

Concept Of Fair Polygamy In The Perspective Of Islamic Law And Positive Law In Indonesia

Sarifatun Azkia¹, Ahdiyatul Hidayah²

¹ STAI Rasyidiyah Khalidiyah Amuntai

² STAI Rasyidiyah Khalidiyah Amuntai

Sarifatunakia@gmail.com | ahdiyatul123@gmail.com

ABSTRACT Polygamy is a marriage performed by a husband when he already has one wife, but he remarries with a new woman without giving up the status of the first wife, and so on until a maximum of four wives. Indonesia prioritizes the principle of monogamy, although it is like that but there is no prohibition on practicing polygamy but conditional. This research focuses on the concept of fairness which is the main requirement in polygamy permits. This research uses a type of literature review conducted by analyzing several literatures such as books, journals, laws, the Qur'an and so on. Based on the results of research on Islamic law and positive law (Law number 1 of 1974 concerning marriage and the compilation of Islamic law (KHI)), both have something in common, namely both focus on being fair in the main condition for polygamy, which can minimize the act of polygamy, even though polygamy itself is allowed in Indonesia. The meaning of fair is different, but broadly speaking, the concept of fair here is divided into two kinds, there are external and inward.

KEYWORDS *Polygamy, Islamic Law, Positive Law, Fair*

INTRODUCTION

Marriage is the inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One True Godhead. In addition, marriage is also the most important point to regulate how life is in a household and train to form a small family which will later become a large family when it has children, in addition to the scope of its own family will also become part of a wider society. (Aksara, 2020) Whether or not a goal is achieved depends on how close the relationship between husband and wife is, how both make their household a harmonious family. The relationship between the two will be very close if they each carry out their rights and obligations as a good married couple. (Rasjid, 2018)

If the wife cannot give her husband rights or vice versa the husband who is dissatisfied with the rights given by his wife, then it does not rule out the possibility that the husband will seek and meet his needs elsewhere. This is what will

probably be used as a reason for husbands to be polygamous. (Saleh, 2024)

Polygamy is a marriage bond in which a husband marries more than one woman at the same time, or in the event that he is not divorced from his first wife. (Amalia, 2016)

Polygamy is a commonly discussed term and a fact that is often the subject of protracted discussion and controversy. This controversy does not only arise because of doubts or vagueness regarding the legal or religious foundations that support polygamy, but more often because of the motives and interests of the parties involved, as well as the negative impacts that often arise from the practice of polygamy carried out by most individuals. (Romli, 2010)

Islam allows polygamy on the grounds that it is another option or a way out to overcome the problem of channeling desires, and the desire of men to avoid committing adultery, so before plunging into the abyss of adultery, it is better to use the halal path, but return to the main rules or conditions to be able to polygamy. (Lestania, 2010)

In both Islamic law and positive law, a husband can marry more than one person and no more than four. Although in Indonesia prioritizes the principle of monogamy (having one wife) compared to polygamy (having more than one wife). However, not a few men have practiced polygamy either legally or not. In Islamic law and positive law have the same conditions for the rule of polygamy, namely the husband must be able to act fairly in any case, although in positive law in Indonesia polygamy has conditions that are more detailed to be clearer. (Putra, 2020)

Polygamy is a path taken by women who more or less have an element of coercion, no matter how sincere a wife is, but in fact there is still pain in her heart. Besides the pain it is Allah Almighty. It has promised paradise for wives who willingly accept their polygamous husbands. (Asdin, 2023)

In polygamy, being fair is the main requirement that a husband must carry out in his home life. Sayyid Qutub also said that polygamy is Rukhsah (leniency), therefore polygamy can only be done in emergencies. Even in an emergency, justice which is the main requirement in polygamy must not be eliminated. (Nurani, 2021)

