries. The questions were all formulated as direct questions with the intention of not "dwelling" around subjects that was not relevant in addition to be time effective, as I did not want to waste the interviewee's time. Even though the interviews could have been opened by more introductory or open questions, I considered direct questions was okay as I had talked to, and explained the aim of the study, to all my interviewees before the interviews were undertaken (Kvale & Brinkman, 2014).

6.3.3. Sampling method for the interviewees

The criteria's for choosing these exact four interviewees was their role and position in their work. As for the desk review, this was a strategic approach were the interviewees were meant to represent different angles because of their background

and experience aligned with the interest of the research and the different ways to look at polygamy. The persons working with women's rights represented women's rights in their respective country and relates to the CEDAW convention and the research on the CEDAW reports in the desk review. The persons working with cultural\religious rights represented those rights in their respective country and relates to the ICESCR and ICCPR conventions and the respective reports in the desk review. The same criteria for both countries were chosen to create symmetry in the analysis.

In the selection of interviewees in Tanzania, I used my network of friends, colleagues or people I had met during my time as a working in a women's organization. For the selection of interviewees in Sweden I contacted organizations representing these rights. In both countries these were organizations with interests in the reports analysed in the desk review of this thesis.

6.3.4. Procedures for the interviews

All four interviewees were informed about how the interview was going to be conducted and gave their consent for the interview to be recorded. They were also informed on the ethics both before they agreed to the interview and before the start of the interview. The interviewees chose time and place and all were asked whether they wanted to see the questions beforehand to prepare for the interview, and interview guides were given to them. After conducting the interviews, they have been backed up for safekeeping and carefully transcribed before the transcriptions also were backed up.

6.3.5. Ethical considerations

The ethical considerations undertaken for the interviews have been in the interviewees' interests as well as based on consent and interest of participation. They were all informed that information was only to be used for academic purpose and that the material was to be kept in confidence. The interviewees are kept anonymous for ensuring no potential harm or consequence to happen from participating in the study. Furthermore, the interviewees was informed of their right to withdraw from the interview at any time during the interview including taking back their consent to the interview. Contact information was given in relation to the opportunity to read the final paper (Vetenskapsrådet, 2002, Teorell & Svensson, 2007).

6.3.6. Trustworthiness

The fact that all interviews are transcribed shows good reliability because this prevents random errors from the collected material in addition to good validity because there exists empirical sources for the survey's evidence (Kvale & Brinkmann, 2014). For increased validity, the same methodology was used for all interviews and analysis of them in addition to that some of the interviewees confirmed statements used in this thesis as a way of ensuring correct information was given and presented (Esaiasson, 2012). Another element of good reliability is undertaken by the use of similar interview guides and questions for all interviews but formulated to the different rolls of the interviewees as an attempt to get them to talk more freely about the subject related to their experience. The different rolls will also be taken into consideration when the interview is analyzed (Kvale & Brinkman, 2014). A downside to the interviews relates to reflexivity; when the interviewees may have given information they think is wanted. I have tried to avoid this risk by formulating objective questions (Yin, 2007).

Challenges related to language can have been a fact as none of the interviewees in Tanzania, nor me as the researcher are first language English speakers which could also affect the interpretation of the transcribed interviews. The Swedish interviews were however conducted and transcribed in Swedish being the native language for both me as the researcher and the interviewees.

6.3.7. Methodology for analysis of the interviews

For the analysis of the interviews directed content analysis was used because the method uses theory to direct the questions and hereby helping to determine the coding scheme. This seemed like a suitable method because the codes derive from the theory of this thesis being Universalism and Cultural Relativism. The codes were chosen both before and after I familiarized myself with the material as I noticed that all answers were strongly connected with the theories used for this thesis. The method consists of a coding scheme that started with the theory and further codes defined both before and during the analysis (Shannon, 2005).

This method was chosen to complement the analysis used in the desk review, using content analysis for this material too. It is also used to create symmetry and to not take a totally different approach than for the desk review. The exact same method did

however not seem appropriate for this analysis as the interviewees mentioning of certain words in certain contexts would not have given information of their experience or the empirical content the interviewees possesses working with these kind of rights. The method is chosen for the same purpose as the interviewees are chosen; to reflect a different view of polygamous marriages based on the field of work arising from the coding units that derived from the theories.

6.3.8. Coding instrument

The coding instrument begun with the theories that are developed into the categories; *Polygamy is violating Women's rights* that derives from Universalism and *Polygamy is a realization of cultural and religious rights* that derives from Cultural Relativism including evidence of support for the theories (Shannon, 2005). This was done before the analysis and is followed by a description carefully developed to recognize the categories. Following this stage, and in the process of analysis, sub-codes that are explained with coding units/statements from the interviews as descriptive evidence are presented (See Appendix 2), in addition to collective codes that derived from the nature of the sub-codes (Shannon, 2005). Some of these codes were different for the different interviews depending on the content of the answers and what derived from them. All these elements are chosen to represent different meaningful information that stood out in the transcription of the interviews based on the theory and categories and to answer the research question.

The same method with theory, categories and description as described below in Table 1 was used for all context units to ensure symmetry and a consequent method for accurate findings.

Table 1: Coding instrument

Categories	Theory	Description
Polygamy is violating Women's rights	Universalism	Coding units that represent evidence of Universalism were polygamy violates women's individual rights.
Polygamy is a realization of cultural and religious rights	Culture relativism	Coding units that represent evidence of Cultural Relativism were polygamy is part of culture and religion and reflects social collective rights.

6.3.9. Weaknesses and Trustworthiness

As for the summative content analysis used for the desk review, also this method could be limited by the inattention to broader underlying meanings and contexts (Shannon, 2005). I have therefore developed broad categories from the beginning with the purpose of not missing context and to create more credibility and validity in addition to a easy and clear coding instrument for reliability. But as for all qualitative researches the matter of subjectivity may have affected the reliability of the study. Other factors of credibility includes that the interviews all were conducted in March and April of 2017 and that there exists empirical evidence in my transcription of the interviews (Bergström & Borèus, 2012).

7. Analysis

This chapter is divided into two main parts that will present the analysis of the desk review of the reports and the analysis of the interviews with people working with women's rights and cultural/religious rights in Sweden and Tanzania. The content are further described under headlines of *7.1 Desk Review* and *7.2 Interviews*.

7.1. Desk Review

The desk review analysis presented below is divided in two sections representing the cases of Sweden and Tanzania that are further divided in three sections being the reports from the latest sessions of CEDAW, ICESCR and ICCPR (See *Bibliography of reports* under *Sources* for overview of the reports). All analyses of the sessions are presented in three categories being the State Party reports, the respective Committees Concluding Observations and the Shadow reports written by the CSOs. An overview of the analysis including tables and a discussion connecting the analysis with the theories of Universalism and Cultural Relativism is presented in the end of this chapter.

7.1.1. Desk review for Sweden

Analysis of Sweden's combined eighth and ninth periodic report to the 63rd session of CEDAW in 2016, Concluding Observations and nine Shadow Reports

The State Party's Report

In the State Party's Report⁶ *Spouse* is mentioned eight times; six times as a previous recommendation from CEDAW to Sweden seeing that Swedish law does not include proper compensation for one spouse's domestic work in connection with division of property in case of divorce; and twice where Sweden explains new legislation in relation to social services and introduction to women born abroad.

Marriage is mentioned 25 times in the report; 13 in relation to amended laws on child and forced marriage; seven times on the purpose of introducing a new crime in law on coercion to marriage; three times in order to explain the views of why Swedish law does not include compensation for one spouse's domestic work in connection with division of property in case of divorce; once in relation to the irrelevance of parent's marriage status for the citizenship of their child; and once in relation to the abolition of discrimination in working life due to marriage or maternity.

Committees Concluding Observations

⁶ CEDAW/C/SWE/8-9 (2014)

In the Concluding Observations⁷ *Spouse* is mentioned four times, all in relation to property and economic- and human capital in divorce.

