

## Justice in Polygamy: Study of Marriage Verses

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### ABSTRACT

*This research aims to (1) describe the meaning of justice in the practice of polygamy and (2) analyze the concept of justice in polygamy in accordance with Islamic law based on the marriage verses approach. This research was designed using qualitative methods to be able to explain in as much detail as possible about justice in polygamy from the perspective of marriage verses. This research is a type of library research that takes references from books whose subject is justice. Meanwhile, the object of this research is the verse of the Koran which talks about justice in polygamy. To collect data, researchers used reading techniques and then recorded the results. Meanwhile, the analysis technique is descriptive. The results of this research are: the context of justice stated in Q.S An-Nisa verse 3 is justice in material form. As in Q.S An-Nisa verse 129, justice is in the form of affection, or love. Therefore, these verses imply that polygamy is permitted and cannot close the road to polygamy tightly and locked. A household that is described as harmonious is not just a monogamous family, or one wife. But polygamy still does not rule out the possibility of a harmonious family. Because it is impossible for Allah to impose or order something without the benefit of the people and His servants should carry it out according to their needs. God gives a signal that it is permissible to practice polygamy as long as it is possible on condition that it is fair. Although what is known is that there is nothing truly fair in the practice of polygamy.*

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## 1. INTRODUCTION

Judging from history, polygamy has been practiced for hundreds or even thousands of years since the Jahiliyah era before the Prophet came to become an Apostle, or before the arrival of Islam. This culture is also developing towards modernity and in accordance with the conditions of the times. The social situation discussing polygamy can be said to rise and fall compared to the progressive era, where problems in the family increased with its existence. about news of harassment that has spread to social media (Asiyah et al., 2019).

From a legal perspective, polygamy is a legal act that falls into the category of *ibahah* (license), not *sunnah*, let alone mandatory (Madiu, 2014). Even though there are many books that discuss polygamy, what is discussed in them is usually only in accordance with the author's emotions. So there are many differences in it and tend to be personal opinions (Syahfitri & Fahlia, 2021).

The phenomenon of polygamy has become controversial, increasingly emerging to the surface and causing serious attention as time goes by and most of those who practice it are community leaders, religious leaders and people who have been appointed influential. So that polygamy often appears as a topic of public discussion. There are several problems that often become problems in polygamy, including the problem of women who strongly oppose and dislike polygamy and see it as endangering their position and role as women. (Jannatur Rahmah et al., 2020).

There are provisions in national law that are irrelevant and do not benefit the Indonesian people, especially those that deviate from the values of equality for women. The impacts are varied, including women's suffering due to various injustices, marginalization, dependency, prejudice and other problems. With these realistic conditions, of course the position and role of women must be prioritized, especially injustice in the field of marriage (Masri, 2019). In Indonesia, the issue of marriage has been discussed in Law No. 1 of 1974, which contains the understanding of monogamy, namely marrying only one wife and that the husband is capable of polygamy. It's just that a wife must still have only one husband. The condition for a husband if he wants to practice polygamy is that he must explain the logical reasons for his desire to practice polygamy in a religious court, whether Chinese or Christian. Carrying out her duties as a wife (a physically disabled or seriously ill bisterian (who cannot give birth to a child with a cystar) (Madiu, 2014). In response to this, Allah has said, namely:

Meaning: "And if you are afraid that you will not be able to do justice to (the rights of) orphaned women (if you marry them), then marry (other) women that you like, two, three or four. then if you are afraid you will not be able to act fairly. So (marry) just one person, or the slaves you have. that is closer to not committing wrongdoing" (Departemen Agama RI, Al-Quran Dan Terjemahannya: Juz 1-30, Jakarta: PT. Kumudasmoro Grafindo Semarang, 2011, n.d.).

From the description above, the conditions for polygamy to occur are quite burdensome. Therefore, husbands must think before committing to polygamy, but if

the husband meets the requirements, then polygamy is permitted. Because in Islam, a husband is needed as head of the family, priest, role model for his wife and children. Husbands have an obligation to guide their wives and children to create harmony in the family in accordance with the teachings of Islam and the Sunnah of the Prophet (Labib Ilhamuddin, 2021).

