

# IMPLEMENTATION OF POLYGAMY PERMITS BASED ON ISLAMIC LAW

*Arni Safitri*

*Andika Prawira Buana*

*Nurhaedah Nurhaedah*

Faculty of Law, Universitas Muslim Indonesia, Indonesia

Faculty of Law, Universitas Muslim Indonesia, Indonesia

Faculty of Law, Universitas Muslim Indonesia, Indonesia

Study This aiming For know How Provision Permission Polygamy in Law Marriage Number 1 of 1974 and Islamic Law. And how Judge's considerations in Giving Permission Polygamy in Religious Courts in Makassar City. Research This using Research Methods Empirical where location study This is at the Class 1A Religious Court of Makassar. The research data sources This is a Judge of the Makassar Religious Court . Furthermore method data collection used is interviews , documentation and tracing reference . Then the technique data management and data analysis are carried out through data presentation and retrieval Conclusion . Research results This show that : First based on provision Implementation Permission polygamy , as can We Look in Article 4 paragraph (2) of the Marriage Law explained that man married more from One given restrictions , namely a man No may married more of (4) four people. Second : The judge's considerations in giving permission polygamy in the Class 1A Religious Court of Makassar in his considerations when decide a case submission permission polygamy is based on arguments as well as evidence from applicant , using base law that originates from from the Qur'an as source Islamic law and the Law , That reasons as in article 4 paragraph (2) of the Law Number 1 of 1974. Also seen from aspect condition applicant If No given permission polygamy will cause acts prohibited by the Islamic religion like commit adultery , then assembly still to consider in accordance terms , conditions in giving permission polygamous.

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### INTRODUCTION

Humans , Animals and Plants is God's created creatures in pairs . Relationship between couples That bear fruit descendants to live in nature natural universe This continuous . [1] With thus inhabitants of this world more be happy and keep going develop from generation to generation . Marriage is Sunnatullah which with on purpose created by Allah, among other things, its purpose is For continue descendants and goals others . [2]Islam Formulates a number of provisions that must be met made into guidelines covering Proposals , Determining the Dowry, How to Consent , Husband and Wife Relations , as well as Arrangement of Rights and Obligations both of them in the Household . [3]One of the most common under discussion in public Muslim that is polygamy . Polygamy of course is realm conversation in the missing family End of the term polygamy This No foreign Again For discussed , but in matter because one of them the important thing that is implementation draft justice . [4]

In general if reviewed about marriage polygamy , then which is more favored namely in men and is beneficial for party man because of may Marry Again with two, three or four wife . [5] Although marriage polygamy is practiced husband in accordance with terms and conditions , will but the most disadvantaged that is women . Society views polygamy to humble dignity women . [6] If a a

man who has married , then He will Marry Again moreover because of lack from the wife so here position wife is very insulted . Not to mention impact from polygamy that is child become not enough love darling . [7]

Islam does not obligatory polygamous , but make it as must . However must This is not in a way absolute on the contrary charged certain conditions .

## **METHOD**

Study This nature study empirical , namely study with using field data as primary data sources , such as results interviews and documentation . [8] Study empirical used For to clarify conformity between theory and practice with using primary data regarding Implementation Permission Polygamy Based on Islamic Law. Research This using Research Methods Empirical where location study This is at the Class 1A Religious Court of Makassar. The research data sources This is a Judge of the Makassar Religious Court . Furthermore method data collection used is interviews , documentation and tracing reference . Then the technique data management and data analysis are carried out through data presentation and retrieval conclusion . [9]The data has been obtained both primary data and secondary data Then will processed and analyzed For produce conclusion , then for the primary will processed and analyzed For produce conclusion , then served in a way descriptive , useful give clear and focused understanding from results study later in accordance with closely related issues the relation with research conducted by the author . [10]

## **DISCUSSION**

### **Provision Permission Polygamy in Class 1A Religious Court Makassar**

Provision permission polygamy based on law Islam is based on the principles marriage in Islam is monogamy . [11]This is can understood in QS An-nisa' verse (3), even though Allah SWT gives opportunity For married until four people, but opportunity That accompanied by the actual conditions Enough heavy For fulfilled except by certain people only . [11]Allah SWT accompanies ability polygamous with the expression " if " You Afraid or worried No will can applicable fair , then get married One Woman just " . [12]

" Condition fair for ability polygamous is not condition law , will but He is religious requirements with understanding that religion wants it , therefore That fair is one of religious requirements are one of them obligation husband after do polygamy . In addition condition law result in canceled law when cancelled the conditions , but religious requirements no however , but only causing sin against God. So the husband does n't applicable fair he sinful and can submitted to court Where qadhi can to drop to him punishment ta'ziir . However if We make it fair That condition law for ability polygamous , then when husband No applicable fair , marriage become canceled . According to Compilation of Islamic Law, husband who wants to married more from one person must get permission from Religious Court . Same as required in Constitution Marriage , according to Article 57 of the KHI, the Religious Court only give permission to a husband who will married more from a If :

wife No can operate his obligation as wife ;

wife get physical disability or disease that is not can healed ;

wife No can give birth to descendants .