Marriage is mentioned three times; two in the above described context and once where the Committee welcomes Sweden's efforts taken to eliminate child marriage.

CSOs Shadow Reports

In four out of the nine Shadow Reports⁸ written by CSOs none of the recording units is mentioned.

Spouse is mentioned twice in the reports; once as information of statistics and once as an example on child marriage upon arrival to Sweden.

Marriage in any tense is mentioned a total of 59 times in the reports; 41 times in the context of child- and forced marriage; eight times as quotations from the Convention; six times as description of the current situation in Sweden; twice as a demand to abolish the two-year rule of the Aliens Act so that a woman who marries a Swedish citizen is granted citizenship; once in relation to employment where the NGO gives recommendation of prohibiting to dismiss women from work because they marry; and once in relation to Sami women's previous discrimination in the Swedish law.

Analysis of Sweden's sixth periodic report to the 58th session of ICESCR in 2016, Concluding Observations and nine Shadow Reports

State party's report

In the State Party Report⁹ *Spouse* is mentioned four times; once in relation to asylum seekers; once in relation to integrity offences; and twice in relation to violence in close relationships.

⁷ CEDAW/C/SWE/CO/8-9 (2016)

⁸ Reports from: *Amnesty International (submission for the session)* (2016), *Crossing Borders (submission for PSWG)* (2015), *Fodelsehuset (1_submission for the session)* (2016), *International Organization for Self-Determination and Equality (submission for the session)*, (2016), *Lika Unika/Equally Unique (submission for PSWG)* (2015), *RFSL, RFSU and Handikappförbunden (submission for the session)* (2016), *The Swedish Women's Lobby (submission for the PSWG)* (2016), *The Swedish Women's Lobby (submission for the session)* (2016) & *WILPF (submission for the session)* (2016)

⁹ E/C.12/SWE/6 (2013)

Marriage is mentioned 14 times; 11 times in relation to the prohibition of forced and early marriages; once in relation to housing supplement; once in relation to residence permit; and once in relation to rape within marriage.

Committees Concluding Observations

In the Concluding Observations¹⁰ *Marriage* is mentioned twice under the headline of *Harmful practices* in the context of early and forced marriages were the Committee is concerned about lack of information on juridical cases of the new law.

CSOs shadow reports

None of the nine Shadow Reports¹¹ written by CSOs mentions any of the recording units.

Analysis of Sweden's seventh periodic report to the 116th session of ICCPR in 2016, Concluding Observations and ten Shadow Reports

State party's report

In the State Party Report¹² the recording unit *Wife* is mentioned once in relation to prisoners getting visitors.

Marriage is mentioned twice in the report both in relation to the amendment made in the law in 2014 on strengthened protection against forced and child marriage.

Committees Concluding Observations

In the Concluding Observations¹³ *Marriage* is mentioned twice as positive aspects in relation to the amendments made to strengthen the protection against forced and child marriage.

¹⁰ E/C.12/SWE/CO/6 (2016)

¹¹ Reports from: *session - National Organisation for Mental Health* (2016), *session – FIAN* (2016), *session - Human Rights and Tobacco Control Network* (2016), *session - International Centre for Human Rights and Drug Policy* (2016), *session – RSMH* (2016), *session - Stockholm Stadsmision* (2016), *session - The Swedish Foundation for Human Rights* (2016), *session - Women's International League for Peace and Freedom* (2016), *pswg - FIAN Sweden* (2015) & *pswg - The Swedish Foundation for Human Rights* (2015)

¹² CCPR/C/SWE/7 (2015)

¹³ CCPR/C/SWE/CO/7 (2016)

CSOs Shadow Reports

None of the ten Shadow Reports¹⁴ written by CSO's mentions any of the recording units.

7.1.2. Desk review for Tanzania

Analysis of Tanzania's combined seventh and eight periodic report to the 63rd session of CEDAW in 2016, Concluding Observations and seven Shadow Reports

State Party's Report

In the State Party's Report¹⁵ the recording unit *Polygamy* is mentioned twice; once as *polygamous unions* being risk behavior for HIV infections presented as a finding of a study (THMIS, 2012) and once under the headline *Family relations* as a response to the Committees previous recommendations for the state party to implement measures to eliminate polygamy to make equality in marriage and family relations.

Marriage in any tense is mentioned 30 times throughout the report; 12 times in relation to the minimum age for girls to marry; seven times in relation to sexual relations; four times in relation to education; three times in relation to citizenship; two times in relation to marriage rights and once each for employment and family relations.

The Law of Marriage Act or *LMA* is mentioned once under the headline of *Discriminatory laws* were the State Party admits that it discriminates girls by the means of minimum age of marriage. The state party also acknowledges that the process of raising the age is a challenge based on religious and traditional concerns.

Committees Concluding Observations

¹⁴ Reports from: *CIVIL RIGHTS DEFENDERS* (2016), *European Association of Jehovah's Christian Witnesses* (2016), *Global Detention Project* (2016), *International Fellowship Of Reconciliation (IFOR)* (2016), *Sámi Council* (2016), *Sweden joint briefing by Privacy International, Civil Rights Defenders and DFRI* (2016), *International Fellowship Of Reconciliation (IFOR)* (2014), *The Swedish Disability Federation* (2014) & *The Swedish Federation Human Rights for Persons with Disabilities* (2013)

¹⁵ CEDAW/C/TZA/7-8 (2014)

In the Concluding Observations¹⁶ under the headline *Stereotypes and harmful practices, Polygamy*, is mentioned once as one of many harmful practices. In this matter, the Committee urges the state party to adapt strategies to eliminate discriminatory stereotypes relating to harmful practices including the adaption of new legal provisions as necessary, ensuring existing legal framework prohibits harmful practices. Further, the Committee recommends on this matter that all cases are investigated, prosecuted and adequately punished, and that victims have effective remedies and protection mechanisms.

Spouse is mentioned once were the Committee is concerned about the citizenship of foreign spouses.

Marriage in any tense is mentioned six times in the report where all of them are connected to child marriage.

The Law of Marriage Act is mentioned three times throughout the report where two of them are in the context of the law containing discriminatory provisions that are not aligned with the Convention, and once in relation to the minimum age of marriage for girls being 15 (in some cases 14) years where the Committee stresses that the law is amended to be 18 years for girls as it is for boys.

CSO's Shadow Reports

In the Shadow Reports¹⁷ the recording unit *Polygamy* is mentioned once in the context of not enabling women to enjoy their rights.

Wife is mentioned four times; two times in relation to the minimum age of marriage for girls; once in the context of no criminalization of domestic violence; and once in relation to inheritance rights for widows.

Spouse is mentioned five times; once in relation the non criminalization of domestic violence; once in relation to power imbalances between spouses of very different

¹⁶ CEDAW/C/TZA/CO/7-8 (2016)

¹⁷ Reports from: *Center for Reproductive Rights (submission for PSWG)* (2015), *Landesa (submission for the session)* (2016), *Minority Rights Group International (submission for the PSWG)* (2015), *United Nations Association of Tanzania (submission for the session)* (No date provided), *WLAC and IWHRC joint submission (for PSWG)* (2015), *Women's Legal Aid Centre (WLAC) joint submission (for PSWG)* (No date provided) & *Women's Legal Aid Centre (submission for the session)* (2016)

ages; once in relation to HIV; once in relation to land rights; and once in relation to citizenship.

The recording unit *Marriage* in any tense is mentioned 89 times in the reports; 68 times in relation to child or early marriage, six times in relation to citizenship; five times in relation to inheritance; three in relation to nationality; three times in relation to equality in marriage; two times in relation to forced and coercive marriage; once in relation to marital rape; and once in relation to women's right to land.

The Law of Marriage Act or *LMA* is mentioned 18 times in the reports; eight times in relation to that it allows unequal and discriminatory traditions and costumes; four times in relation to amending the law; four times in relation to the minimum age of marriage for girls; one time in relation to polygamy and child marriage; and once as a recommendation for amendment.