In Islamic legal discourse, the issue of polygamy has always been a hot and interesting topic raised as a topic of discussion and debate. Although the results of debates about polygamy always end in disagreement, they often lead to arguments between supporters and opponents (Asiyah et al., 2018). For various reasons, including:

According to Rasyid Ridha, polygamy in Islam contains many dangers and risks of loss, because basically human nature is jealous, envious and often complains. These characteristics will easily manifest at a fairly high level, if you are in an environment that practices polygamy. Therefore, the practice of polygamy is more of a source of problems or conflict in the household with all family members (Hamdun & Ridwan, 2020b). Of course, there are differences of opinion on the pros and cons and what is happening among the scholars above not only because of differences in the verses that discuss polygamy. However, in reality, what happens to families that practice polygamy mostly only adds to the conflict and problems in the family, especially in matters of justice for family members.

## **2. RESEARCH METHODS**

In general, there are two types of research methods, namely research with field objects (field research) and library research/looking for sources from books (library research) (Sugiyono, 2017). Meanwhile, in this paper the author uses research using the library method (library research) and uses a qualitative model where this research explains in words descriptively or describes everything that is the same as the situation in the field with a content analysis model in the form of facts obtained (content analysis). . This research collects data from secondary and primary sources. Primary data is various data of a primary nature that is related to the research. Secondary data sources include books, journals, websites, news and various references that are appropriate to the object under study.

## **3. RESULTS AND DISCUSSION**

The polygamy carried out by the Prophet was an effort for social transformation. The polygamy mechanism implemented by the Prophet was a

strategy to improve the position of women in the Arab feudal tradition in the 7th century. At that time, the social value of a woman and a widow was so low that a man could take as many wives as he liked. On the contrary, what the Prophet did was limit the practice of polygamy, criticize arbitrary behavior, and emphasize the need to act fairly in polygamy. When the Prophet saw that some of his companions had married eight to ten women, they were asked to divorce and left only four. And, this is an explicit statement in limiting the practice of polygamy which initially had no limits at all. *The Meaning of Justice According to the Al-Quran* (Rasyid & Arianti, 2021).

### ***3.1. The Meaning of Justice According to the Al-Quran***

The Al-Quran mentions the word justice 28 times in various verses and surahs. Justice in the various surahs also discusses justice from various contexts and points of view according to the themes being discussed. Adil is written in Arabic in various forms, including fair in the form of masdar written 14 times, fair in the form of fi'il madhi once, in the form of fi'il mudhari written 11 times and fi'il amr twice in the Al-Qur'an (*Keadilan Dalam Pelaksanaan Poligami Ditinjau Dari Perspektif Al-Quran*, 2016).

The concept of justice has various concepts. In each of these concepts there is also a word that is often used to refer to the word fair, namely adl, which originates from Arabic عدل-يعدل-عدل with the meaning of being honest or right, contrary to the meaning of being adl, for perpetrators who do not act fairly, they are called wrongdoers (Makka & Ratundelang, 2022). Literally, the word adl comes from ancient/classical Arabic using an abstract noun and originates from a verb that has meaning. The first, straight or sitting straight/well, has the authority to change/amend. Second, choose another path and escape from the wrong initial path. Thirdly, assume the same. Fourth, try to balance things so that they are appropriate and comparable (Ibn Manzur, 1999).

Adl in English comes from the word justice which means putting something in accordance with its portion. Talking about this concept, fairness does not mean equal amounts, but balancing and giving to someone according to their role and needs (Ali, 2003). The synonyms for this word are: qisth, qasth, istiqamah, wasath, nashib, hishaha, mizan and others. The opposite word or antonym actually does not have a negative meaning. For example, if you combine the opposite English word for fair, namely injustice-justice, the word with a different meaning is often called jawr. These words also have similarities but the meanings contained are different. For

example *zulm* (wrong treatment), *thughyan* (tyranny) *mail* (tendency), *inhiraf* (deviant), and so on (Syahfitri & Fahlia, 2021).