The legal requirements and reasons for the permissibility of polygamy that we find in Islamic law today are the result of ijtihad of scholars within the scope of fiqh studies, so it is possible to be transformed into positive law as Islamic law with a local style and adapted to the conditions and legal needs of the local Islamic community, such as in Indonesia, the birth of the Compilation of Islamic Law in the context of establishing the unification of Islamic law that applies to Muslims Indonesian. (Alaklabi, 2023)

The ability to polygamy on the condition of being fair is only a requirement in theory, but in fact this condition is very difficult to realize, because unfair acts against his wives are more or less certain to occur. In addition, the concept of Mawaddah wa Rahmah will disappear when the husband remarries, polygamy will be the root of the problem that causes quarrels in a household, be it between husband and wife, or quarrels with other wives. Thus, religion seems to make conditions very difficult to do so that people do not arbitrarily want to practice polygamy. (Asdin, 2023)

METHOD

This research uses a literature study method that is descriptive in nature of analysis.

That is by collecting theories from various sources that will be used as references in this study. The sources used as references in this study are in the form of the Qur'an, Law, books, journals and previous research. (Subagiya, 2023)

DISCUSSION

A. Definition of Polygamy

Polygamy is defined as a marriage between one individual and two or more people, but it is usually interpreted as the marriage of a husband with two or more wives. The origin of the word polygamy which comes from Greek is "polus" which means a lot and "gamos" which means marriage. So if this word is combined then it means marriage with many partners.. (Arifah, 2016)

Siti Musda Mulia, in her book entitled "The Islamic View of Polygamy", defines polygamy as a situation where a husband marries more than one wife simultaneously. (Aisyah, 2019)

Polygamy, in the context of Islamic terminology, refers to the act of a man owning or marrying two to four wives, with the number of wives not exceeding that number. In this sense, it is important for those who wish to have more than one wife to undergo the marriage bond in accordance with Islamic sharia and the rules in force in the country. (Zaki, 2018)

Sharia that permits polygamy has a specific purpose, which is to follow the provisions of Sharia in the practice of polygamy. The principle of causation explained in Sura Al-Nisâ' verses 3 and 129 illustrates that the practice of polygamy will run harmoniously if carried out in accordance with the rules of Islamic Shari'a, with the aim of advancing the welfare of the family and the surrounding environment. (Hafidzi, 2018)

Polygamy in Islamic Law

The Qur'anic verse that explains that polygamy is able to do justice to (the rights of) an orphan woman (if you marry her), then marry a woman (listed in surah An-Nisa verse 3 as follows:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِّنَ النِّسَاءِ مَثْنَىٰ وَثُلَّةً ۖ وَرُبْعًا ۚ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَلِكَ أَذْنَىٰ أَلَّا تَعْدِلُوا

It means: "And if you worry that you will not be able to afford nothing else) that you are happy with: two, three or four. But if you are worried that you will not be able to do justice, then (marry) only one, or any female servant

you have. Such is it nearer that you may not commit tyranny."

Asbabun nuzul this verse is: Aisha said that this verse was revealed regarding a man who once took possession of an orphan, then the child he married. He entered into a property union to trade with the orphan woman he depended on. Therefore in marriage he gave nothing and took possession of all the property of the union, until the woman had no power whatsoever. (HR. Bukhari)

In another hadith from Urwah Ibn Zubayr asking Aisha about surah An-Nisa verse 3, Aisha replied that the orphans mentioned in this verse were orphaned women who were in the care of the guardian, and their wealth was mixed with the guardian's property. And her guardian is also interested in her wealth and beauty even to the point of wanting to marry him. But the guardian would not give the dowry to the woman in the same amount fairly as she gave to other women. Therefore such a guardian is not allowed to marry them unless he treats them fairly, by giving a higher dowry than usual. If that can't be done either, then they are forbidden to marry the woman he likes. (Alfiander, 2023)

According to Quraish Shihab, in this verse there is no suggestion let alone obligation about polygamy, but only allows, and even then only as the smallest gap or opportunity that even when wanting to go through it is only for people who really need and can carry out their requirements. (Duri, 2022)

