

The Requirements of Polygamous Marriage on National Regulations and Islamic Law Perspective

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Abstract: *This study aims to determine the polygamous marriage requirements both in state law and in Islamic Law. This study is research literature with a normative juridical approach. The data collection technique used in this research is the documentation technique. The analytical method used in this research is descriptive qualitative, where the author will describe the data related to polygamous Marriage first in detail and then analyze it inductively. After conducting in-depth research, it is known that polygamous marriages in Indonesia do not ignore women's rights. Polygamous marriages in Indonesia, both under state law and Islamic Law, have stringent requirements. This requirement is deliberately made to protect the rights of polygamous wives. As long as these requirements are met, the negative impacts that arise in the future can be minimized. The emergence of adverse effects from polygamous marriages is usually due to the non-fulfillment of these requirements. Many polygamous marriages are carried out illegally or under the hand (not through a court). The protection of polygamous wives' rights is in line with the marriage principle adopted by the Indonesian state, namely the code of limited polygamous Marriage. Marriage law in Indonesia (State law and Islamic Law) allows this with strict conditions for a man who wants another wife. These requirements include the following: (1) a wife cannot carry out her obligations as a wife; (2) The wife has a disability or an incurable disease; (3) The wife cannot give birth to children. Other requirements must be met: (1) the man concerned has sufficient income to finance more than a wife and children, as evidenced by an income tax certificate. (2) There is a written guarantee from the man concerned that he will treat his wives and children fairly.*

Keywords; Polygamous Marriage, National Regulations, Islamic Law

1. INTRODUCTION

As is well known, the marriage law in force in Indonesia adheres to the principle of open monogamy. In a marriage, a man can only have a wife, and a woman can only have a husband.[1] However, in certain circumstances, the court may permit a husband to have more than one wife if the party concerned wishes.[2] The sentence "if desired by the party concerned" means that the desire to have more than one wife is the will of the husband and the will of the wife or other wives. There is an opportunity to polygamy for the husband in certain circumstances, but the opportunity is closed for the wife.[3]

Polygamy in Indonesia is the most exciting and controversial issue of Marriage. Polygamy is rejected with various kinds of arguments, both from a normative-juridical perspective and a psychological perspective; even polygamy is always associated with gender inequality.

Some time ago, our society was surprised by the "Polygamy Award" by Puspo Wardoyo, a polygamist who is also an entrepreneur, to about 40 people who practice polygamy. Unmitigated, the event was held at a five-star hotel in Jakarta and was attended by several famous people, including Ebet Kadarusman, Ratih Sanggarwati, Neno Warisman, and Astri Ivo. This event did not run smoothly because it reaped many protests against polygamy. This kind of phenomenon has never happened before in our society, which many have practiced polygamy. Polygamy is now widely practiced by our public figures. For example, the former vice president of the Republic of Indonesia, Hamzah Haz, who has three wives, Puspo Wardoyo (a well-known

businessman) who has four wives, and Qomar (a comedian) who also has four wives.[4]

Western writers often claim that polygamy is evidence that Islamic teachings in the field of Marriage are highly discriminatory against women. Polygamy has campaigned because it is considered to have a clear normative backing and is seen as an alternative to solve the phenomenon of cheating and prostitution. In fact, in Indonesia itself, Law Number 1 of 1974 concerning Marriage has been in effect for almost a quarter of a century. Legal counseling on the material of the law has also been quite intensively carried out. However, until now, it turns out that there are still some Indonesian people who question certain parts of the law. Not a few think there is a conflict with the teachings of Islam. Voices like this are often heard outside, but some have also been submitted to the Ministry of Religion of the Republic of Indonesia, asking for the reform of the law material, which is considered contrary to Islamic teachings. Especially regarding the provisions of the wife's consent for husbands who want to be polygamous.[5]

Based on these data, the researcher is interested in examining more deeply what are the requirements for polygamous marriages, both requirements derived from state law and requirements from Islamic Law. After knowing in detail about these requirements, it will be known with certainty the position of polygamous Marriage, whether it is in favor of women or not.

2. METHODOLOGY

This study is research literature with a normative juridical approach. The data collection technique used in this research is the documentation technique. The analytical technique used in this research is descriptive qualitative, where the author will

describe the data related to polygamous Marriage first in detail and then do an inductive analysis, namely drawing general conclusions from detailed and specific polygamous data.

