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## The Reasons For Polygamous Marriage Considered By The Religious Court Of Gunung Kidul

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### ABSTRACT

*This research aims to examine the reasons considered by judges in granting permission for polygamous marriage at the Religious Court of Gunung Kidul, which are then administratively implemented at the Office of Religious Affairs (KUA) of Playen District, Gunungkidul Regency, in recent years. In this rural area, the number of polygamous marriages is relatively high. The study employs a sociological-juridical approach using qualitative methods. Data collection was conducted through the examination of polygamy decision documents available at the Playen District KUA, accompanied by interviews with KUA officials at the research site. Based on content analysis, the study found that there are two types of reasons considered by judges in granting permission for polygamous marriage. It is recommended that stricter administrative requirements and more intensive public awareness programs regarding polygamous marriage be implemented by the KUA to ensure proper marriage registration and prevent disadvantages for all parties involved.*

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## INTRODUCTION

Polygamous marriage continues to be a concern in the life of Indonesian Muslim society (Asmorohadi, 2018). Its supporters usually argue that Islam allows a husband to marry up to four women at the same time, while those who do not support or oppose polygamy include the following: “a) Polygamy often lowers the status of women b) Polygamy leads to rampant adultery c) Polygamy causes chaos household, because usually the husband's love eventually only focuses on the new wife.” (Rizkal, 2019) Rizkal has put forward the idea to moderate it. (Rizkal, 2019) Its practice aims, "to improve the status of women, a goal that was applied by Prophet Muhammad when engaging in polygamous marriages, provided that fairness is maintained both outwardly and inwardly. However, nowadays, the practice of polygamy is often misunderstood by some people, where the developing concept of polygamy allows a husband to marry up to four women at the same time without considering the conditions that have been stipulated, both those mentioned in the provisions of the Qur'an and in the regulations regarding marriage in Indonesia." (Jannah & Soiman, 2025; Maesaroh & Yuni, 2024)

Basically, Law No. 1 of 1974 adheres to the principle of monogamy, but it is characterized as open (Sembodo dkk., 2025; Tambak dkk., 2025). This means that polygamy is only allowed for individuals who follow the religious laws of their own faith, permitting a husband to have more than one wife, as long as the conditions of fairness among the wives can be properly fulfilled (Eril dkk., 2024; Apriliah, 2017). The Marriage Law has set limitations regarding this exception, which involve fulfilling certain requirements accompanied by justifiable reasons and obtaining permission from the court (Ridwan 2010). The absence of such permission can lead to the annulment of the marriage by law (S. Zainuri 2019). Polygamous marriage is regulated in Law Number 1 of 1974 concerning Marriage, from Articles 2 to 5. In Article 2, (1) A marriage is valid if conducted according to the laws of each respective religion and belief. (2) Each marriage must be recorded in accordance with the applicable legislation. In Article 3; (1) In principle, a man may only have one wife. A woman may only have one husband. (2) The court may grant permission to a husband to have more than one wife if desired by the parties involved.

Article 4 serves as a further regulation on polygamy. “(1) In the event that a husband intends to marry more than one wife, as referred to in Article 3 paragraph (2) of this Law, he is required to submit an application to the Court in the area where he resides. (2) The Court referred to in paragraph (1) of this article will only grant permission to a husband who intends to marry more than one wife if: a) The wife is unable to fulfill her duties as a spouse; b) The wife has a bodily defect or an incurable disease; c) The wife is unable to bear offspring.”

The last polygamy article in this series is the 5th one. “(1) In order to submit an application to the Court as referred to in Article 4 paragraph (1) of this Law, the following requirements must be met: a) the consent of the wife/wives; b) certainty that the husband is capable of providing for the needs of the wives and

their children; c) a guarantee that the husband will act fairly towards the wives and their children. (2) The consent referred to in paragraph (1) letter a of this article is not required for a husband if the wife/wives cannot possibly be asked for their consent and cannot be a party to the agreement; or if there has been no news from the wife for at least 2 (two) years or due to other reasons that require the Court Judge's assessment." Thus, the Law of the Republic of Indonesia Number 1 of 1974 on Marriage (RI 1974) regulates it. In another section, the KHI also regulates polygamy in Chapter IX, Articles 55 to 59. Article 55 states, "(1) Having more than one wife simultaneously is limited to a maximum of four wives. (2) The main requirement for having more than one wife is that the husband must be able to act justly toward his wives and children. (3) If the main requirement mentioned in paragraph (2) cannot be fulfilled, the husband is prohibited from marrying another woman."