Analysis of Tanzania's combined second and third periodic report to the 49th session of ICESCR in 2012, Concluding Observations and nine Shadow Reports

State Party's Report

In the State Party Report¹⁸ *Wife* is mentioned once in relation to a court case presented to explain cohabiting couples.

Spouse is mentioned five times in relation to free consent to marriage, matrimonial property, maternity- and paternity leave.

Marriage in any tense is mentioned 14 times in order to explain that marriages in Tanzania must be entered into with free consent, includes equality for men and women in addition to equal responsibility for children and that property are considered matrimonial.

The Law of Marriage Act is mentioned three times in the report; once in relation to the government's preparations for the reviewing process in the context of children and girls rights and twice to explain the content of the law.

Committees Concluding Observations

¹⁸ E/C.12/TZA/1-3 (2009)

In the Concluding Observations¹⁹ the recording unit *Polygamy* is mentioned once as one in many subjects of concern as the State Party invokes traditional values to explain practices not in line with human rights. The Committee then recommends the state party to give the Convention full implementation in domestic law.

Spouse is mentioned three times the context of *spousal rape* not being criminalized in Tanzania. The committee gives further recommendations that the state party criminalizes this and raises public awareness to the issue.

Marriage is mentioned once in relation to concerns that children do not complete their education as a result of pregnancy and early marriages.

CSOs Shadow Reports

Five of the nine Shadow Reports²⁰ written by CSOs did not mention any of the recording units.

Polygamy is mentioned two times in the reports as issues in alliance with Article 3 of the ICESCR in relation to how girls with disabilities are informed about their rights in polygamous marriages in addition to abduction and forced marriages.

Wife is mentioned four times in the reports, twice in the context of early marriages; once in combination with inheritance rights and once in relation to how girls with disabilities realize their rights in polygamous marriages.

Spouse is mentioned nine times in the report; five times in relation to HIV infections and four in relation to the free consent of marriage and early marriages.

The recording unit *Marriage* in any tense is mentioned 75 times in the reports; 57 times related to the subject of early marriage; nine times in relation to family planning; four times as quotation of the previous recommendations; three times in

¹⁹ E/C.12/TZA/CO/1-3 (2012)

²⁰ Reports from: *Center for Reproductive Rights (CRR)* (2011), *Coalition of Pastoralist and Hunter Gatherer Organisations*, (2011), *CRR-TAWLA* (2012), *Global Initiative To End All Forms Of Corporal Punishment Of Children* (2011), *HelpAge International* (2011), *Human Rights and Tobacco Network (HRTCN)* (2011), *Indigenous Pastoralists and Hunter Gatherers* (2011), *International Disability Alliance (IDA)* (No date provided) & *International Disability Alliance (IDA)* (2012)

combination with girls with disabilities rights in polygamous marriages; and once each under the subject of HIV and sex work.

The Law of Marriage Act is mentioned nine times in the reports; three times in relation to the minimum age for girls to marry and once as a question for the Committee to address to the government.

Analysis of Tanzania's fourth periodic report to the 96th session of ICCPR in 2009, Concluding Observations and four Shadow Reports

State Party's Report

In the State Party's Report²¹ *Wife* is mentioned once in an example of a court case.

Spouse is mentioned five times, all in order to explain the law in regards of divorce and ownership of property.

Marriage in any tense is mentioned 15 times in the report; 11 times in relation to explaining the legislation; three times in relation to child marriage; and once in relation to the ongoing process of changing the legislation.

The Law of Marriage Act is mentioned three times in the report in order to explain the legal framework.

Committees Concluding Observations

In the Concluding Observations²² *Marriage* in any form is mentioned two times in relation to the Committee's concerns and recommendations about equality between men and women in regards to the laws and patterns of discrimination against women continuing the inequalities and customary attitudes. The recommendations include changing the minimum age of marriage for girls and raising awareness to change customary discriminatory attitudes.

CSOs Shadow Reports

²¹ CCPR/C/TZA/4 (2007)

²² CCPR/C/TZA/CO/4 (2009)

Two of the four Shadow Reports²³ written by CSOs did not mention any of the recording units.

Polygamy is mentioned once in the reports under the headline of ICCPRs article 23 referring to equality in marriage and family as the fundamental group unit in society were the CSOs asks how Tanzania can hold the standard of equality in matrimonial arrangements when polygamy is allowed.

Wife is mentioned 16 times in the reports; six times in relation to bride price; four times in relation to women's inheritance; twice in relation to that a wife cannot sue her husband; twice in relation to that domestic violence is not criminalized; once in relation to property; and once in an example of albino killings.

Spouse is mentioned four times in the reports; three times in relation to women's property in marriage; and once in relation to child marriage where the CSOs are concerned that the marriage legislation is not giving girls the rights they are in title to by ICCPR to higher education and the choosing of a spouse.

Marriage in any tense is mentioned 62 times in the reports; 40 times in relation to the minimum age for girls to get married, six times in relation to citizenship; five times in relation to bride price; three times in relation to women's property rights; three times on the matter of women's inheritance rights; three in relation to explaining the legal framework of marriage; once regarding issues of custody over children; and once on the subject if awareness raising to change discriminatory attitudes.

The Law of Marriage Act is mentioned 23 times; eight times in relation to the minimum age for girls to get married, four times to explain the Tanzanian marriage law system; three times in relation to property rights; three times in relation to reviewing the law; twice in a recommendation to eliminate discriminatory laws; once in relation to bride price; and once as a question if it is in line with ICCPR and once in relations to custody over children.

²³ Reports from: *Conscience and Peace Tax International* (2009), *Joint Submission* (2009), *Joint Submission* (No date provided) & *Legal and Human Rights Centre (LHRC)*, *the Southern Africa Human Rights NGO Network – Tanzania Chapter (SAHRiNGON – T)* and *the Tanganyika Law Society (TLS)* (2009)

7.1.3. Overall summary and discussion of analysis

Table 2: Overview of Sweden's desk review

Sweden										
	CEDAW			ICESCR			ICCPR			Total
	SPR	CC	CSO	SPR	CC	CSO	SPR	CC	CSO	
Polygamy										0
Wife							1			1
Spouse	8	4	2	4						18
Marriage	25	3	59	14	2		2	2		107
The Marriage Code										0

Table 3: Overview of Tanzania's desk review

Tanzania										
	CEDAW			ICESCR			ICCPR			Total
	SPR	CC	CSO	SPR	CC	CSO	SPR	CC	CSO	
Polygamy	2	1	1		1	2			1	8
Wife			4	1		4	1		16	26
Spouse		1	5	5	3	5	5		4	28
Marriage	30	6	89	14	1	75	15	2	62	294
LMA	1	3	18	3		9	3		23	60

As presented in Table 2 above, the recording unit *Polygamy* is not mentioned or claimed as a human right in any of the Swedish reports and does not appear as a subject of the human right to culture in the ICESCR reports, nor as a subject of the

right to religion in the ICCPR reports. Furthermore, it is not mentioned in any of the Swedish reports as a concern for women's human rights or as a wanted or claimed human right.

In the Tanzanian reports presented in Table 3, *Polygamy* is mentioned eight times. In the CEDAW reports, it is mentioned totally four times, and is included in all three categories of reports. In the ICESCR Concluding Observations and CSO reports *Polygamy* is mentioned three times. It was also mentioned once within the CSO reports for ICCPR. The contexts vary but are all connected with negative consequences or concerns for women or recommendations of prohibiting the practice. The appearances concern; risk behaviour for HIV; are included in recommendations of prohibiting to make equality in marriage; harmful practices and stereotypes including recommendations of prohibiting; not enabling women to enjoy their rights. Polygamy is also connected with child marriage; concerns as traditional value not in line with human rights; relations with the rights of girls with disabilities connected with abduction and forced marriage; article 3 of ICESCR concerning equal rights for men and women in the convention; and article 23 of ICCPR referring to equality in marriage and family.