3. RESULT AND DISCUSSION

Understanding and fundamental law of polygamy

Etymologically, the word polygamy comes from the Greek apolus, which means many, and gamos which means wife or partner, which means having more than one wife (or husband) at the same time. Terminologically, polygamy is a marriage bond in which one party has/marries several of the opposite sex simultaneously. This term is general, can be used for men who have more than one wife at the same time, and can also be used for women who have more than one husband at the same time. Specifically, the first classification is polygyny, and the second is polyandry.[6]

In the Marriage Law and the Compilation of Islamic Law, it is stated that polygamy is a husband who has more than one wife. This understanding is extracted from Islamic Law as the legal source of the two regulations. Thus, the meaning of polygamy in positive law has similarities with the meaning of polygamy in Islamic Law. As a state of Law, Indonesia discusses the issue of polygamy in great detail. In this case, there are approximately five regulations that discuss polygamy, namely, Law no. 1 of 1974 concerning Marriage which was later revised into Law No. 16 of 2019, PP No. 9 of 1975, PP No. 10 of 1983, PP No. 45 of 1990, and the Compilation of Islamic Law (KHI)[7]. Its implementation is complicated or limited by strict rules to enforce monogamy or limited polygamy. A person with more than one wife must have solid reasons and specific conditions and must have court permission as regulated in Articles 3 to 5 of Law Number 1 of 1974 concerning Marriage (UUP-1/1974).) and Articles 40 to 44 of Government Regulation Number 9 of 1975 concerning the Implementation of Law-1/1974 (PP-9/1975).

Reasons and Conditions for Polygamy

Marriage law in Indonesia adheres to the principle of monogamy.[8] To understand that polygamy in Indonesia is absolutely "prohibited," the principle of Marriage in Indonesia is *limited polygamy*. [9] This means a man can only have one wife, and if a man wants to have another wife, marriage law in Indonesia allows this with strict conditions.

The reasons that a person can have more than one wife are one of the following circumstances.

Table 1. The reasons why a person may marry polygamy

NO	The reason that makes someone can marry polygamy	Description
1	The wife cannot carry out her obligations as a wife	There are witnesses
2	Wife has a disability or an incurable disease	There is a doctor's certificate
3	The wife cannot give birth	There is a doctor's certificate

For one of these reasons, the submission to the court must be supported by the three conditions (cumulative) as stated in Article 41 PP-9/1975 as follows:

- a. There must be consent from the wife or wives, both verbal and written consent. If the agreement is oral, it must be pronounced before a court session;
- b. There must be the husband's ability to guarantee the necessities of life for his wives and children by showing a certificate regarding the husband's income which is signed by the treasurer where he works, or a certificate of income tax, or other certificates acceptable to the court; and
- c. There must be a guarantee that the husband will treat his wives and children fairly with a statement or promise from the husband made in the form determined by the court. In principle, the provisions on having more than one wife in the Compilation of Islamic Law show no difference with UUP-1/1974 or PP-9/1975, as stated in Articles 55 to 59. There are only a few additions, such as having more than one wife in at the same time is limited to only four wives (KHI Ps. 55 (1)). If the first wife's consent is given in writing, as far as possible, it must be confirmed with verbal approval at the Religious Court session (KHI Ps.58). The addition is strengthening or confirming the existing provisions.

The provision for having more than one wife for Civil Servants (PNS) is even more difficult. In addition to the general provisions stipulated in the UUP-1974, PP-9/195, and KHI (for those who are Muslim), it is also explicitly regulated in Government Regulation Number 10 of 1983 (PP-10/1983), which amended and refined several articles. With Government Regulation Number 45 of 1990 (PP-45/1990). These two government regulations contain special rules for civil servants regarding wanting to carry out Marriage and divorce. These special provisions include, among others, as stated in Article 4 PP-10/1983, which reads in full as follows:

- a. Male civil servants who wish to have more than one wife must first obtain permission from the official;
- b. Female civil servants are not allowed to be the second/ third/ fourth wife of civil servants;
- c. A female civil servant who will become the second/third/fourth wife of a man who is not a civil servant must first obtain permission from the official;
- d. Requests for permits as referred to in paragraphs (1 and 3) are submitted in writing; and
- e. In the letter of request for permission, as referred to in paragraph (4), the complete and underlying reasons for the request for permission to have more than one wife or become a second/third/fourth wife must be stated (fulfilling alternative and cumulative conditions).