Some commentators also argue that polygamy is not a recommendation. The mufassir also agreed that a person who is polygamous but cannot do justice to his wives, or even he marries them for the purpose of satisfying his lust, is a very zhalim behavior and is condemned by Allah Almighty. (Hidayah, 2023)

If the reason for practicing polygamy is because you want to emulate the Prophet SAW. then it needs to be understood that the Prophet was initially unable to polygamy, the real proof is that as we know that from the beginning the Prophet was married to Siti Khadija he never married another woman. Only after Siti Khadija died did the Prophet become polygamous. Even then, he married besides Siti Aisyah the youngest, the others were widows some of whom had begun to age. So it can be concluded that he carried out these marriages on the basis of da'wah and helped and saved those women who had been left behind by their husbands

who had been martyred in battle with him. (Isti'anah, 2022)

From the translation of Q.S An-Nisa verse 3 above it can be understood that a man can marry more than one woman and not more than four, but if he cannot do justice to all his wives, then it is only advisable to have one wife. But there is a further explanation of justice in Surah An-Nisa verse 129 which reads:

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمِيلِ فَتَدْرُوهَا كَالْمُعَلَّفَةِ وَإِنْ نُصَلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا

It means: "And you will not be able to do justice among (your) wives, though you are eager to do so, therefore do not be so inclined (to the one you love), that you leave the other adrift. And if ye make amends and preserve in (from deceit), then truly, God is merciful, merciful."

Asbabun nuzul verse above is Ibn Abu Mulaikah explains, that this verse was revealed to Aisha bint Abu Bakr Shiddiq, the wife of the Messenger of Allah. The apostle loved her more than he loved other wives. He felt that he could not do justice as God commanded. So the Apostle prayed, "O Allah, this is my turn according to my ability that is in me. Do not force what is Your command upon me." (HR. Ibnu Abi Hatim)

This verse presents an opportunity for a group of people who strongly reject polygamy because in the first sentence of the verse it says it will not be able to do justice even if it wants to do so. But the continuation of the verse says that justice that is difficult to achieve is justice that deals with internal aspects and is more inclined about hearts and feelings, which is beyond human capacity.

Based on this surah an-nisa verse 129 and its relation to the third verse of surah an-Nisa, Mahmud Syalthut states that achieving a just attitude, which is a condition in the practice of polygamy, is a very difficult task. According to him, this is a factor that hinders the permissibility of polygamy. Therefore, Mahmud Syalthut defines the concept of justice in two types, namely those related to material and non-material aspects.

Furthermore, according to Sayyid Sabiq in his book Jurisprudence Sunnah, the justice referred to in the verse is justice that can be measured, such as matters around meeting basic needs such as food, shelter, clothing, and so on. A similar opinion is expressed by Sayyid Qutb, who defines fair in the verse as fair in the context of livelihood, transactions, social interaction, and life together. (Isti'anah, 2022)

Polygamy in Positive Law

After independence, Indonesia regulated the implementation of polygamy practices in material or written law in the form of Law No.1 of 1974 concerning marriage. It is also expressly stated in this Law that the principle of marriage is monogamy. Which is in accordance with the rules contained in article 3 paragraph 1 of Law No. 1 of 1974 which says that a man's marriage can only be one to one woman and vice versa. (Khiyaroh, 2022)

There are two positive laws in Indonesia that discuss polygamy, namely, contained in the Marriage Law number 1 of 1974, and the compilation of Islamic law (KHI) specifically for people of Muslim faith. Both are used as guidelines in deciding cases in religious courts. (Hidayah S. A., 2023)

Law Number 1 of 1974 concerning Marriage adheres to the principle of monogamy, unless the religious law adopted specifies otherwise. Muslim husbands who wish to have more than one wife must apply for a polygamy permit to the religious court / syar'iyah court with the conditions as stipulated in articles 4 and 5 of Law Number 1 of 1974. (Agama, 2014)

Article 4

In this case a husband will have more than one wife, as mentioned in Article 3 paragraph (2) of this Law, then he must apply to the court in his county of residence.

