



QUEEN ANNE'S GATE LONDON SW1H 9AT

24 March 1986

Prime Minister

Content with the

proposed policy  
line

CDP 24/13

Dear Quinlan,

ADMISSION OF SECOND WIVES

In my letters of 13 March to you and 21 March to Willie Whitelaw, I reiterated the need to make an early change in the law to deal with the problem of polygamous wives. Our officials have now been looking at the details.

It may be helpful if I restate the objective. Under present law polygamous wives may - and do - come to live with a husband who has settled here who has already brought in one wife. I have now seen details of more than a dozen cases where second wives were in the last year or so granted entry clearance in Bangladesh and Pakistan. All but one of the husbands was admitted to the United Kingdom before 1970. In every case, the second marriage took place some years after the sponsor became settled here. Our objective must be to prevent more such polygamous households being established. For a man to live with two or more wives is clearly at odds with our own customs to the extent that it is a criminal offence under British law to marry more than one person at a time.

I accept that we cannot go so far as to invalidate polygamous marriages where the parties are already resident in this country. On the other hand a provision which only withheld recognition from future polygamous marriages would demonstrably not suffice. Our problem concerns applications from wives of existing marriages. It is therefore essential that we take action which affects marriages which have already been contracted.

I have explained in earlier correspondence why action through the immigration law will not suffice and I think that officials of the Departments concerned are agreed on that point. We must tackle the recognition of polygamous marriages as such. I have proposed that such marriages should be rendered void. I accept that legislation to make polygamous marriages void ab initio would both be very controversial and have repercussions for example on family and on nationality legislation which could require complex consequential amendment. Happily, we do not need to go that far. What we need to do is to remove recognition from existing and future marriages from now on. We do not need to affect the past validity of such marriages with all that that would imply for such matters as the legitimacy of children and rights of succession.

/Accordingly

The Rt Hon Lord Hailsham of St Marylebone, CH, FRS, DL

We do not  
recognise polygamy  
at all

delete  
last  
phrase

Accordingly what I propose is a provision under which a polygamous marriage is rendered invalid from the commencement date of the legislation if the man was already validly married under our law at the time of the marriage (unless the wife had lived with the man in this country). Any future such marriages would not be recognised. If this approach is agreed officials will need to work up the details; but I would hope that it would be possible in this way to minimise the complexity of the consequential amendments. Equally important this approach would minimise the degree of retrospective effect of the legislation.

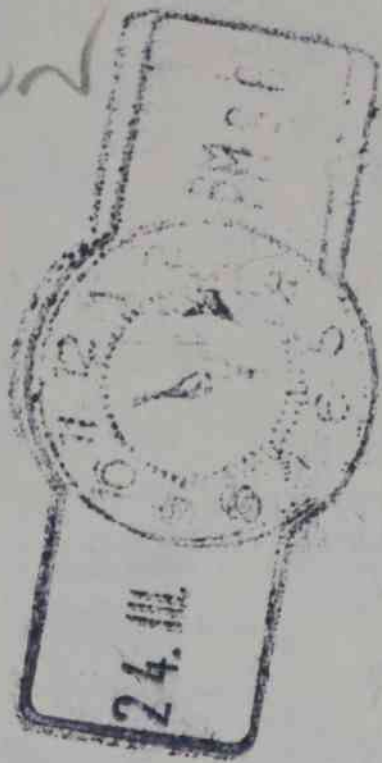
I am very conscious of the possibility of challenge under the European Convention on Human Rights. A reasonable defence of legislation on these lines could however be presented against any complaint under the ECHR. It seems to me that there is a good argument that a family unit comprising a man with two or more wives is so contrary to the principle of monogamy on which our way of life is based that any complaint that legislation invalidating such marriages is contrary to the respect for family life enjoined by Article 8 of the European Convention could be countered by, for example, relying on the defence in Article 8(2) that it is necessary in a democratic society for the protection of morals.

I would be grateful for your agreement, and that of H Committee colleagues to dealing with the problem on this basis. Our officials can then jointly work up detailed proposals. If of course you or colleagues would prefer the issues to be discussed first in Committee I hope that an early date can be set for that. In any event I am anxious for agreement to the broad policy so that I can announce our intentions for tackling this problem as soon as possible, before some particular scandal breaks.