For Muslims, a person who will undergo polygamy, the main requirement is to act reasonably between his wives. Between wives who have the same rights as other wives, both non-material, such as sharing the time to spend the night and having fun and material ones in the form of providing a living, clothing, and a place to stay. Also, all other material things without distinguishing between rich and poor wives, who come from high and low descendants.

The justice that is demanded is outward justice that humans can do, not fair in the inner problem, namely love and affection, because love and affection or the like cannot be

controlled and controlled by humans, and it is beyond one's ability.

Getting the blessing of the first wife is a very prioritized thing because openness must exist in a husband and wife relationship; if a husband wants to marry his wife, he must first get permission from the first wife to get her blessing and not to hurt the wife to be married. According to the law used by the court as a source of law, the conditions for polygamy are contained in Marriage Law No.1 of 1974 in articles 3, 4, and 5.

Marriage in Indonesia adheres to the principle of monogamy. This is clearly stated in Article 3 paragraph (1) of the law. No. 1 of 1974, in principle, in a marriage, a man may only have one wife, and a woman can only have one husband. The rules in the article are in line with article 27 of the Civil Code (BW), which states that "At the same time a man is only allowed to have one woman as his wife, a woman only has one man as her husband." Article 43 of the Civil Code (BW) adheres to the principle of closed monogamy.

However, there are differences between the Laws. No. 1 of 1974 with the Civil Code (BW) regarding the principle of Marriage. In article 3, paragraph (2) of law. No. 1 of 1974 states that the court can permit a husband to have more than one wife if the parties concerned want with the provisions in the article, the Law. No. 1 of 1974 adheres to the principle of open monogamy; therefore, a husband can be forced to practice closed polygamy under the supervision of the Religious Court.

Although polygamy is permitted by law, the severity of the requirements that must be followed implies that the implementation of polygamy in the Religious Courts adheres to the principle of closing an open door, meaning that the door to polygamy is not opened if it is not necessary and only in some instances or circumstances the door is opened. The requirements for polygamy are shown in the table below,

Table 2. Polygamous Marriage Requirements

NO	Polygamy Marriage Requirements	
	Woman	Man
1	The wife cannot carry out her obligations as a wife	the man concerned must have sufficient income to support more than a wife and children, as evidenced by an income tax certificate.
2	Wife has a disability or an incurable disease	There is a written guarantee from the man concerned that he will treat his wives and children fairly
3	The wife cannot give birth	

The procedure for the husband who will carry out polygamy is also regulated in the PP. No. 9 of 1975 articles 40, 41, 42, and 43 describe a husband who wants to practice polygamy. This is it explains that if a husband wants to do

polygamy, then the husband must first file a case with the court, then the court will re-examine the files of a husband who wants to do this polygamy.

The husband must explain the reasons why he wants to practice polygamy; for example, the reason is that his wife cannot carry out her obligations as a wife, his wife has a disability, and cannot give him children. If the reason is that a man will do such polygamy, the court will grant his request, and vice versa if the wife does not experience the symptoms described above, the court will not grant the request of the husband who wants to do polygamy.

If a husband wants to do polygamy as has been determined by the PP. 9 of 1975, what a husband must do first is to ask his first wife's permission; if his first wife does not allow the husband to practice polygamy, then according to the law the husband may not practice polygamy, and there must also be a future guarantee that the husband can treat his wives and children fairly and can provide for his wives and children fairly and equitably.

If the conditions have been met, the court must call and listen to the wife's explanation. Examinations carried out by the court are usually carried out no later than 30 days after receipt of the application letters, and their attachments can be said to be complete. If there is an explanation from the court regarding the reasons for a husband who wants to have more than one wife, then the court gives its decision that the husband may have more than one wife, and from the judge's decision, both parties must accept what has been decided by the judge.

Marriage registrar employees are prohibited from marrying a husband who wants to practice polygamy before a judge's decision first. If the marriage registrar continues to marry a polygamous husband, the marriage registrar on duty will be fired and dismissed from his job.