The court referred to in paragraph (1) of this article only gives permission to a husband who will have more than one wife if:

The wife cannot perform her duties as a wife;

The wife has a disability or an incurable disease;

The wife cannot bear children.

Article 5

To be able to apply to the court, as referred to in article 4 paragraph (1) of this law, the following conditions must be fulfilled:

There is consent from wives / wives;

There is certainty that husbands are able to guarantee the necessities of life of their wives and children;

There is a guarantee that husbands will do justice to their wives and children.

The consent referred to in paragraph (1) point a of this article is not required for the husband if his wives / wives are unlikely to be asked for their consent and cannot be a party to the agreement, or if there is no news from his wife for at least 2 (two) years, or for other

reasons that need to be assessed by the court judge. (Indonesia, 1974)

The requirement for polygamy according to the law used by the court as a source of law is contained in the Marriage Law No. 1 of 1974 articles 3, 4 and 5. Also in Government Regulation No.9 of 1975 articles 40 to 43. The requirement for polygamy in the Compilation of Islamic Law is contained in chapter IX on having more than one wife, which consists of 5 articles, but the focus of discussion here is only article 55.

Article 55 which reads:

Having more than one wife at the same time is limited to four wives.

The main requirement for having more than one wife, the husband must be able to do justice to his wives and children.

If the main condition referred to in paragraph (2) is not possible to fulfill, the husband is prohibited from having more than one wife. (Islam, 2015)

In Indonesia, the provisions regarding polygamy have been regulated in Law No.1 of 1974 concerning Marriage as a positive response to regulate the situation when a husband wants to marry more than one woman. In addition, the compilation of Islamic Law also regulates the provision of polygamy for Muslims. The provisions contained in the marriage law, including its implementation, are basically in line with the principles of Islamic law. (Hanuddin, 2019)

According to this Law, the basic principle adopted in Indonesian marriage law is monogamy, namely one husband for one wife. However, in certain situations or for special reasons, a husband is given permission to have more than one wife. Although the requirements set by the two regulations may seem different at first glance, if we look deeper, we will see that they both have the same goal, which is to create a happy and lasting family. Both regulations also emphasize that polygamy can only be allowed if a man meets the requirements. (Nurani S. M., 2021)

The Concept of Fairness in Polygamy According to Islamic Law and Positive Law in Indonesia

Concept of Fair in Islamic Law

In both Islamic law and positive law, both make justice the main requirement for polygamy, but it is not explained more specifically about what is meant in Islamic law and positive law, giving rise to various kinds of

understanding of this type of justice. (Astanti, 2021)

The concept of justice in surah An-Nisa verse 3 is fair for the fulfillment of the needs for his wives in the form of housing needs, turns, clothing and so on that are inner and spiritual. Polygamy is permissible by Islam under certain conditions. Even before this verse came down polygamy had already occurred in society at that time, and had also been practiced by prophets before the prophet Muhammad (PBUH), and the verse states that the restriction of polygamy is only up to four people. (RI, 2016)

In surah An-Nisa verse 3 there is mention of the words *تعلموا* and *تقسطوا* which both have the same meaning of fair. However, there are scholars who equate it, some have a different opinion by saying that *tuqshithu* is to do justice to two or more people, and justice is what makes both parties equally happy. While justice is being fair to others or to oneself. But justice may not be self-inflicted or vice versa.

The justice stated in surah an-nisa verse 3 relates to humanly possible efforts in terms of China. Even though one wants to achieve justice with sincere goals. The demand for justice contained in the surah which states the prohibition of polygamy, it is feared that unrealized justice is justice in the context of *muamalah*, association, bread, and all other matters that do not include mental rights, in which no wife is deprived of rights to this matter and none of them takes excessive precedence over others. But humans must have weaknesses too. And being fair is not as easy as we say it. (Alfiander, 2023)

The Book of *Bulughul Maram Min Adilatil Ahkam* states that justice in polygamy is not only about outward or daily distribution of bread, but rather leads to justice in the distribution of mental livelihood rights. As mentioned in one of the hadith in his book with number 859 which means:

"Aisha Radiyallaahu 'anhu said: The Prophet Sallallaahu 'alaihi wa sallam always divided turns against his wives fairly. He said: "O Allah, this is my division according to what I have, so do not reproach what you have and what I do not have."