Article 56 regulates its continuation. "(1) A husband who intends to have more than one wife must obtain permission from the Religious Court. (2) The application for permission referred to in paragraph (1) shall be submitted in accordance with the procedures stipulated in Chapter VIII of Government Regulation No. 9 of 1975. (3) A marriage conducted with a second, third, or fourth wife without permission from the Religious Court has no legal validity." Religious Courts only grant permission to a husband who intends to have more than one wife. Everything is regulated in Article 57. There are provisions stating that, "a) The wife is unable to fulfill her duties as a wife; b) The wife suffers from a permanent disability or an incurable disease; c) The wife is unable to bear children."

The relationship between the KHI regulations on polygamy and other legislation in Indonesia is governed by Article 58. "(1) In addition to the main requirements mentioned in Article 55 paragraph (2), in order to obtain permission from the Religious Court, the conditions stipulated in Article 5 of Law No. 1 of 1974 must also be met, namely; a) obtaining the wife's consent; b) certainty that the husband is able to guarantee the livelihood of his wife or wives and their children. (2) Without reducing the provisions of Article 41 letter b of Government Regulation No. 9 of 1975, the wife's or wives' consent can be given in writing or verbally, but even if written consent has been obtained, it is reinforced with the wife's verbal consent during the hearing at the Religious Court. (3) The consent referred to in paragraph (1) letter a is not required for a husband if the wife or wives cannot be asked for their consent and cannot be a party to the agreement, or if there has been no news from the wife or wives for at least 2 years, or due to other reasons that require the Judge's assessment.

In polygamy cases, the wife can be present as stipulated in Article 59. "In the event that the wife does not want to give her consent, and an application for permission to have more than one wife is based on one of the reasons stipulated in Article 55 paragraph (2) and 57, the Religious Court may issue a decision on granting permission after examining and hearing the concerned wife in the

Religious Court session, and against this decision, the wife or husband may file an appeal or cassation" (Khatami 2020; RI 2001)

These strict regulations are not much different from child marriage in Indonesia. Although both are permitted, special rules have been implemented in the legislation to ensure a harmonious family life (M. S. Zainuri et al. 2019; Nurkholis, Istifianah, and Rahman 2020). Both require permission from the Religious Court to be accepted in the marriage registration administration at the Office of Religious Affairs (M. S. Zainuri et al. 2019). Therefore, many parties, including the Office of Religious Affairs (KUA) and counselors, work together to socialize the drawbacks of child marriage by promoting family resilience through marriages that are harmonious and registered in the national population administration (Wafiq and Santoso 2017; Atmaja et al. 2020; Hisyam et al. 2019).

The Playen District KUA in Gunungkidul Regency records marriage events based on legislation, including Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975 on the Implementation of Law Number 1 of 1974 concerning Marriage, and the Compilation of Islamic Law in Indonesia. The most fundamental and important legal basis for recording polygamous marriages at the Office of Religious Affairs (KUA) is the decision of the Religious Court (Fauzi 2020; Basuki Prasetyo 2020; Nasir 2016). Without a decision from the Religious Court, the recording can also reveal the reasons why the polygamous marriage was conducted. Polygamous marriages at the KUA of Playen District, Gunungkidul Regency, from 2012-2015 were quite significant. This situation is due to the population size and demographic conditions in rural areas. The reasons for their marriages were also varied, and some were even conducted secretly. The most recent polygamous marriages were not administered or recorded through the KUA (Wijaya, Santoso, and Nurjidin 2014; Yudhistira 2013).

## **METHOD**

The juridical-sociological research was conducted using a qualitative approach. Information was collected through the examination of documents on polygamy decisions available at the Playen Subdistrict KUA. Four polygamy permits were found in these documents. For further exploration, the research continued with interviews. The purpose was to discuss the reasons underlying the polygamy permits issued by the Religious Court officials at the Playen KUA. The informants were the marriage officers at the KUA study location. The collected data were then analyzed for their content based on Islamic marriage law in Indonesia.

## **RESULTS & DISCUSSION**

### **Reasons**

Reasons Why Husbands Enter Polygamous Marriages Several decisions on applications for polygamous marriage permits researched at the Playen Office of Religious Affairs, the reasons husbands undertake Polygamous marriages at the

Religious Affairs Office of Playen District, Gunungkidul Regency from 2020 to 2024 are:

1. The husband wants to have more children because his wife can no longer bear children.

The reason a husband engages in polygamous marriage because his wife can no longer bear children while he strongly desires to have offspring does not fulfill the conditions stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, which states: "The court can only grant permission to a husband who wishes to have more than one wife if: a) The wife is unable to fulfill her duties as a wife, b) The wife suffers from a physical defect or incurable disease, c) The wife cannot bear children." In this case, the wife is able to give birth to a child, but after that, she cannot have any more children because, according to the doctor, there is a condition—heart weakness. Nevertheless, if polygamy is the wish of all parties, it can be permitted (Sylvanie & Santoso, 2025).