In the Compilation of Islamic Law (KHI), the rules of polygamy are also strictly regulated to achieve the goal of polygamy following the rules of the Qur'an. Polygamy is regulated in Chapter IX Articles 55-59 KHI.

Polygamy Procedures in Indonesia

In the Compilation of Islamic Law (KHI), it is stated that the conditions and limits for a man who will be polygamous are the same as those written in fiqh books. This can be seen in paragraphs 1-3 of article 55 of the KHI that (1) having more than one wife at the same time is limited to only four wives, (2) the main requirement for a husband who will have more than one wife is to be able to treat his wives fairly. - his wife and children, and (3) if the main conditions mentioned in paragraph [2] cannot be fulfilled, the husband is prohibited from marrying one person. The background of this polygamy provision was taken from the interpretation of the majority of scholars in the commentary and fiqh books. In the books of fiqh, it is stated that Muslims agree on the permissibility of a man to marry a woman a maximum of four people. This sentence is directly quoted in chapter 55 of the KHI precisely as stated in the books of the salaf[10].

Technically, the formal requirements for a man to be polygamous are stated in Article 56 of the KHI as follows[11]:

1. Husbands who wish to have more than one wife must obtain permission from the Religious Courts.
2. The application for the Permit referred to in paragraph (1) is carried out according to the procedure as stipulated in CHAPTER VIII of Government Regulation No. 9 of 1975.
3. Marriages with a second, third, or fourth wife without permission from the Religious Courts have no legal force.

Meanwhile, Article 57 explains that the Religious Courts only permit husbands who will have more than one wife if:

- (1) the wife cannot carry out her obligations as a wife;
- (2) the wife has an incurable disability or illness; and
- (3) the wife cannot give birth to children.

Article 57 is a logical condition that allows or allows the judge to grant a husband remarrying. This is because a husband has a strong and "normal" reason. As a normal human being, the husband has the right to continue his everyday life. Life has to go forward, and if the wife has a deficiency that causes the husband to be unable to continue his everyday life, the judge has no right to hinder the continuation of that person's life. However, all the wife's weaknesses must be proven syar'i both by the medical and by those who can convince the judge. Then article 58 reads:

- 1) In addition to the main requirements referred to in Article 55 paragraph (2), to obtain a Religious Court permit, the conditions specified in Article 5 of Law No.1 of 1974 are met, namely (a) the wife's consent and (b) the certainty that husbands can provide for the necessities of life for their wives and children.
- 2) Without prejudice to the provisions of Article 41 letter b of Government Regulation no. 9 of 1975, the consent of the wife or wives can be given in writing or orally, but even if there is written consent, this agreement is confirmed with the wife's verbal consent at the Religious Court session.
- 3) The consent referred to in paragraph (1) letter (a) is not required for a husband if it is impossible for his wife or wives to ask for their consent and cannot become a party to the agreement or if there is no news from his wife or wives for at least two years or for other reasons that need to be judged by the judge.

Article 58 above is a formal requirement that a wife plays in response to a husband who wants to integrate himself, which involves the competent authority. These rules are in anticipation of maintaining good relations in the family after the operation of a polygamous family. Finally, article 59 reads, "If the wife does not want to give consent, and the application for permission to marry more than one person is based on one of the reasons stipulated in Article 55 paragraphs (2) and 57, the Religious Courts may determine the granting of permission after examining and hear the wife in question at the trial of the Religious Court, and against this determination the wife or husband can file an appeal or cassation."

What if the husband who wants polygamy is a Civil Servant (PNS)? Provisions for having more than one wife for civil servants are even more difficult. In addition to the general provisions as stipulated in the UUP-1974, PP-9/195, and KHI (for those who are Muslim), it is also explicitly

regulated in Government Regulation Number 10 of 1983 (PP-10/1983), which amended and refined several articles. With Government Regulation Number 45 of 1990 (PP-45/1990). These two PPs contain special rules for civil servants regarding wanting to carry out Marriage and divorce. These special provisions include, among others, as stated in Article 4 PP-10/1983, which reads in full.