From the above hadith it can be understood that the Prophet distributed turns to his wives with an even and fair distribution. (Lestania, 2023)

According to M Quraish Shihab fair polygamy is fair in material fields. He based his

opinion on surah an-nisa verse 129. The busyness mentioned in that verse refers to justice in things of an immaterial nature, such as love. This kind of justice is difficult for humans to achieve. Therefore, husbands who undergo polygamy are expected not to follow lust and excessively side with the wife they love. In other words, it is also incorrect to use this verse as an excuse to stop polygamy altogether. (Imran, 2017)

The concept of justice in the context of polygamy has two related aspects: ethical justice and theological justice. Ethical justice is based on the highest values governing human behavior, while theological justice refers to doctrines established by theologians in relation to the will of Allah Almighty. In other words, the concept of justice in polygamy must be considered from all points of view. (Bonnarty Steven Silalahi, 2023)

Most scholars of *fiqh* realize that achieving justice in polygamy is something very difficult to realize. Surah An-Nisa verse 129 in the Quran underlines the importance of justice in the context of polygamy. However, in the interpretations of classical *fiqh* scholars such as Imam Shafi'i, Hambali, Maliki, and Hanafi, this verse is interpreted as the impossibility of man to achieve justice in terms of feelings of affection and sexual relations. (Asvia, 2020)

Therefore, these classical scholars did not include elements of affection and sexual aspects as criteria of justice that must be met by a husband in polygamy. They consider that a provision allowing a husband to marry up to four wives has the force of law, while a demand to be fair in this regard is considered an exhortation, without giving rise to any particular obligation. In other words, classical scholars took the verses governing the permissibility of polygamy as binding rules, while the general principles of justice were regarded as advocates. (Wardah Nuroniyah, 2018)

The Concept of Fairness in Positive Law in Indonesia

Article 49 of Law No. 7 of 1989 as amended by Law No. 3 of 2006 and the second amendment by Law No. 50 of 2009 states that "Religious Courts have the duty and authority to examine, decide, and settle cases in the first instance between persons of Muslim faith in the fields of: marriage, inheritance, wills, grants, *waqf*, *zakat*, *infaq*, *sadaqah*, and *shari'ah* economics. (Komariah, 2014)

In the explanation of Article 49 of the second paragraph, it is also explained that what is meant by "between persons of Muslim faith" is "including persons or legal entities who themselves voluntarily submit themselves to Islamic law regarding matters within the authority of the Religious Court in accordance with the provisions of this article". Then in the explanation of letter a of this article it is stated that what is meant by "marriage" is "matters regulated in or based on the law regarding applicable marriages carried out according to Shari'ah", which among others is "permission to marry more than one wife". (Cahyani, 2019)

The permission to have more than one wife (the term commonly used is polygamy permit), in the explanation of article 49 of the second paragraph as above is stated to be included in the scope of the definition of marriage, and of course becomes the absolute authority of the Religious Court as long as the subject of law is Muslims and marriages are carried out according to Islamic law. On the basis of the authority granted by law as described above, the Religious Court has absolute authority to examine and decide cases of polygamy permit applications submitted to it. (Fatmawati, 2023)

What is meant by fair in Law number 1 of 1974 is twofold, namely outwardly and mentally. The outwardly just form is everything that is physically related, in the form of clothing, food, shelter. Arinya is physical fulfillment by meeting basic needs such as clothing, food and drink, and proper shelter. All his wives should have all these rights equally, without anyone feeling less or partial. While in its inner form fulfillment in the form of love and affection. (Ansor, 2022)