The other recording units also showed different problems on the subject of marriage in the Swedish and Tanzanian contexts. *Wife, Spouse* and any tense of *Marriage* was mentioned once, 18 and 107 times in the Swedish reports in relation to different categories of concerns such as lack of compensation for domestic work and capital in divorce; child and forced marriage in relation to the new law that was passed; violence in relationships; integrity offences; discrimination in working life; asylum seekers; residence permit; citizenship; and Aliens Act. For Tanzania *Wife, Spouse, Marriage* and *The Law of Marriage Act* was mentioned 26, 28, 294 and 60 times in the reports also in relation to different categories of concerns such as child and early marriages; bride price; inheritance; property and land rights for women; citizenship; family relations; equality in marriage; lack of laws on domestic violence; concerns for gender equality in laws; costumes and traditions; harmful traditions and attitudes towards women resulting in discrimination; HIV; custody over children and reviewing the discriminatory laws.

As none of the Swedish reports mention any form of polygamy or polygamous marriages this neither seems like a concern for women's universal human rights, nor as a claimed relative right based on religion or culture. This simply shows that polygamous marriages in Sweden do not seem like a subject of official interest. At least not for any of the committees writing the State Reports, for the Committees of the conventions, or for the specific CSOs who wrote Shadow Reports to the committees.

In the Tanzanian context polygamy is however mentioned concerning all three Conventions. The CEDAW analysis shows that it is a concern for women presented by the State Party, from the CEDAW Committee and from CSOs connecting it with Universalism because of the lack of gender equality in the practice. However, the State Party did not mention it in its reports to ICESCR or ICCPR as a cultural or religiously grounded practice. Polygamy was however mentioned by CSOs in both these sessions, and by the Committee of ICESCR also related with endangering women's human rights. Polygamy was not mentioned anywhere in any report as a right, whether cultural or religious.

In answering the sub-question of what the reports say about polygamous marriages, it is safe to say that these reports do not consider polygamy as a human right in terms of culture or religion underlying the theory of Cultural Relativism for whether Sweden or Tanzania. The subject is only mentioned as endangering women's human rights in Tanzania which is in line with Universalism because all people have the same rights without any discrimination according to this theory.

7.2. Interviews

The analysis of the interviews presented below is also divided into two, each representing the cases of Sweden and Tanzania. The presentation is further divided in relation to the interviewees being a person working with women's rights and a person working with cultural/religious rights in the respective countries. The analyses are based on the coding instrument described under headline 6.3.8 and represented and described the coding agenda found in Appendix 2. A discussion connecting the analysis with the theories of Universalism and Cultural Relativism is presented in the end of this chapter.

7.2.1. Analysis for Sweden

Interview with a person working with Women's rights in Sweden

Codes of Universalism

The interview with the person working with women's rights in Sweden resulted in the codes of *Women's rights* and *How polygamy would be practised*. These derived from the theory of Universalism and the pre-decided category of *Polygamy is violating women's rights*. The codes were chosen on the basis of the sub-codes that represent meaningful information and that often were repeated in the interview.

Under the code *Women's rights* the sub-code included *Not reinforcing women's rights* exemplified in the coding unit of;

"...polygamy is definitely not a practice that reinforces women's rights."

Under the code of *How polygamy would be practised*, a sub-code included was *Not gender equal*, exemplified in the coding unit of;

"...I don't think it (the law hypothetically allowing polygamous marriages) would be practised in a gender equal way."

Final sub-codes under this code are *Not more gender equality* and *Not empower women* represented in the coding unit of;

"...it (allowing polygamous marriages) would not lead to higher gender equality or women's empowerment."

Codes from Cultural Relativism

The codes that derived from the codes related to the theory of Cultural Relativism and the pre-decided category of *Polygamy is a realization of Cultural and Religious rights* resulted in *Actual polygamy* and *Explanation of Polygamy*.

Under the code of *Actual polygamy* the sub-code is *Not problematic in itself* deriving from the coding unit of;

"...the actual question of people marrying different people or how many people they want is not problematic in it self."

Lastly, the code of *Explanation of polygamy* derived from the sub-codes of *Cultural practise* and *Patriarchal practice* exemplified in the coding units of;

...the way polygamy is practised is most often about men having the opportunity to have more wives in the cultural practise.

and

...it's a patriarchal practice...

Interview with a person working with Cultural/Religious rights in Sweden

Codes from Universalism

The interview with the person working with cultural/religious rights in Sweden resulted in the codes of *Not gender equal*, *No benefits for women* and *Individual rights* deriving from the theory of Universalism and the pre-decided category of *Polygamy is violating women's rights*. The codes were chosen on the basis of the sub-codes that represent meaningful information and that often were repeated in the interview.

The code *Not gender equal* derived from the sub-codes including *Men's rights* and *Men's conditions* reflected in the coding unit of;

"It (polygamous marriages) is about a man having the right to take more wives"

and

"It (polygamous marriages) happens pretty much on men's conditions which people can have negative attitudes towards".

Other sub-codes under the same code is *Problematic* and *Gender equal society* deriving from the coding unit of;

"...in a Swedish gender equal society, it is of course highly problematic when men can take more wives but women can not take more husbands."

Furthermore, a sub-code under the code of *Not gender equal* is *Critical to Muslim views* reflected in the coding unit of;

“...it (polygamous marriages) is that exact tradition one should be critical to, and the Muslim view that exists, that a man can take more wives.”

The final sub-codes under this code are *Women don't have as much to say* and *Better with monogamy* deriving from the coding unit of;

“...patriarchal structures where women don't have as much to say where it would be better if the man did not take a second wife or a third wife.”

Another code deriving from Universalism and the category of *Polygamy is violating women's rights* is *No benefits for women* deriving from the sub-code of *No advantage for women* reflected in the coding unit of;

And how it (polygamous marriages) is practiced in Muslim countries, what I know, there is no evidence for how it reflect advantages for women.

Lastly for the theory of Universalism and *Polygamy is violating women's rights* is the code *Individual rights*, deriving from the sub-codes of *Individual perspective*, *Group rights can violate individual rights* and *Individual rights more important* represented in the coding units of;

“I don't believe in specific cultural or religious rights. That is; because I have a specific religion, I can enter a marriage people who do not have that religion can not. I see it from the individual's perspective.”

“I think it (rights belonging to specific groups) is problematic... to give people the right to some kind of tradition even though it might violate individual rights and freedoms. “

and

“I think individual rights and freedoms are more important (than rights belonging to specific groups).”

Codes of Cultural Relativism

The codes that derived from the category of *Polygamy is a realization of Cultural and religious rights* representing Cultural Relativism are; *Explanation of polygamy*,

Effects of polygamy, Consequences of legalizing polygamous marriages and Individual views.

The code of *Explanation of polygamy* derived from sub-codes being *Islam, Tradition, Interpretation, Patriarchal societies* and *Religion* and are exemplified in the coding units of;

“...in Islam there are different traditions of how to interpret (polygamous marriages)”

“...related to very patriarchal societies...”

and

“...marriages are religiously inflicted...”

The code including *Effects of polygamy* derived from the sub-code *Problem for immigrants* exemplified in the coding unit;

“It’s a problem for those who come to Sweden from another country where the polygamous marriage was legit”

Another sub-code that resulted in the same code is *Better for women already in polygamous marriages* that derived from the coding unit;

“I think this (Sweden not allowing polygamous marriages) deteriorates the second wife’s rights... it (Sweden allowing polygamous marriages) could be better in some families.”

Another code under the category of *Polygamous marriages is a realization of cultural and religious rights* is *Consequences of legalizing polygamous marriages*. This code derived from the sub-codes of *Resistance, monogamy as norm, liberal people, Enhance polarization* and *Adapting to Islam* exemplified in the coding units of;

“...it (allowing polygamous marriages) would face resistance from those who sees the monogamous marriage as the norm which most people do even though they might be liberal otherwise.”