1. Male civil servants who wish to have more than one wife must first obtain permission from the official;
2. Female civil servants are not allowed to become the second/ third/ fourth wife of civil servants;
3. A female civil servant who will become the second/third/fourth wife of a man who is not a civil servant must first obtain permission from the official;
4. Requests for permits as referred to in paragraphs (1 and 3) are submitted in writing; and
5. In the letter of request for permission as referred to in paragraph (4), the complete and underlying reasons for the request to have more than one wife or become a second/third/fourth wife must be stated (fulfilling alternative and cumulative conditions).

In PP-45/1990, female civil servants cannot become second/third/fourth wives, either by male civil servants or non-PNS (Article 4). Therefore, Article 11 of PP-10/1983, which regulates the Permit for a female civil servant to become the second/third/fourth wife for non-PNS men, is abolished by PP-45/1990. People who practice polygamy without the court's permission are threatened with imprisonment or a fine. In Article 45 PP-9/1975, it is stated that people who practice polygamy without obtaining prior permission from the court (often called illegal polygamy or underhand polygamy or Siri polygamy) are threatened with a maximum fine of Rp. 7,500,00 (seven thousand five hundred rupiahs). As for the registrar of illegal polygamy, the threat of imprisonment for a maximum of three months or a maximum fine of Rp. 7,500,00 (seven thousand five hundred rupiahs). The money was very high in value at the time the regulation was enacted (1975).

For civil servants who violate the provisions of polygamy, apart from being threatened with Article 45 PP-9/1975 above, they are also threatened with dismissal. As stated in Article 16 PP-10/1983: Civil servants who violate the provisions of Article 3 (1) and Article 4 (1, 2, and 4) are subject to disciplinary punishment in the form of dishonorable dismissal without their request. The same disciplinary punishment is also imposed on civil servants who live together with women or men as husband and wife without a legal marriage. Criminal sanctions for violating polygamy rules are also contained in the Indonesian Criminal Code (KUHP). As stated in Article 279, people who practice polygamy without procedures are punished with imprisonment for a maximum of 5 years. People who deliberately hide their first Marriage to remarry are threatened with a maximum imprisonment of 7 years (KUHP 5-1, 37).

In practice in the field, the process of obtaining a permit, either from the competent authority or from the court, is not an easy and straightforward matter. It will go beyond a series

of torturous procedures, multi-level bureaucracy, a long time, and no small cost. The procedure for official polygamy for PNS members is long and winding. If a civil servant wants to remarry, he must go through a series of formal procedures. Take, for example, a civil servant teacher at a public MTs in a sub-district who wants to be polygamous. The steps that must be taken are as follows.

The first step is to complete the alternative and cumulative requirements stipulated in UUUP 1/1974, PP-9/1975, and special regulations for civil servants. The requirements according to the Circular Letter of the State Civil Service Agency (BKN) Number 08 of 1983 are as follows:

- a. The wife cannot carry out her obligations as a wife, in the sense that the wife suffers from a physical or spiritual disease in such a way that it is difficult to cure so that she cannot fulfill her obligations as a wife, both biological and other obligations, as evidenced by a government doctor's certificate;
- b. The wife has a disability or other incurable disease. In the sense that the wife suffers from a comprehensive bodily illness as evidenced by a government doctor's certificate; or
- c. The wife cannot give birth to offspring after being married for at least 10 (ten) years, as evidenced by a government doctor's certificate.

In addition, there are also cumulative requirements that a husband, including: must meet

1. There is a written agreement made sincerely by more than one wife of the Civil Servant concerned, then all of his wives make a written consent letter sincerely. The approval letter is ratified by the superior of the Civil Servant concerned, at least an echelon IV official;
2. The male Civil Servant concerned has sufficient income to finance more than one wife and children, as evidenced by an income tax certificate; and
3. There is a written guarantee from the male Civil Servant concerned that he will treat his wives and children fairly and specifically for this purpose (there is already a standard model).

The second step that must be done is to apply for a written permit to the authorized official accompanied by fulfilling the alternative and cumulative requirements mentioned above—the authorized official through the hierarchical channel, which is the head of the State MTs. Furthermore, the Permit from the head of the madrasa is forwarded to the Head of the Regency or City Ministry of Religion, who has the authority to accept or reject the application for a polygamy permit.