The word justice is the opposite of *aniayah* which means acts that are detrimental to other people or unjust which results in disputes, discomfort, hatred, division, enemies, grudges and other negative things. Islam is a religion that is *ramatan lil alamin* and Allah recommends that fellow creatures be merciful, avoid division and always maintain friendship and be fair to all humans in facing life's problems. Islam really upholds justice, therefore in the Koran there is a lot written about how to practice the concept of justice, how to respect others. And don't forget that Allah gives gifts to His servants who uphold justice in a place that is praiseworthy and promised heaven. The Qur'an also says that justice must be possessed by all humans (Mahfud, 2021). People who act fairly are equated with people who have high piety. The verses of the Qur'an that discuss justice are:

Meaning: "O believers, it would be good for you to try to maximize yourself to become someone who always fights for the truth of *lillahita'ala*, to be a just witness. Don't be someone who hates another people or group and causes you to do injustice. Doing justice means the action is closer to piety. O people, fear Allah. Indeed, what you do Allah is All-Knowing" (Q.S. Al-Maidah verse 8) (Agama, 2016).

### **3.2. Poligamy Justice in the Al-Quran**

Islam recommends and emphasizes clearly in the Al-Qur'an, if you want to practice polygamy you must be able to fulfill the main requirements, namely fairness. (Jannatur Rahmah et al., 2020). Justice in this case is discussed in Q.S An-Nisa verse 3 which is still related to verse 2:

Meaning: "When the orphans are old, then give them their wealth, it is not permissible to change what is good for something that is not good/bad and stay away from eating the orphan's wealth, you have no right to it. This is truly a big sin" (Agama, 2016).

Regarding Q.S. An-nisa verse 3 and verse 2 talk about fairness in managing the assets of orphans. As for fairness in polygamy, it is more often understood as how to behave fairly with one's partner/wife (Hamdun & Ridwan, 2020a). In Tafsir al-Ibriz says that initially in the case of caring for orphans there were those who were caretakers but not the mahram of the orphans and they ended up getting married. At that time, there was an incident where a marriage took place until the number of his wives reached 8 or 10. Because of this, many people said that he could not be fair

with his wives. So the person became angry and the Q.S came down. An-Nisa verse 3 and its contents say it is permissible to practice polygamy with orphans either 2, 3 or 4 even if they do not love (Makrum, 2016).

It is very important for a polygamous marriage to be carried out as fairly as possible because by being fair, the household will run harmoniously. Because in polygamy the household is not based on love alone but material things are also needed in it (Anwar, 2002). Based on QS. An-Nissa verse 129 in particular:

Meaning: "You will not be able to be fair to your wives, even if you really want to be fair, so you must not be too inclined towards the one you love most, causing the other wives to be oppressed and adrift. If you are able to do good to your wife and are not cunning towards your wives, Allah is truly merciful and loves his servants" (Agama, 2016).

In this verse, the discussion is more specific about fairness in terms of love and affection. This verse implies that feelings of love or affection are not at all human beings who are in control and it is beyond human ability to measure feelings of love and affection. At least do it from logic and reason alone to weigh it, including accepting what the advantages and disadvantages of each wife are (Jannatur Rahmah et al., 2020). What is meant by fairness here is fairness, whether feelings of affection, love or material things. Tafsir al-Maragi considers fairness here, namely how a husband provides material things such as a house, money, land, jewelry and so on (Keadilan Dalam Pelaksanaan Poligami Ditinjau Dari Perspektif Al-Quran, 2016).

The problem of fairness is because of love, humans cannot regulate it at all, because in this case only Allah is able to place feelings and there is no need to feel guilty for having different feelings, because the Prophet Muhammad was also unable to regulate this matter and had more affection for Aisyah (Abidin et al., 2021). However, the Prophet still treated his wives fairly and equally, making no difference unless the other wife pleased him. Tafsir Al-Azhar says that justice from its perspective includes justice regarding the husband's rights and the right to have a house, clothing, food, basic, physical, spiritual and so on (Hamka, 1983).