“...It (allowing polygamous marriages) would maybe enhance the polarization between groups in Sweden.”

and

“...could see it (allowing polygamy) a step towards adapting to Islam...”

The last code related to the theory of Cultural Relativism and the category of *Polygamous marriages is a realization of cultural and religious rights* includes *Individual views* and derived from the sub-codes of *Liberalism, Personal issues not grounded in religion, Individual choice* and *No principal wrong*. These sub-codes are represented in the coding units of;

“...possibly some individuals... or libertarians would think its good that everyone should be allowed to marry whoever they want without the state being involved. “

“It can emotionally or experientially be important to me, or more important to me (to have a polygamous marriage) than for the Muslim man or woman which is why it shouldn't be grounded in culture or religion but from a neutral stand.”

“...As long as adult individuals give their full consent to this (polygamous) marriage... then I am more liberal. Then the state should give people the opportunity.”

and

“...from a rights perspective, where three individuals with a wish of entering a marriage chooses this like three independent people, I don't think there is any principal wrongs.”

7.2.2. Analysis of interviews from Tanzania

Interview with a person working with Women's rights in Tanzania

Codes of Universalism

The interview with the person working with women's rights in Tanzania resulted in the codes of *Effects/ consequences of polygamy for women* and *Polygamy in relation to women's human rights*. These derived from the theory of Universalism and the pre-decided category of *Polygamy is violating women's rights*. The codes were chosen on

the basis of the sub-codes that represent meaningful information, and that often were repeated by the interviewee.

Under the code of *Effects/ consequences of polygamy for women*, sub-codes included *Social, Economic, Psychological, Emotional*, exemplified by;

“If you look at the social, economic, psychological, emotional effects that it has on women and children, I don’t see it as a human right”

Further sub-codes under the same code is; *Privacy, Health and Standard of living*, exemplified in the coding unit;

“The right to privacy, the right to health, the right to healthy, I mean good living standard that are provided for in different statuses. And these women miss that when in a polygamous relationship.”

Strain on the family and *Emotional torture* were the last sub-codes under this code representing consequences of polygamy for women exemplified in the coding unit;

“It’s a strain on the family, so basically there is not only economic, there is emotional torture of just, you know, being four women.”

The second code under the theory of Universalism represents aspects from the interview on *Polygamous marriages in relation to women’s human rights* and resulted in sub-codes including *Discrimination in human rights law, Gender based discrimination* as showed in the coding unit below;

“Because if you look at other statutes that talk about discrimination, you know, and this (polygamous marriages) can actually be defined as discrimination based on sex for a women.”

The last sub-code under this code, and under Universalism is *Not a human right* that derived from the coding unit of;

“But the economic, the social, the emotional dimension and effects that the women face does not make it a human right in my perspective.”

Codes of Cultural Relativism

The codes that derived from the sub-codes from the interview representing the theory of Cultural Relativism and the pre-decided category of *Polygamy is a realization of Cultural and Religious rights* includes *Explanation of polygamy* and *Consequences of illegalizing polygamous marriages*. The first reflected by the sub-codes of *Tradition* and *Islam* exemplified by the coding unit of;

“When you are having a traditional marriage, it’s recognized as a polygamous marriage, and also when you are having an Islamic marriage.”

in addition to *Customs, Culture* and *Religion* from the coding unit of;

“Customs, culture, traditions, religion, is the root of it.”

The second code of *Consequences of illegalizing polygamous marriages* derived from the sub-code of *Cultural tension* exemplified in the coding unit of;

“...Polygamous marriages is always and issue of tension because of the leaders and cultural tensions that go with polygamy.”

The second sub-code representing this code is *Continue happening*, exemplified in;

“But if we are going to amend without going through this process of actual awareness-raising and changing peoples attitudes and traditions and norms and helping people to understand that polygamy is not positive, it’s negative for women and children, then if a law was passed it will still continue happening.”

Interview with a person working with Cultural and Religious rights in Tanzania

Codes of Universalism

The interview with the person working with Cultural and Religious rights in Tanzania resulted in the code of *Effects/ consequences of polygamy for women* deriving from the theory of Universalism and the pre-decided category of *Polygamy is violating women’s rights*. This code was also chosen on the basis of the sub-codes that represent meaningful information, and that often were repeated by the interviewee.

One of the sub-codes that represent this code is *Psychological torture* represented in the coding unit of;

“So what happens is the psychological torture for women.”

Another sub-code under this code is *Neglecting of social and economic support* deriving from the coding unit of;

“And in most cases it (polygamous marriage) is connected with the choosing of social and economic support to one (wife).“

Further sub-codes are *Health risks* and *HIV* represented in the coding unit of;

“... but currently this is urgent prevalence and health risks because polygamy has been pointed out with this causing of what we call high risk of HIV...”

Another sub-code of consequences is *STDs*, represented by the coding unit of;

“Having three or four wives at the same time and having sex with them it is easy to transmit (STD’s) from one wife to another wife.“

Lastly, under the theory of Universalism and the category of *Polygamy is violating women’s human rights* and the code of *Effects/ consequences of polygamy for women*, the sub-codes *Physical injury* and *Fighting* are represented by the coding unit of;

“And sometimes there is physical injury because sometimes wives are fighting among them, if they are in one house.”

Codes of Cultural Relativism

Representing Cultural Relativism and the pre-decided category of *Polygamy is a realization of Cultural and religious rights* the codes of *Explanation of polygamy*, *Benefits of polygamy* and *Polygamy in relation to human rights* were discovered.

The first code of explanation derived from the sub-codes of *Traditional sign* exemplified in the coding unit of;

“Having multiple wives is a sign, traditional sign of wealth and welfare.”,

Cultural rooted practice is exemplified in the coding unit of;

“This (polygamy) is a culture-rooted practise.“,

Demographics is exemplified in the coding unit of;

“... but demographically there is a reason to have two wives because we are not equal. Women are many more than men...”

Culture, Religion, Islam, Secular government is exemplified in the coding unit of;

“...it (polygamous marriages) is supported from culture and is also religion based in Muslim, and we have a secular government that has not decided on one religion.”

and *Norms, Values, Traditional way of life, Institutions and Patriarchal system* is exemplified in the coding unit of;

“...existing norms, values, traditional way of life it (legalizing polyandry) is a problem because all institutions they are made, rooted and grounded in the patriarchal system...”

The second code *Benefits of polygamy* derived from sub-codes being *Strong family* and *Production and consummation* from the coding unit of;

“There are some cases polygamy is beneficial, it is considered to be, economically they form a strong family so they produce together and they consume together.”

Another sub-code includes *Family security* and derives from the coding unit of;

“So in case this wife gets sick, maybe she has two kids, then these two kids can be raised by their relatives.”

Further sub-codes include *Keeping animals, Manpower* and *Kids*, and are represented in the coding unit of;

So keeping animals and cultivating you need to have manpower, and the manpower is kids, and to have many kids you need to have many wives.

Another sub-code representing *Benefits of polygamy* is *Legal relationships* exemplified in the coding unit of;

“...the consequences (of prohibiting polygamous marriages) would be illegal marriage, illegal partners, a number of partners, and black relationships.”

Protection from STDs is another sub-code and is exemplified in;

“...if that (prohibiting polygamous marriages) then women might experience a number of STDs”

Lastly for this code is the sub-code of *Economic and social benefits* exemplified in the coding unit of;

“...these women are benefitting socially and economically...”.

The last code that derived from the sub-codes under the theory of Cultural Relativism and the pre-decided category of *Polygamy is a realization of Cultural and religious rights* is *Polygamy in relation to human rights* including the sub-code of *Conventions are westernized* are exemplified in the coding unit of;

“To me, because you know in most cases some of these conventions is westernized.”