I am sending copies of this letter to the Prime Minister, Members of H Committee and L Committee, the Foreign Secretary and to Sir Robert Armstrong.

Yours,  
Doyl

IMMIGRATION  
RULES  
PT 2





10 DOWNING STREET

From the Private Secretary

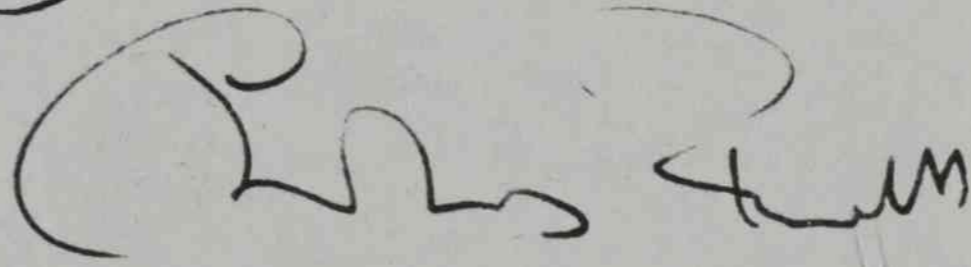
25 March 1986

Dear Stephen,

**ADMISSION OF SECOND WIVES**

The Prime Minister has seen a copy of the Home Secretary's letter of 24 March to the Lord Chancellor. She has commented, in relation to the Home Secretary's proposal at the top of page 2 that since we do not recognise polygamy at all, the phrase "unless the wife had lived with the man in this country" should be omitted. I should be grateful if this point could be taken into consideration.

I am sending copies of this letter to the Private Secretaries to members of H Committee and L Committee, and to Len Appleyard (Foreign and Commonwealth Office) and Michael Stark (Cabinet Office).

Yours sincerely,  


(Charles Powell)

Stephen Boys Smith, Esq.,  
Home Office.

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cc PL  
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ECL





Chancellor of the Duchy of Lancaster

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Tel No: 233 3299  
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26 March 1986

Steven Boys-Smith Esq  
Principal Private Secretary  
to the Home Secretary  
Home Office  
Queen Anne's Gate  
LONDON  
SW1H 9AT

CAD  
26/3

*Dear Steven.*

**ADMISSION OF SECOND WIVES**

The Chancellor of the Duchy of Lancaster has seen a copy of your Secretary of State's letter of 24 March to the Lord Chancellor. Mr Tebbit agrees that the problem should be dealt with on the basis set out in that letter.

I am sending a copy of this letter to Tim Flesher (No 10), Robert Culshaw (FCO), the private secretaries to members of H committee and L committee, and to Michael Stark (Cabinet Office).

*Yours sincerely,*  
*Andrew Lansley*

ANDREW LANSLEY  
Private Secretary

Immigration: Rules Pt 2.



MR WICKS

21 March 1986

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IMMIGRATION

This subject may be raised by the Home Secretary on Monday. There are several relevant points.

Firstly, last year's Government concession, which was reluctantly granted to allow the immigration of fiancées of settled non-national women into the country, might be reviewed. Our High Commission in Islamabad reports that there are a huge number of extra applications by fiancées. Officials are under pressure to provide more staff to cope. However, the immigration figures published this week do not yet reflect this new surge of applications. Applications by fiancées in the Indian sub-continent as a whole rose by only 10% during 1985, but the Regulation in question (HC503) only came into force in the latter part of last year.

Secondly, the question of polygamous marriages. Home Office and the Lord Chancellor's Department are waging hostilities. The Home Office are keen that the Family Law Bill be extended to include a ban on the admission of second and further wives of polygamous marriages. Under the Matrimonial Causes Act 1973, this is possible. Though the numbers are small, the problem is vexed and Home Office are exposed to public pressure. The Lord Chancellor and the Lord Advocate, together with the business managers, say this will unnecessarily delay the progress of the Bill and are discussing the matter in H shortly. While the point is important, we believe that it should not delay the present Bill and, if it is not included, might be taken up by a private Member in the Autumn.

HARTLEY BOOTH

*HBS*