The main requirement for someone who wants to undergo polygamy in Islam is to have the ability to be fair to his wives who will be married later. Fair in this case includes giving equal rights to every wife, both non-material such as the distribution of time to spend the night together and play together, as well as material ones such as providing bread, clothing and shelter. All other material matters should also be given without distinction between wives who have different financial situations or different social backgrounds. (Ratundelang, 2023)

If one cannot or is unable or worried about not being able to be fair, then it is better to marry only one woman. The justice referred to here is things that can be regulated by man, not in terms of love and compassion. Because

feelings of love and affection cannot be controlled or controlled by man, because this is beyond human control. (Sj, 2022)

Getting approval from the first wife becomes a very important priority, because of the importance of having open communication in the relationship between husband and wife. Before marrying a second wife, a husband must first ask permission from his first wife. This is very important to ensure that the first wife gives consent willingly, so that there are no feelings of hurt or damage in her relationship with the wife to be honeyed. (Nurani S. M., 2021)

Although the marriage law in Indonesia adheres to a monogamous system, as stated in Law number 1 of 1974 Article 3 which states that a man can only choose one wife, and a woman can only have one husband. But the next chapter also states that it is permissible for a man to be polygamous. The permissibility of polygamy listed in the Act is actually only an exception, therefore the articles mention several requirements, and those conditions are not that easy. (Iskandar, 2022)

In asking permission to practice polygamy, one of the conditions must be fulfilled, which is to be able to treat the wife fairly. Justice in question means something close to justice that corresponds to reality or is perfect. But basically the owner of perfection is only Allah Almighty. In this case, the fairness that can only be achieved by different humans so do as much as possible to create the best justice, according to the judge of the Sorong Religious Court who prefers to interpret proportional justice, which means according to his ability. (Iskandar, 2021)

The urgency of permitting polygamy according to the provisions of the law is procedural to provide legal guarantees for the occurrence of the marriage, so that its existence is formally juridically recognized. Marriage is materially valid if it is carried out according to religious provisions and only recognized marriage if it is carried out in accordance with formal provisions, then the formal provisions of the law are the same as the material provisions for the validity of a marriage. (Etty Rochaeti, 2015)

The existence of legal provisions governing the necessity of polygamy permits is intended to establish public order, provide legal protection and guarantees for rights and obligations arising from legal relations in terms of, how important it is to obtain court permission to polygamy, formally, the urgency

of polygamy permission is to realize legal certainty, order, protection, and legal guarantees for marriage itself. (Asdin A., 2023)

The provisions of the polygamy permit are established to protect the interests, rights and obligations arising from a marriage. Thus the formal requirements are decisive for the achievement of the goals of marriage as desired by material law. Therefore, both material and formal provisions cannot be separated, because they have the same influence in determining the legal position or absence of marriage, especially on the achievement of the goals of marriage. (Astanti D. S., 2021)

Thus a polygamous marriage is considered valid if it fulfills the provisions of material law, i.e. it has been performed in accordance with and fulfilled its conditions and harmony according to Islamic law, and has fulfilled the formal law, which is carried out after obtaining permission from the Court allowing the polygamy marriage to be carried out. (Hidayah P. P., 2023) It can be understood that the urgency of requiring the Court's permission to practice polygamy is very much concerned with the existence of marriage in legal recognition and community association.

CONCLUSION

Polygamy is a marriage performed by a husband who wants to marry another woman without having to give up his marriage bond with his existing wife. Islamic law and positive law in Indonesia have something in common, which both make fair conditions the main requirement and must be carried out when a person wants to be polygamous. In positive law in Indonesia, the requirements are further detailed, these requirements are contained in Law Number 1 of 1974 and the Compilation of Islamic Law (KHI). While in Islamic law contained in suran An-Nisa verses 3 and 129. Justice has different meanings, but in general, the conditions of justice that must be fulfilled by husbands are divided into two, first outwardly, namely the fulfillment of basic external income such as meeting the needs of clothing, food, shelter, to his wives. The second is inwardly fair in the form of affection, love or anything else related to feelings. For the second concept most scholars argue that justice for it cannot be, because when it comes to heart and feelings it is beyond human capacity.