7.2.3. Discussion of analysis of interviews

Sweden

As presented above, both Swedish interviews included components of universalistic views of polygamy. Based on the codes and sub-codes that derived from the interview with the person working with women’s rights, it is clear that the person’s views is that polygamy would not lead to higher gender equality or reinforce women’s rights, which is in line with Universalism and the category saying that *Polygamy violates women’s rights*. As for the person working with cultural/religious rights, *Not gender equal* is a code that derived from the sub-codes explaining that polygamy carries no advantages for women and is connected with men’s rights and conditions. The person is also critical to the Islamic views connected with polygamy and points out that the practice could be problematic in the gender equal society of Sweden which reflects universalistic views well. Furthermore, the interview with the person working with cultural/religious rights in Sweden mentions another clear element of Universalism, being the code of *Individual rights* (Ishay, 2008). The sub-codes of *Individual perspective*, *Group rights can violate individual rights* and *Individual rights more important* that this code derived from marks women’s individual rights “over”

collective rights that are often connected with cultural and relative rights. This is shown specifically in the coding unit below;

“I think it (rights belonging to specific groups) is problematic... to give people the right to some kind of tradition even though it might violate individual rights and freedoms. “

However, the Cultural Relativistic aspect of polygamy is also acknowledged in both interviews including sub-codes of *Cultural Practice* and *Patriarchal practice* from the person working with women’s rights, and *Islam, Tradition, Patriarchal societies* and *Religion* from the person working with cultural/religious rights. The last interview also contained examples of elements of problems that could come with immigration when legally married polygamous families come to Sweden. It may reflect that polygamy is a realization of rights when juridical elements are taken away from these families, if Sweden does not acknowledge the marriage that was legal before coming to Sweden.

Another aspect in the interview with the person working with cultural/religious rights is the code including *Consequences of legalizing polygamous marriages* where the person pointed amongst others at *Resistance, Monogamy as norm, Enhance polarization* and *Adapting to Islam*. This shows the relativity of culture where legalizing polygamy might, according to the person, meet resistance from those claiming the relative norm of monogamy, and could be seen as a step towards adapting to Islam and enhancing polarization.

Finally, the cultural relativistic aspect under the category of *Polygamy is a realization of Cultural and religious rights* includes a code of *Individual views* from the interview with the person working with cultural/religious rights where sub-codes are defined through liberalistic views of the state that should not be involved in individualistic decisions like marriage. The person working with women’s rights also talked about the actual polygamy not being problematic in itself. Furthermore, the person working with culture/religion highlighted the individual choice of marriage including the free consent.

Tanzania

Both interviews from Tanzania recognized that women suffer negative consequences related to polygamous marriages in the country. Sub-codes from both interviews described consequences for women in different elements of life; physical, psychological, economic and social which all hinders women in having the same enjoyment of their human rights as men. A further code in the interview with the person working with women's rights showed how polygamy relates to human rights stating that it discriminates women and concluding that polygamous marriages are not a human right, in the person's perspective. As it is only women that are discriminated in the practise this violates the universal perspective of the human rights.

Both interviews did however also recognize that polygamy derive from *Culture*, *Tradition* and *Religion* in the country, where *Islam* is mentioned specifically. Sub-codes like these resulted in the code of *Explaining polygamy* in both interviews. By acknowledging these cultural and religious aspects of polygamous marriages the question of if polygamous marriages are a realization of cultural and religious human rights seems legitimate because the terms being culture and religion already exists. These are also explained further when discussing the code of *Consequences of illegalizing polygamous marriages*. The sub-codes this code derived from included *Continue happening* and *Cultural tensions* if not awareness raising activities was connected with the illegalization. This also proves that it is rooted in the mind of the people connected with culture or religion. The person working with cultural and religious rights also pointed at some *Benefits of Polygamy*. This code derived from sub-codes strongly connected to specific Tanzanian societies being *Production and consummation*, *Keeping animals*, *Manpower*, and *Kids* which seem important when the population is predominantly rural (TDHS, 2015-16). Another code that derived from this interview in view of Cultural Relativism is that *Conventions are westernized* which is a classic argument of this theory (Ishay, 2008).

From the analysis of these interviews it is clear that polygamy violates women's rights in many areas, but they also contained important aspects of Cultural Relativism. In answering the research questions it is clear that the persons working with women's rights favour a universalistic view of human rights as both focused on polygamy as a violation of women's rights. The analysis also showed that both interviewees working with cultural/religious rights had a big focus on cultural relativistic aspects, although these interviews also carried a lot of weight on the violation of women's rights.

8. Conclusion

Conclusions drawn from the desk review show that polygamy is not an issue of cultural or religious rights, or women's rights in Sweden as it was never mentioned as these kinds of rights for any of the conventions or by any of the stakeholders. As polygamy seemingly is not an issue the Swedish reports, this can be interpreted as Sweden focuses more on Universalism including women's rights, than Cultural Relativism including cultural or religious rights. This is because the Swedish reports does not consider the issues of polygamous marriages concerning migrants as described in the chapter of *Previous Research* or any other group that may consider polygamous marriages their culture. What shows from the reports is that Sweden's take on polygamous marriages may suit Universalism well because the focus when not considering polygamous marriages indirectly lies on women's rights. Sweden's focus on universality is also strengthened by the country being a Western country and at the top of gender indexes and development.

The desk review of the Tanzanian reports shows foremost concerns women's rights in being equal with men which is interpreted in line with Universalism as all people have the same human rights without any form of discrimination including gender according to this theory. As polygamy was not used in a rights-language in the reports of ICESCR or ICCPR the Cultural Relativistic aspect of polygamy in the Tanzanian reports do not seem to be as important as women's universal rights. Interestingly, even Tanzania's State Party report to CEDAW acknowledged polygamy as being risk behaviour for HIV, although not in a gender-specific way. The fact that polygamous marriages are legal in Tanzania shows however that the country values the culture, traditions and religions that provide for this practice which can be interpreted in line with that the country's focus lies on Cultural Relativism. In line with Cultural Relativism, Tanzania is also not a Western country like Sweden, meaning that norms and values may differ from the Swedish, and that the human rights cannot be interpreted the same way.

The analyses of the Swedish interviews contain elements from both human rights theories; acknowledging religion and culture for the practise of polygamy in line with Cultural Relativism as well as recognizing the discriminating aspect for women in line with Universalism. Interestingly, the discussion regarding polygamy in itself is

referred to as not an issue of principal wrongs based on free consent. However, the statements regarding polygamy being possibly discriminative towards women seems to overshadow this position, especially for the person working with women's rights in Sweden, which again implies the universal aspect in women's human rights. An interesting element of the Swedish interview with the person working with cultural/religious rights includes individual views of polygamy as liberal concerns. This included no issue of gender discrimination when it is ultimately based on the free consents of the individuals involved, in addition to not being gender-specific including marriage without the states involvement. But even this interview carried more weight on the possibility of violating women's rights because polygamy is connected with the rights of men in Islam.

The interview with the person working with women's rights in Tanzania contained not surprisingly strong elements of how the practice is violating women's universal human rights. Even when the cultural and religious aspects were acknowledged, the person stated that polygamy should not be interpreted as a human right, but a violation of rights related with the discrimination of women. The same view is also reflected in the interview with the person working with cultural and religious rights in Tanzania, but this one however carried more weight on the cultural and religious aspects of the practice. Interestingly, both the interviews in Tanzania included discussions of how polygamy is rooted in culture and that it would continue to be practised if the law prohibited it, which in the relativistic view must mean that people claims this as their right of subjective reasons. Ultimately, the mentioning of westernized conventions and human rights in the interview with the person working with cultural and religious rights in Tanzania makes a strong connection with the theory of Cultural Relativism. This is because the human rights according to this theory should be interpreted differently by cultures instead of them being universal and imperialistically enforced as they derive from Western values and norms.