Muhammad Quraish Shihab is of the opinion that he does not recommend polygamy, only that if there is an urgent need then it is permissible. If it is not conceptualized like that, there will be no feeling of comfort, peace and beauty in the household but rather disaster and a feeling of unease that always strikes. (Asiyah et al., 2019). After explaining the problem of polygamy, Quraish Shihab did not give

instructions in the form of coercion for men to carry out polygamy, but instead meant allowing it on the condition that they were able to be fair to their wives. Meanwhile, Al-Maraghi said that polygamy is something that is carried out because conditions that are very emergency and urgently needed, for example because of deficiencies in women in the form of not being able to give birth, not being able to reproduce anymore, the condition of women who are unable, such as due to war, many women become widows. because her husband was killed so they lived in misery because there was no one to support and support their children (Al-Zuhaili, 2007).

In Muhammad Quraish Shihab's opinion, he said that polygamy should only be practiced by people who are going through difficult circumstances. In this case, the author wants to describe people who have views that are very anti-polygamy. Buya Hamka also said that if you really want to have polygamy, before doing so, you must first think carefully about justice and treat it properly according to the sharia. Polygamists don't just want to be with the woman they like. Because in carrying out polygamy the consequences are more severe than you think, because later in marriage you will definitely have children and become parents. If you are a parent and have children, the thing you have to do is focus on caring for and educating your children. If polygamy will only be an obstacle and trigger disharmony, then this is very dangerous and polygamy will only cause disaster because children will be neglected and become victims of oppression due to the actions of their parents. (Asiyah et al., 2019).

### **Poligami Justice in Polygamy: Study of Polygamy Verses**

Verses regarding polygamy law. These verses are al-Nisa/4:3, and 129. Q.S al-Nisa/4:3 states:

Meaning: "If you are afraid that you will not be able to give fair treatment to an orphan woman if you marry her, then it is better to marry any other woman you like, either two, three or four, but if you cannot afford to be fair then just one better. that way you don't persecute and oppress him (Agama, 2016).

Furthermore, polygamy is also discussed in this verse Q.S al-Nisa/ 4:129:

Meaning: "You will not be able to be fair to your wives, even if you really want to be fair, so you must not be too inclined towards the one you love the most, causing the other wives to be oppressed and adrift. If you are able to do good to your wife and are not cunning towards your wives, Allah is truly merciful and loves his servants." (Agama, 2016).

In Q.S. An-Nisa: 3 discusses the circumstances that are the background to the requirements for fairness, limits on the number of polygamists. From the verse above it says that a man is allowed to marry a woman he likes at most 4 people. But if you are unable to do justice then one is enough. The Messenger of Allah also discussed this matter from his hadith where he said: "The Prophet spoke to Ghailan bin Salamah when Ghailan converted to Islam, at that time he had 10 wives, and the prophet said, divorce 6 and keep 4. Then Naufal bin Muawiyah also had 5 wives and the prophet also said the same thing" (Ibn Manzur, 1999).

Orphans are related in the verse above to women in general and have a relationship with polygamy, this was also discussed by Aisyah ra: *Urwah ibn Zubair; Asma's daughter Aisyah's niece asked. Aisyah said that women with orphan status are still dependent on their guardians. His assets also still have a mixed relationship with his guardian. If the guardian who cares for him wants his property and also likes the orphan and wants to marry him. But he was unfair in giving the dowry, in the sense that the dowry given was low on the grounds that the orphan was still his responsibility. If her intentions are not good, then the guardian may not marry her. It is permissible to marry if the dowry given is also appropriate* (Hamka, 1983). This explanation illustrates that rather than marrying with bad intentions, it is better for a man to marry two, three or four wives, whichever he thinks he likes and likes.