REFERENCES

- Adfira, R. (2023). Polygamy Trend on Social Media: A Gender Equality Perspective. *Mizan: Journal of Islamic Law*, 6(3), 447-462.
- Aisyah, A. (2019). Legal Concept of Procedure for Applying for Polygamy Permit at Religious Court Based on Positive Law in Indonesia. *Scientific Journal of Advocacy*, 7(1), 43-51.
- Aisyah, S., & Hidayah, A. (2023). The Concept of Qiwamah and Its Implications for Gender Justice in Islamic Family Law in Indonesia. *An-Nisa': Journal of Gender Studies*, 16(2), 251-268.
- Akbar, A., & Saleh, M. (2024). Divorce law caused by nomad husbands (analysis of divorce cases in Hinai sub-district). *Journal of Smart Law*, 2(2), 122-137.
- Alfiander, D. (2023). The value of justice in polygamy. *Jisrah: Journal of Sharia Science Integration*, 4(1), 163-173.
- Ansori, F. (2022). Juridical analysis of the form of fair conduct in polygamous marriages. *Al-Adl: Journal of Law*, 14(2), 405-420.
- Arifah, A. N. (2016). Kiai Polygamy: The Practice of Kiai Polygamy in Jember City in Khi and Gender View. *JUDICIARY: Journal of Legal Thought and Islamic Law*, 7(1), 120-145.
- Asdin, A. (2023). The Concept of Justice in Polygamy in the Perspective of Islamic Law and Positive Law. *Jurnal Darussalam: Constitutional Law Thought and Comparative Schools*, 3(1), 50-78.
- Asvia, E. S. (2020). The Fair Concept of Polygamy in QS An-Nisa: 129. *An-Nahdhah| Journal of Religious and Social Science*, 13(2), 270-288.
- Cahyani, A. I. (2019). Religious courts as enforcers of Islamic law in Indonesia. *Journal of Al-Qadau: Islamic Justice and Family Law*, 6(1), 119-132.
- Chakim, M. L., & Son, M. H. A. (2022). The Dialectic of Polygamy with Feminism: A Maqasid Sharia Analysis of Polygamy According to Classical Scholars and Feminism. *Al-Shakhsiyyah: Journal of Law & Family Studies*, 4(1), 130.
- Fatir, Dwi, and Indah Fatmawati. "Reconstruction of Public Policy and Islamic Law Related to Polygamy in Achieving SDGs." *Pro Justicia: Journal of Law and Social Affairs* 3.1 (2023): 27-36.
- Komariah, U. (2014). Settlement of Waqf Disputes in Religious Courts. *Journal of Law and Justice*, 3(2), 117-126.
- Thorn, R. (2022). Review of Islamic Law on the