To conclude, the reports show a great concern of the violation of women's rights connected to polygamy and marriage in Tanzania where polygamy is legal, and does not relate polygamy to rights of culture or religion. The Swedish reports show some concerns for women related to marriage but do not mention polygamy specifically, not either as a claimed right of culture or religion. All interviews carry weight on the violation of women's universal rights connected with polygamy, even though culture

relativistic aspects also exist, especially in the interviews with the people working with cultural/religious rights. In answering the research question; if polygamous marriages can be considered a human right violation or a human rights realization, it becomes clear from the analyses of the reports and interviews that women's universal human rights are specifically violated in polygamous marriages. Although many relative individual, liberal, cultural and religious elements seem rational and just in relation to Cultural Relativism, the research primarily shows the fatal consequences for women. In view of this, polygamy in any form should not be considered a human right in international law... yet, as it today carries a lot of consequences for women. Maybe with gender equality getting stronger, we can come to a world without gender-based discrimination in cultures, traditions, mind-sets and religions where we can have polygamous marriages without compromising the universality of human rights. Maybe then, people can be free to enter polygamous marriages as they like, based on their own subjective reasons and motives, that is, when discrimination of a specific gender and the universality of human rights no longer is at risk.

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List of International, regional instruments and national instruments and laws

International Instruments

Beijing Declaration and Platform for Action (1995)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987)

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981)

Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990)

International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976)

International Convention on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976)

International Convention for the Protection of All Persons from Enforced Disappearance (adopted 2006, entered into force 23 December 2010)

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000)

Universal Declaration of Human Rights (adopted 10 December 1948)

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Appendix guide

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Appendix 1: Interview guides

Interview with person who is working with women's rights in Sweden for Master Thesis in Human Rights, Institution of Global Studies, University of Gothenburg, Sweden.

This interview is part of research for a master thesis in human rights and is only to be used for the purpose of finding out whether polygamy can be considered a human right or a human rights' violation.

The interview is voluntary and you can decide to end the interview at any time so the contribution you made will not be used and deleted. The interview is anonymous, the material will be kept and treated with confidentiality and deleted once the thesis is completed. When the study is finalized I will be more than happy to share it with you if you are interested. You are welcome to answer the questioner in writing or in an interview where answers will be recorded, and deleted after transcription. Whether you choose to answer the questions verbally in an interview or in writing the empirical data will be deleted. For any questions do not hesitate to contact me at christine.cln.lothe@gmail.com.

Thank you for your participation.

Questions:

1. What do you think about polygamous marriages in the context of Sweden?
2. Do you think polygamous marriages could be considered as religious or cultural human rights? Please explain.
3. What do you think the consequences in Sweden would be if the law was amended to allow polygamous marriages?
4. Do you think there would be any consequences internationally if Sweden amended the law to allow polygamy?
5. Do you think allowing polygamy in Sweden would affect gender equality?

*Interview with person who is working with cultural or religious rights in Sweden for
Master Thesis in Human Rights, Institution of Global Studies, University of Gothenburg,
Sweden.*

This interview is part of research for a master thesis in human rights and is only to be used for the purpose of finding out whether polygamy can be considered a human right or a human rights' violation.

The interview is voluntary and you can decide to end the interview at any time so the contribution you made will not be used and deleted. The interview is anonymous, the material will be kept and treated with confidentiality and deleted once the thesis is completed. When the study is finalized I will be more than happy to share it with you if you are interested. You are welcome to answer the questioner in writing or in an interview where answers will be recorded, and deleted after transcription. Whether you choose to answer the questions verbally in an interview or in writing the empirical data will be deleted. For any questions do not hesitate to contact me at christine.cln.lothe@gmail.com.

Thank you for your participation.

Questions:

Please describe briefly yourself and your background, what kind of organization you are working for and your field of expertise in the organization.

1. What do you think about polygamous marriages in the context of Sweden?
2. Do you think polygamous marriages could be considered as religious or cultural human rights? Please explain.
3. What do you think the consequences in Sweden could be if the law was amended to allow polygamous marriages?
4. Do you think there would be any consequences internationally if Sweden amended the law to allow polygamy?
5. Do you think allowing polygamy in Sweden would affect gender equality?

Interview with a person who is working with women's rights in Tanzania for Master Thesis in Human Rights, Institution of Global Studies, University of Gothenburg, Sweden.

This interview is part of research for a master thesis in human rights and is only to be used for the purpose of finding out whether polygamy can be considered a human right or a human rights' violation.

The interview is voluntary and you can decide to end the interview at any time so the contribution you made will not be used and deleted. The interview can be made anonymous, the material will be kept and treated with confidentiality and deleted once the thesis is completed. When the study is finalized I will be more than happy to share it with you if you are interested. You are welcome to answer the questioner in writing or in an interview where answers will be recorded, and deleted after transcription. Whether you choose to answer the questions verbally in an interview or in writing the empirical data will be deleted. For any questions do not hesitate to contact me at christine.cln.lothe@gmail.com.

Thank you for your participation.

Questions:

1. Despite the religious aspect in the Law of Marriage Act, do you think polygamy in the Tanzanian context is a product of culture of religion? Please explain.
2. Do you think polygamous marriages can be considered as religious or cultural human rights? Please explain.
3. Do you think polygamous marriages are harmful to women in the context of Tanzania? Please explain.
4. What do you think the consequences in Tanzania would be if the law was amended to prohibit polygamous marriages?
5. What do you think the consequences in Tanzania would be if the law was amended to allow polyandry and what would that mean for gender equality?
6. Do you think it is in the interest of men and women in Tanzania to allow polyandry or to prohibit polygamy, and how do you think it would affect gender equality?

Interview with a person working with religious and cultural rights in Tanzania for Master Thesis in Human Rights, Institution of Global Studies, University of Gothenburg, Sweden.

This interview is part of research for a master thesis in human rights and is only to be used for the purpose of finding out whether polygamy can be considered a human right or a human rights' violation.

The interview is voluntary and you can decide to end the interview at any time so the contribution you made will not be used and deleted. The interview can be made anonymous, the material will be kept and treated with confidentiality and deleted once the thesis is completed. When the study is finalized I will be more than happy to share it with you if you are interested. If you approve the interview will be recorded, either way the empirical data will be deleted. For any questions do not hesitate to contact me at christine.cln.lothe@gmail.com.

Thank you for your participation.

Questions:

1. Despite the religious aspect in the Law of Marriage Act, do you think polygamy in the Tanzanian context is a product of culture or religion? Please explain.
2. Do you think polygamous marriages can be considered as religious or cultural human rights? Please explain.
3. Do you think polygamous marriages are harmful to women in the context of Tanzania? Please explain.
4. What do you think the consequences in Tanzania would be if the law was amended to prohibit polygamous marriages?
5. What do you think the consequences in Tanzania would be if the law was amended to allow polyandry and what would that mean for the cultures and/or religions in Tanzania?
6. Do you think it is in the interest of men and women in Tanzania to allow polyandry or to prohibit polygamy, and how do you think it would affect cultures and/or religions in Tanzania?