Meanwhile, what is stated in Q.S An-Nisa verse 3 is that it is said to be fair if a husband can provide clothing, food or shelter to his wife equally. If you are afraid of not being able to afford it, the number of wives is limited to just one. This is done so that no one is oppressed or oppressed (Mahfud, 2021). With just one wife, this opens up a wide opportunity for a husband to be fair to his wife (Hamka, 1983). This verse says that Allah does not prohibit polygamy at all, only gives the person a choice with the necessary conditions, namely fairness.

Fa inkihu said; is sighat 'amr which means command. Commandments in Q.S An-Nisa/4:3 li al-Ibahah (states that polygamy is permissible) (Al-Zuhaili, 2007). Just like Allah commands eating and drinking Q.S al-Baqarah/2: 187. There are various views, some say that polygamy is obligatory, but it is not a command, only the number is 4.

Muhammad Quraish Shihab believes that this verse is the basis or basis for allowing polygamy. However, the existence of this verse gives rise to regulations regarding the implementation of polygamy, because previously polygamy had existed even since the time of ignorance. In this verse, polygamy is neither required nor recommended. Just discussing that polygamy is permissible, and as a way to resolve emergency matters (Makrum 2016).

This problem is also related to socio-historical matters, Q.S. An-Nisa: 3 includes the problem of polygamy and orphans who are often treated unfairly. This problem



is understood to reveal past history when the verse was revealed in the year 4 AH. The information was that at that time Islam was losing the battle of Uhud which resulted in the death of as many as 70 adults who were martyred. This was certainly a large number if at that time there were only 700 men in the Muslim community (Efendi, 2018). A man is the foundation of the family. In such a situation, many wives become widows and there is no one to support them. At that time Islam was just growing in Medina, many lost their husbands and left their children and wives to become widows and orphans. It cannot be denied that this has the potential for many people to be displaced as a result (Nawir HK, 2016).

Islam actually makes the choice to have polygamy as an urgent rule only, not in normal circumstances as written in the marriage law or fiqh books. Even though polygamy occurs in times of emergency, to carry out polygamy you also have to follow strict rules (Jalil, 2012).

Regarding this matter, Allah strengthens it in Q.S al-Nisa/4: 3.

Meaning: if you are afraid of not doing justice.

Allah says that it cannot be fair. (Q.S al-Nisa/4:3 implies the order that if you are unable to adequately meet your needs for clothing, food and shelter), you must marry one woman. As for people who are allowed to do polygamy if they are sure they can be fair to their wives as per Q.S al-Nisa/4: 129.

This means: you will not be able to be fair to your wives, even if you really want to be fair.

This aspect is related to the inclination of the heart. If the understanding is not combined with the two verses, then polygamy is not permissible. For feelings of inadequacy and not having to be fair. Because humans are unable to measure the affection or love they have. This was also experienced by Rasul who was unable to measure his love for Aisyah. He loved Aisyah more than his other wives. In the Hadith, Aisyah says: "O Allah, this is my only power to be just. "Don't judge me for something that I can't do justice to," what this means is feelings of love and affection.

#### 4. CONCLUSIONS

There are two verses about the fair concept contained in the Al-Quran regarding marriage, namely Q.S An-Nisa:3 and Q.S An-Nisa: 129 which complement each other. Verse 3 says it is fair in terms of material things, verse 129 is fair in love and affection. It is very inappropriate if this verse makes one of the opinions that polygamy is strictly prohibited. Based on this explanation, polygamy cannot be replaced with monogamy or one wife. Even if the ideal family is only easy to achieve

if it is only monogamy. But Islam also allows polygamy and this is done if there is benefit and justice for the wives.

God allows polygamy and shows his servants/humans that humans have the opportunity to act fairly with fellow humans even though being fair is very difficult to do in the world of polygamy. Polygamists who are allowed to practice polygamy are people who have a wide heart and a high sense of humanity. Polygamy also has great responsibilities. Therefore, not everyone is capable of polygamy. Because polygamy is not only about love, but materials must also be met fairly.

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