2. The wife often experiences pain during sexual intercourse (sensitive skin) The marriage law states that the purpose of marriage is to form a happy family.

Meanwhile, marriage is a lawful means to channel the natural biological desires that humans possess. However, sometimes the sexual ability between men and women is not balanced. This imbalance can become a problem in the husband-wife relationship within the marriage. This issue can be resolved through openness between the two of them. However, when such problems cannot be solved internally by the husband and wife, one solution is to remarry. The permissibility of remarrying is not a recommendation, but merely an emergency solution if the case truly cannot be resolved. Similarly, the permissibility of polygamy takes into account the benefits and harms that may arise if one is not allowed to remarry.

If a husband can understand his wife's situation and can restrain his desires and the wish to marry again, of course this will be better for the integrity of the family. It should not become an excuse to find other reasons as a means of satisfying biological urges. Basically, this reason is not stated in Article 4 paragraph (2) of Law Number 1 of 1974, so it cannot be a primary justification for engaging in polygamous marriage. If this reason were accepted, many husbands would certainly practice polygamy. A man's sexual desire tends to be permanent even into old age, whereas a woman tends to enter menopause relatively quickly. However, if a husband is unable to restrain his desires and does not achieve sexual satisfaction from his wife, and is worried about falling into the sin of adultery prohibited by religion, then polygamy can become a permissible solution.

3. The wife is unable to fulfill her duties as a wife

The reason a husband engages in polygamous marriage on the grounds that his wife cannot fulfill her duties as a wife is appropriate and meets the requirements for the husband's reason to practice polygamy under Article 4 paragraph (2) letter (a) of Law Number 1 of 1974, which states: 'The wife cannot fulfill her duties as a wife.' As a normal man, the Petitioner certainly longs for a woman who serves and pays attention to his needs. Therefore, according to the

author, a husband who engages in polygamous marriage because his wife cannot fulfill her duties as a wife already falls into the emergency category, as stipulated by the conditions for polygamy outlined by Muhammad Abduh, who narrowed. The permissibility of polygamy and Rasyid Ridla who allows polygamy only in emergency situations.

4. The wife is unable to bear children

The reason a husband engages in polygamous marriage on the grounds that the wife cannot bear children is also appropriate and meets the legal requirements as a reason for a husband to practice polygamy under Article 4 paragraph (2) letter (c) of Law Number 1 of 1974, which states: 'The wife cannot bear children.' As a man, of course, one desires offspring to continue the lineage of his life. Therefore, according to the writer, a husband who enters into a polygamous marriage because the wife cannot provide offspring is considered reasonable.

**Judge's Consideration**

1. The husband wants to have more children while the wife can no longer bear children.

The drafter agrees with the decision of the Panel of Judges granting the Applicant's request. All conditions for applying for polygamy have been met by the Applicant. However, the Applicant's reason for wanting to marry again, which is to have more children, is not included in Article 4 paragraph (2) of Law Number 1 of 1974. In fact, this reason is not strong and cannot be used as the main reason for applying for polygamy permission. Nevertheless, the cumulative requirements have been fulfilled, and there is no prohibition on marriage as mentioned in Law Number 1 of 1974 or the Compilation of Islamic Law. Everything has also been proven in court with oral statements from the Respondent and the Applicant's prospective second wife, which complements the initial evidence (documentary evidence) submitted by the Applicant, as well as testimonies from witnesses. Additionally, since the marriage is considered to be desired by all parties, the request can be granted. The consent of the husband as the Applicant, the willingness of the Respondent, and the Applicant's prospective second wife. This has been stated in the provisions of Article 3 paragraph (2) of Law Number 1 of 1974. In addition, polygamy has purposes, among them to protect the rights of the wife. Through polygamy, the wife still retains rights that must be granted by her husband rather than being divorced.