- Practice of Polygamy in Society (Study on Polygamy Couples in Umbulharjo District, Yogyakarta City). *El-Usrah: Journal of Family Law*, 5(1), 102-116.
- Febrianti, F., & Iskandar, I. (2021). Analysis of the Concept of Justice in the Implementation of Polygamy: A Comparative Study According to the Qur'an and Law Number 1 of 1974 concerning Marriage. *Muadalah: Law Journal*, 1(1), 1-13.
- Hafidzi, A. (2017). The prerequisites of polygamy in the Book of Islamic Fiqh and the Compilation of Islamic Law from the perspective of Maslahah Mursalah. *Al-Daulah: Journal of Islamic Law and Legislation*, 7(2), 366-392.
- Hanuddin, L. (2021). The legal position of polygamy without permission and its implications according to Law Number 16 of 2019, amendments to Law Number 1 of 1974 and Islamic Law. *SYATTAR*. 2(1), 18-26.
- Hidayah, A. (2023). Scholar's Perspective on Wives as Family Breadwinners During the Covid-19 Pandemic. *An-Nisa Journal of Gender Studies*, 16(1), 43-58.
- Hidayah, A., & Alaklabi, M. A. M. (2023). Aligning Legal Effectiveness with Children's Interests: A Study of Marriage Dispensation Decisions in Religious Courts of Amuntai. *INDO-ISLAMIKA JOURNAL*, 13(2), 105-117.
- Imran, Z. (2017). Quraysh Shihab's view on the concept of fairness in the practice of polygamy. *SABILARRASYAD: Journal of Education and Educational Sciences*, 2(1).
- Jamaluddin, Nanda Amalia. 2016. Textbook of Marriage Law. Lhokseumawe: Unimal Press.
- Khiyaroh, K. (2022). The purpose of the polygamy rule in Law No. 1 of 1974 concerning Marriage. *Usrah: Journal of Islamic Family Law*, 3(1), 21-30.
- Lestari, I., & Halim, A. (2020). The concept of fairness in polygamous marriages according to female judges in rulings in religious courts.
- Makka, M. M., & Ratundelang, T. F. (2022). Polygamy without the permission of the first wife and its impact on the family. *Al-Mujtahid: Journal of Islamic Family Law*, 2(1), 34-51.
- Muqsith, A., & Sj, F. (2022). The Law of Polygamy: A Comparative Analysis of the Thought of Musdah Mulia and Muhammad Shahrur. *Al-Manhaj: Journal of Indonesian Islamic Family Law*, 4(1), 52-65.
- Conscience, S. M. (2021). Perspectives on Domestic Justice: A Study of the Concept of Fairness in Polygamy According to Law and the Compilation of Islamic Law. *Ascarya: Journal of Islamic Science, Culture, and Social Studies*, 1(1), 1-14.
- Nuroniyah, W., Sukardi, D., & Faqih, H. (2018). The judge's perception of fairness as a condition for applying for a polygamy permit at the Cirebon City Religious Court. *Court: Journal of Islamic Legal Studies*, 3(2), 258-272.
- Pahrul, P., & Hidayah, A. (2023). The Practice of Warung Jablay in Hulu Sungai Utara Regency in The Perspective of Sociology of Islamic Law. *An-Nisa': Journal of Gender Studies*, 16(2), 289-306.
- Son, M. Y., & Lestania, M. (2023). The concept of fair polygamy in the book *Bulughul Maramin Adillatil Ahkam* by Ibn Hajar al-Asqalani. *SANGAJI: Journal of Sharia and Legal Thought*, 7(1), 49-67.
- Rasjid, Solomon. 2018. *Islamic Fiqh*. Bandung: Sinar Baru Algensindo, 84th cet.
- Rochaeti, E. (2015). Juridical Analysis of Common Property (gono gini) in marriage according to the View of Islamic Law and Positive Law. *Journal of Juridical Insights*, 28(1), 650-661.
- Romli, D. (2010). Polygamy in Gender Perspective. *Al-AdYan: Journal of Interfaith Studies*, 5(1), 105-113.
- Septiandani, D., & Astanti, D. I. (2021). Legal consequences for husbands who practice polygamy in violation of the rules of positive Indonesian law and Islamic law. *USM Journal of Law Review*, 4(2), 795-817.
- Silalahi, B. S., Lauren, D., Eveline, E., Aldrich, G. H., & Willys, W. (2023). The Perspective of Justice According to Aristotle and Its Implications in Business Ethics. *Innovative: Journal Of Social Science Research*, 3(4), 1937-1946.
- Subagiya, B. (2023). Exploration of Islamic Religious Education research through literature review: Conceptual understanding and practical application. *Ta'dibuna: Journal of Islamic Education*, 12(3), 304-318.
- Panca Aksara Team, 2020. *Dictionary of Legal Terms*. Yogyakarta: Indoeduka Publishers.
- Zaki, M. (2018). Dynamics of the Introduction of Polygamous Sanctions in Modern Muslim State Law. *Al-Risalah*, 14(02), 307-334.