Apart from the above , the husband in submit application For married more from one person, must fulfil terms and conditions as following Article 5 paragraph (1) of the Law Marriage :

existence agreement from wife / wives ;

existence certainty that husband capable ensure requirements - requirements life wives and children they .

As for the conditions polygamy :

Photocopy of the applicant's KTP which is still valid valid ;

Stamp 6000 then legalized at the Post Office;

Photocopy of quote / duplicate Applicant's Marriage Certificate with wife First , if want to Marry with candidate wife second , which is given 6000 stamp then legalized at the Post Office ;

Statement letter from wife First willing For polygamous , which is given 6000 stamp and signed by wife First ;

Statement letter Able be fair from The applicant is granted 6000 stamp and signed by the applicant ( husband );

Certificate Income The application is made by the Village Head/ Village Chief where stay Applicant ;

Application letter permission polygamy a total of 6 copies containing reason reason want to polygamous ;

For applicants who use power law like Lawyer / Advocate , must attach a Special Power of Attorney and a photocopy of the Advocate Card that is still valid applicable One sheet ;

Pay Deposit Cost State through Giro Muamalat , Bank Muamalat KPC Makassar- Gowa , the amount of which is in accordance with Article 16 of the Regulation Government Number 10 of 1983 which regulates about threat punishment . [\[13\]](#)

## **Judge's considerations in Giving Permission Polygamy Based on Islamic Law in the Class 1A Religious Court of Makassar**

### **WEIGH**

Considering , that purpose and objectives application Applicant as has described in advance . Considering , that on the day the trial that has been determined , the Applicant and the Respondent come facing Alone to trial . Considering , that assembly has try to advise Applicant For think in a way ripe with describe aspect obligations and responsibilities the resulting answer consequence wedding polygamy , will but Applicant remains on his application . Considering , that the panel of judges is of the opinion that case permission polygamy No including mandatory matters For undergo mediation process as Meaning Regulation Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Procedure Mediation in Court because that is what becomes object the examination is legality permission polygamy to terms and conditions polygamy as applicable provision .

Considering , that The applicant in principle begging to Class 1A Religious Court of Makassar to be given permission For Marry again ( polygamy ) with Woman named Fulanah bint Abd. Azis with reason Applicant want to get descendants . Applicant has get permission from Respondent For Marry again . Applicant state willing For applicable fair to his wives and children later and the Applicant is a capable person For polygamous . Considering , that For strengthen arguments his application , the Applicant submit tool evidence P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8 and P-9 which

have been researched and fulfilled condition formal and material a proof . Therefore that , tool proof the can accepted and considered . Considering , that in addition to tool proof letter said , the Applicant also submitted tool evidence of two witnesses . Two witnesses were taken his testimony is speak become witness , testimony given right in front trial , witness checked one by one and each one has sworn according to Islamic religious procedures so that based on Article 171 R.Bg. and Article 172 R.Bg. in particular law has fulfil formal requirements . Considering that two witnesses were taken his testimony , has reasons and sources knowledge , testimony delivered each other in accordance One with other so that based on Article 308 R.Bg. and Article 309 R.Bg. in particular law has fulfil condition material . Considering , that with fulfilled condition said , the tool proof testimony witness legitimate as tool proof so that his testimony can accepted and considered . Considering , that based on evidence P-1, P-2 and testimony witnesses Applicant in trial , proven Applicant and Respondent is husband wife who married in 2006. After married , both of them life harmonious until Now .

## **TO JUDGE**

Grant application Applicant .

Give permission to Applicant , Applicant For second marriage time with a a woman named Fulanah bint Abd. Azis. Set treasure in the form of A The Mitsubishi Lancer sedan is a treasure together The Applicant and the Respondent . Charges Applicant For pay cost case amounting to Rp. 391,000.00 ( three hundred and nine hundred thousand rupiah) . tens One thousand rupiah).

## **CONCLUSION**

Provision Permission Polygamy in Constitution Marriage Number 1 of 1974 and the Compilation of Islamic Law . First , in Article 4 paragraph (2) of Law Marriage explained more carry on that Court only will give permission to the husband For married more from One if : wife No can operate his obligation as wife , namely wife get physical disability or disease that is not can healed , wife No can give birth to descendants . Second , in Provision Compilation of Islamic Law on Polygamy No Far different with Constitution Marriage , only just in the Compilation of Islamic Law explained that man married more from One given restrictions , namely a man No may married more of (4) four people. In addition , the requirements main a man For have wife more from One is man the must capable applicable fair to wives and children . The judge's considerations in giving permission polygamy in the Class 1A Religious Court of Makassar in his considerations when decide a case submission permission polygamy is based on arguments as well as evidence from applicant , using base law that originates from from the Qur'an as source Islamic law and the Law , That reasons as in article 4 paragraph (2) of the Law Number 1 of 1974. Also viewed from aspect condition applicant If No given permission polygamy will cause acts prohibited by the Islamic religion like commit adultery so assembly still to consider in accordance terms , conditions in giving permission polygamous .

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