This is also related to the reproductive purpose of a marriage. Marriage serves as a lawful means to create new generations who will continue the lineage. If a wife can no longer give birth even though she has only one child, while the husband strongly desires to have more children, this can certainly be understood. This is in accordance with the content of a hadith of the Prophet Muhammad narrated by Imam Abu Dawud, namely: "Marry women who are loving and fertile (have many children), because I will be proud of the other nations because of your many children"

2. The wife often experiences pain during sexual intercourse (sensitive skin)

The use of the reason that the wife often experiences illness can be justified. When engaging in marital relations, pain occurs due to sensitive skin, for the purpose of applying for polygamy, provided that the illness cannot be cured. However, if there is hope for recovery, the author is less agreeable. This is very logical and is in accordance with the Marriage Law. Likewise, according to the author, it falls into the emergency category as intended by scholars. A wife who suffers from such an illness cannot fulfill her duties as a wife properly and completely in meeting her husband's biological needs. This is certainly a serious problem for a husband. All the requirements have been fulfilled by the Applicant. However, it needs to be supplemented with a medical certificate or doctor's verdict stating that the illness cannot be healed. Considerations used by the judge in granting a polygamy permission request. In addition, the Applicant's statement regarding the psychological illness suffered by the Respondent has been proven by the testimony of witnesses at the trial. Moreover, according to the witnesses, the illness the Respondent has suffered has lasted for 14 years. Likewise, the Applicant has shown good faith in continuing to care for the Respondent even in an abnormal condition.

Similarly, the Panel of Judges considered the circumstances of the Applicant's second prospective wife, namely her willingness to be co-married and her status as a virgin who is not engaged to anyone else, as well as the absence of any marriage prohibitions. This is in accordance with Articles 39, 40, and 41 of the Compilation of Islamic Law. As Sayyid Sabiq stated, it is forbidden for a man to propose to a woman who has already been proposed to by someone else. He said this by citing a hadith of the Prophet Muhammad (peace be upon him) narrated by Imam Ahmad and Muslim; "A believer is the brother of a believer, so it is not lawful for a believer to outbid his brother, and he should not propose an engagement when his brother has thus proposed until he gives it up".

3. The wife is unable to fulfill her duties as a wife (The husband wants to have children, but the wife does not want to comply).

The use of the reason that a wife is unable to fulfill her duties as a wife to file for polygamy has been included in the legislation. This is very logical and complies with Marriage Law No. 1 of 1974 Article 4 paragraph (2) letter (a) "the wife is unable to carry out her duties as a wife". In this case, the Petitioner wants to have another child, but the Respondent does not want to comply with the Petitioner. The drafter agrees with the panel of judges who granted the Petitioner's request. Letter (b), which refers to the certainty that the husband is able to guarantee the livelihood of his wives and their children. The applicant attached an income statement in his application, stating that the applicant works as a daily laborer earning approximately Rp. 300,000.00 per day, which is considered sufficient to meet their needs. This has also been proven by the testimony of the witnesses presented by the applicant in court. Letter (c), which refers to the assurance that the husband will act fairly towards his wives. The applicant has stated his willingness to act fairly towards his wives and their children in the future.

#### 4. The wife is unable to bear children

As mentioned above, the Panel of Judges has granted the Applicant's request with their decision. The reason is that the Applicant meets the requirements specified in Article 4 paragraph (2) of Law Number 1 of 1974. Furthermore, the Applicant's request has also fulfilled the requirements for practicing polygamy, namely Article 3 paragraph (2) and Article 5 paragraph (1). Likewise, the Applicant's reasons fulfill Article 3 paragraph (1), however, according to Article 4 paragraph (2), it is stated; "The court may grant permission to allow a husband to have more than one wife if desired by the parties involved.

Similarly, the cumulative requirements have been met, and there is no prohibition on marriage as referred to in Law Number 1 of 1974 as well as the Compilation of Islamic Law, and all of this has been proven in court with oral statements from the Respondent and the Petitioner's prospective second wife, which complement the initial evidence (documentary evidence) submitted by the Petitioner, as well as the testimonies of the witnesses. Likewise, since the marriage is considered to have been desired by all parties, the petition can be granted.

### **CONCLUSION**

At the KUA of Playen District, the reasons for a husband applying for polygamy permit were found to consist of two types; The reasons stated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, namely: the wife cannot bear children, does not fulfill her obligations as a wife because she is unwilling to serve her husband, and physical defects or incurable diseases, meaning the wife often experiences illness during marital relations (sensitive skin). The second type consists of reasons not included in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, namely: the wife can no longer give birth while the husband strongly desires to have children again. In recording polygamous marriages, it should be supported with evidence in accordance with what is recognized in polygamy licensing hearings at the religious court, in addition to continuous socialization about polygamous marriage to avoid unregistered 'sirri' marriages at the KUA. This study is still limited to information from directly related officials, but it does not show the sociological situation. The applicant's family as a whole, while demographic conditions are very important for the determination of polygamy permission.

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