The third step is to do all the levels. However, the senior officer must advise the person concerned in advance so that polygamy does not occur as much as possible. If it cannot be reconciled, the direct superior officer must examine the alternative terms and cumulative conditions to proceed to the following process. The examination must be carried out no later than three months after the application is received and forwarded through the hierarchical channel upwards no later than three months. Furthermore, the competent authority must

decide on granting a permit or refusing it no later than three months from the date they receive the application for a permit.

The fourth step is the stage of determining the polygamy process. Suppose the application for a polygamy permit from an authorized official is granted. In that case, the step taken is to apply for a polygamy permit to the Religious Court, which is accompanied by alternative and cumulative conditions by attaching a permit from the official. Subsequently, the court opened a hearing to examine and decide on the application.

The fifth step is the last stage. The applicant for polygamy must report the implementation of a polygamous marriage to the authorized official through the hierarchical channel. This report is a completeness of the personnel administration for the person concerned. These are tiring steps that are indeed difficult to take to legally polygamy according to the law.

Such a procedure, of course, takes a lot of time and money. The time it takes to get permission from the court will be more than a year, and it takes three months to meet the requirements. Permits at the head of a madrasah level can be completed in three months, permits at the Head of the Ministry of Religion of the Regency/City are completed in three months, and permits from the court can be completed in three months as well. For this reason, applying for polygamy until it is successful in obtaining permission from the court takes a minimum of 15 months. In addition, the costs that must be incurred are, of course, not small besides the unexpected immaterial sacrifices. During this waiting time, a person can lose his enthusiasm for life, lose his good name, weaken his work performance, destroy his career, depression, stress, and can go crazy or commit suicide.

The difficulty of the procedure and the heavy requirements for polygamy have indeed succeeded in suppressing polygamy in a tiny percentage, even almost none. From this aspect, the target of the law that wants to limit or eliminate polygamy is compelling and effective. However, from another aspect, it is strongly suspected that negative things that deviate from can occur. Official polygamy can be kept to a minimum, but on the other hand, people prefer to take shortcuts, namely illegal polygamy with unregistered marriages and contract marriages. Something very fatal could happen, such as infidelity.

Due to the difficulty of the polygamy procedure as described above, civil servants carry out unregistered marriages or underhand marriages. Siti Umu Abdillah's research concludes that civil servants are forced to perform unregistered marriages because of the difficulty of polygamous procedures.[12] Therefore, with the reason "rather than committing adultery," finally the choice fell on polygamy by way of unregistered Marriage. From a religious point of view, it is still considered "better" because many think that unregistered marriages are carried out with conditions, pillars, and contracts that follow the Shari'a. However, the contract was not recorded by a state official (a marriage registrar at the Ministry of Religion)[13]. Even worse is the prevalence of infidelity and adultery. Nur Khoirin's research reports that the difficulty of permitting polygamy for civil servants contributes to infidelity and

adultery by irresponsible married men and is strictly prohibited by religious and moral laws[14]. According to several surveys that have been conducted in big cities, it is concluded that one in three people commit an extramarital affair at various levels. Infidelity will be easier to happen in today's era of advances in communication technology.

If the marriage law complicates polygamy or limits the scope for polygamy, the government of Nagroe Aceh Darussalam (NAD) is just the opposite. Intending to implement Islamic Law as a whole, the NAD government drafted Qanun (Law) that allows polygamy for its people in 2019. However, several groups and women in the land of Rencong rejected the Draft Qanun which explicitly regulates the permissibility of polygamy. For women activists, this regulation is considered to promote further the practice of men having more than one wife in society. Draft Qanun on polygamy: Chapter VII on polygamy allows a man to have more than one wife at the same time and prohibits more than four wives at the same time. The activists considered this regulation a form of promotion of polygamy. The Aceh People's Representative Council (DPRA) invites all parties to provide input to the discussion session on the Draft Qanun (Raqa) on Family Law, which the DPRA is currently discussing. Immediately reap the pros and cons because it contains several articles that regulate the provisions for having more than one wife, aka polygamy. In total, five articles regulate polygamy in Chapter VII of the Raqa. The first article expressly allows a man in NAD at the same time to have more than 1 (one) wife and is prohibited from having more than 4 (four) wives[15].