Appendix 2: Coding agenda

Person working with women's rights in Sweden				
Theory	Category	Code	Sub-codes	Coding Unit Examples
Univer salism	Polygamy is violating Women's rights	Women's rights	Not reinforcing women's rights	<i>...polygamy is definitely not a practice that reinforces women's rights.</i>
Univer salism	Polygamy is violating Women's rights	How polygamy would be practiced	Not gender equal, Not higher gender equality, not empower women	<i>...I don't think it (the law hypothetically allowing polygamous marriages) would be practised in a gender equal way.</i> <i>...it (allowing polygamous marriages) would not lead to higher gender equality or women's empowerment.</i>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Actual polygamy	Not problematic in itself	<i>...the actual question of people marrying different people or how many people they want is not problematic in it self.</i>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Explanatio n of polygamy	Cultural practise Patriarchal practice	<i>...the way polygamy is practised is most often about men having the opportunity to have more wives in the cultural practise.</i> <i>...it's a patriarchal practice...</i>

Person working with cultural/religious rights in Sweden				
Theory	Category	Code	Sub-codes	Coding Unit Examples
Univer salism	Polygamy is violating Women's rights	Not gender equal	Men's rights Men's conditions Problematic , Gender equal society Critical to Muslim views Women doesn't have as much to say, better with monogamy	<p><i>It (polygamous marriages) is about a man having the right to take more wives</i></p> <p><i>It (polygamous marriages) happens pretty much on men's conditions which people can have negative attitudes towards.</i></p> <p><i>...in a Swedish gender equal society, it is of course highly problematic when men can take more wives but women can not take more husbands.</i></p> <p><i>...it (polygamous marriages) is that exact tradition one should be critical to, and the Muslim view that exists, that a man can take more wives.</i></p> <p><i>...patriarchal structures where women doesn't have as much to say where it would be better if the man did not take a second wife or a third wife.</i></p>
Univer salism	Polygamy is violating Women's rights	No benefits for women	No advantage for women	<i>And how it (polygamous marriages) is practiced in Muslim countries, what I know, there is no evidence for how it reflect advantages for women.</i>

Univer salism	Polygamy is violating Women's rights	Individual rights	Individual perspective	<i>I don't believe in specific cultural or religious rights. That is; because I have a specific religion, I can enter a marriage people who does not have that religion can not. I see it from the individual's perspective.</i>
			Group rights can violate individual rights	<i>I think it (rights belonging to specific groups) is problematic... to give people the right to some kind of tradition even though it might violate individual rights and freedoms.</i>
			Individual rights more important	<i>I think individual rights and freedoms are more important (than rights belonging to specific groups).</i>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Explanatio n of polygamy	Islam, Tradition, Interpret	<i>...in Islam there are different traditions of how to interpret (polygamous marriages)</i>
			Patriarchal societies	<i>...related to very patriarchal societies...</i>
			Religion	<i>...marriages are religiously inflicted...</i>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Effects of polygamy	Problems for immigrants	<i>It's a problem for those who come to Sweden from another country where the polygamous marriage was legit.</i>
			Better for women already in polygamous marriages	<i>I think this (Sweden not allowing polygamous marriages) deteriorates the second wife's rights... it (Sweden allowing polygamous marriages) could be</i>

				<i>better in some families.</i>
Cultural Relativism	Polygamy is a realization of Cultural and religious rights	Consequences of legalizing polygamous marriages	Resistance, monogamy as norm, otherwise liberal people Enhance polarization Adapting to Islam	<i>...it (allowing polygamous marriages) would face resistance from those who sees the monogamous marriage as the norm which most people do even though they might be liberal otherwise.</i> <i>...It (allowing polygamous marriages) would maybe enhance the polarization between groups in Sweden.</i> <i>...could see it (allowing polygamy) a step towards adapting to Islam...</i>
Cultural Relativism	Polygamy is a realization of Cultural and religious rights		Libertarians Personal issues not grounded in religion Individual choice No principal wrong	<i>...possibly some individuals... or libertarians would think its good that everyone should be allowed to marry whoever they want without the state being involved.</i> <i>It can emotionally or experientially be important to me, or more important to me (to have a polygamous marriage) than for the Muslim man or woman which is why it shouldn't be grounded in culture or religion but from a neutral stand.</i> <i>...As long as adult individuals give their full consent to this (polygamous) marriage... then I am more liberal. Then the state should give people the opportunity.</i> <i>...from a rights perspective, where three individuals with a wish of entering a marriage chooses this</i>

				<i>like three independent people, I don't think there is any principal wrongs.</i>
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Appendix 4; Coding agenda for Tanzania

Person working with women's rights in Tanzania				
Theory	Category	Codes	Sub-codes	Coding Unit Examples

Univer salism	Polygamy is violating Women's rights	Effects/ consequen ces of polygamy for women	Social, Economic, Psychologic al, Emotional Privacy, Health, Standard of living, Strain on the family, Emotional torture	<i>If you look at the social, economic, psychological, emotional effects that it has on women and children, I don't see it as a human right</i> <i>The right to privacy, the right to health, the right to healthy, I mean good living standard that are provided for in different statues. And these women miss that when in a polygamous relationship.</i> <i>It's a strain on the family, so basically there is not only economic, there is emotional torture of just, you know, being four women.</i>
Univer salism	Polygamy is violating Women's rights	Polygamy in relation to women's human rights	Discriminati on in human rights law, Gender based discriminate Not a human right	<i>Because if you look at other statues that talk about discrimination, you know, and this (polygamous marriages) can actually be defined as discrimination based on sex for a women.</i> <i>But the economic, the social, the emotional dimension and effects that the women face does not make it a human right in my perspective.</i>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Explanatio n of polygamy	Tradition, Islam Customs, Culture, Religion	<i>When you are having a traditional marriage, it's recognized as a polygamous marriage, and also when you are having an Islamic marriage.</i> <i>Customs, culture, traditions, religion, is the root of it.</i>

Cultural relativism	Polygamy is a realization of Cultural and religious rights	Consequences of illegalizing polygamous marriages	Cultural tensions Continue happening	<p><i>...Polygamous marriages is always an issue of tension because of the leaders and cultural tensions that go with polygamy.</i></p> <p><i>But if we are going to amend without going through this process of actual awareness raising and changing people's attitudes and traditions and norms and helping people to understand that polygamy is not positive, it's negative for women and children, then if a law was passed it will still continue happening.</i></p>
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Person working with cultural/religious rights in Tanzania				
Theory	Category	Codes	Sub-codes	Coding Unit Examples

Univer salism	Polygamy is violating Women's rights	Effects/ consequen ces of polygamy for women	Psychologic al torture Neglecting of social and economic support Health risks, HIV STD's, Physical injury, Fighting	<p><i>So what happens is the psychological torture for women.</i></p> <p><i>And in most cases it (polygamous marriage) is connected with the choosing of social and economic support to one (wife).</i></p> <p><i>... but currently this is urgent prevalence and health risks because polygamy has been pointed out with this causing of what we call high risk of HIV...</i></p> <p><i>Having three or four wives at the same time and having sex with them it is easy to transmit (STD's) from one wife to another wife.</i></p> <p><i>And sometimes there is physical injury because sometimes wives are fighting among them, if they are in one house.</i></p>
Cultura l relativi sm	Polygamy is a realization of Cultural and religious rights	Explanatio n of polygamy	Traditional sign Cultural rooted practice Demographi cs Culture, Religion, Islam, Secular government	<p><i>Having multiple wives is a sign, traditional sign of wealth and welfare.</i></p> <p><i>This (polygamy) is a culture rooted practise.</i></p> <p><i>... but demographically there is a reason to have two wives because we are not equal. Women are many more than men...</i></p> <p><i>...it (polygamous marriages) is supported from culture and is also religion based in Muslim, and we have a secular government that has not decided on one religion.</i></p>

			Norms, Values, Traditional way of life, Institutions, Patriarchal system	<i>...existing norms, values, traditional way of life it (legalizing polyandry) is a problem because all institutions they are made, rooted and grounded in the patriarchal system...</i>
Cultural relativism	Polygamy is a realization of Cultural and religious rights	Benefits of polygamy	Strong family, Production and consummation Family security Keeping animals, Manpower, Kids Legal relationships Protection from STDs Economic and social benefits	<i>There are some cases polygamy is beneficial, it is considered to be, economically they form a strong family so they produce together and they consume together.</i> <i>So in case this wife gets sick, maybe she has two kids, then these two kids can be raised by their relatives.</i> <i>So keeping animals and cultivating you need to have manpower, and the manpower is kids, and to have many kids you need to have many wives.</i> <i>...the consequences (of prohibiting polygamous marriages) would be illegal marriage, illegal partners, a number of partners, and black relationships</i> <i>...if that (prohibiting polygamous marriages) then women might experience a number of STDs</i> <i>...these women are benefitting socially and economically...</i>

Cultural Relativism	Polygamy is a realization of Cultural and religious rights	Polygamy in relation to human rights	Conventions are westernized	<i>To me, because you know in most cases some of these conventions is westernized.</i>
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