A resident of Idi Rayeuk sub-district, East Aceh named Cut Ratna (45 years old) admitted that he disagreed with this Qanun. "Later, if it is legalized, I am worried that it will be more flexible for men to remarry because it has already regulated in the Qanun, right. Only one wife does not need to be cared for by her husband. In the time of the Prophet, maybe it could be fair, but for us now, it is hard to do justice. , the name is human; I think it is just lust," said the housewife. Meanwhile, another Acehese woman, Safrida (50 years old) from Peudada, Bireun, admitted that she did not mind because polygamy was regulated in the Qur'an. However, he still hopes that there are strict conditions for those who want to be polygamous. "But there must be conditions that are as detailed as possible. Otherwise, only women will be harmed. So that men do not marry randomly, just because it is already in the *Qanun* and it is legal, it is easy for men to remarry. Because we marry, we have children, where will we take care of our children, so it cannot be careless." Said the woman who is a teacher.

Saltut stated that the traditional jurists agreed that a sirri marriage was a marriage contract by two parties without any witnesses announcements, without writing an official book, and the couple continued to live in a hidden condition. Furthermore, Syaltut argues that the purpose of recording a marriage is to maintain the rights and obligations of the parties to a marriage, namely the rights of husband and wife and

children as offspring such as maintenance, inheritance, and guardianship[16].

Quraish Shihab revealed a pattern of sirri Marriage, which is nothing more than a marriage engineering. This Marriage is only to get around a marriage outside of marriage with legal (official) status. As mentioned above, Quraish Shihab thinks that the marriage law is valid, but it can lead to confusion in the status of a married couple and the child they are born with. The secrecy of Marriage can reduce respect, the sanctity of the household, and the care of a married couple so that they do not fall into negative things by knowing the public about the couple's existence[17].

Atho' Mudzhar also stated that although most Indonesian ulemas agree with Article 2, paragraph 2 of the Marriage Law, which requires registration of marriages according to applicable regulations, even though it is not mentioned in the fiqh book, in practice, the Indonesian Islamic community is still ambiguous. The tendency is that if all the pillars and conditions of Marriage as required in the fiqh books have been fulfilled, then Marriage is still valid. In today's reality, practices like this can disrupt subsequent legal processes or disrupt the legal rights of children resulting from such marriages. Supposedly, this rule is understood as a new and official form of the Prophet's commandment. To announce or advertise Marriage, even if by slaughtering a goat, marriage registration becomes an important matter that becomes a series of ceremonial marriage events that are held.[18]

4. CONCLUSION

After conducting in-depth research, it is known that polygamous marriages in Indonesia do not ignore women's rights. Polygamous marriages in Indonesia, both under state law and Islamic Law, have stringent requirements. This requirement is deliberately made to protect the rights of polygamous wives. As long as these requirements are met, the negative impacts that arise in the future can be minimized. The emergence of negative impacts from polygamous marriages is usually due to the non-fulfillment of these requirements. Many polygamous marriages are carried out illegally or under the hand (not through a court). The protection of polygamous wives' rights is in line with the marriage principle adopted by the Indonesian state, namely the principle of *limited polygamous Marriage*. Marriage law in Indonesia (State law and Islamic Law) allows this with strict conditions for a man who wants to have another wife. These requirements include the following: (1) a wife cannot carry out her obligations as a wife; (2) The wife has a disability or an incurable disease; (3) The wife cannot give birth to children. Other requirements must be met: (1) the man concerned has sufficient income to finance more than a wife and children, as evidenced by an income tax certificate. (2) There is a written guarantee from the man concerned that he will treat his wives and children fairly (a standard model).

These requirements are logical conditions that must be met for the judge to grant a husband's request for remarriage. The purpose of this judge's acceptance is because a husband has a strong reason as a normal human being to continue his customary life rights. Life has to go forward, and if the wife

has a deficiency that causes the husband to be unable to continue his everyday life, the judge has no right to hinder the continuation of that person's life. However, all of the wife's weaknesses must be proven in court, either by a medical person or by a party capable of convincing the judge.

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6. REFERENCES

- [1] UU no. 1 of 1974 Article 3 Paragraph 1 states that a man may only have one wife in principle. a woman can only have a husband
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