



## The Harmonization of Islamic Law and National Law on the Practice of Polygamy in Indonesia

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### Abstract

This study aims to analyze the harmonization between Islamic law and national law in regulating the practice of polygamy in Indonesia. The main focus of this research is to examine how both legal systems interact in defining the limits, conditions, and objectives of polygamy so that it remains consistent with the principles of justice and public welfare. The research employs a library research method by reviewing classical and contemporary literature, Qur'anic exegesis, fiqh (Islamic jurisprudence) works, and relevant legal instruments, including Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI). The findings reveal that, from the perspective of Islamic law, polygamy is not an obligation but a conditional permission that can only be practiced if the principle of justice can be upheld and family welfare ensured. Meanwhile, within the framework of national law, the principle of monogamy remains the fundamental rule; however, limited exceptions are allowed under strict legal procedures, such as obtaining court authorization, spousal consent, and proof of the husband's financial capability. Both legal systems ultimately share the same objective to uphold justice, prevent misuse, and protect the rights of women and children. Therefore, the harmonization between Islamic law and national law in the practice of polygamy in Indonesia reflects an effort to integrate religious values with the principles of positive law within a unified framework of humanistic and civilized justice.

### Keywords

Legal Harmonization Indonesian; Marriage Law; Islamic Law; Polygamy

### Introduction

Marriage is one of the Sunnahs of the Prophet Muhammad (peace be upon him) and holds a significant position within Islamic teachings. (Adharsyah et al., 2024);(Hasbi, 2011);(A. Fauzi, 2020);(Laila & Syukri, 2025). The Prophet Muhammad (peace be upon him) even emphasized that anyone who rejects or despises marriage falls outside the ranks of his community. Therefore, marriage in Islam is regarded as a sacred institution that unites men and women in a legitimate and honorable bond. (D. Rahman, 2018);(Setiawan, 2024);(Chaudhry, 2018). Islam rejects the view that encourages an individual to abstain from marriage

without a valid *shar'i* reason, such as a woman choosing to remain chaste without marrying. One issue that frequently arises in discussions of marriage is polygamy, which refers to the practice of a man marrying more than one wife (Puspytasari, 2023);(Tahqiqa, 2023);(S Hidayah 2024). This term is often associated with the practice of the Prophet Muhammad (peace be upon him), who engaged in polygamy in accordance with Sharia provisions and based on Qur'anic verses permitting a man to have more than one wife. However, some Muslims interpret these verses narrowly, using them to justify polygamy without considering the principles of justice and moral responsibility that lie at the core of Islamic teachings. As a result, polygamy is frequently misused and practiced merely to satisfy personal desires, thereby obscuring its original, noble purpose.

Historically, the practice of polygamy during the time of the Prophet Muhammad (peace be upon him) was grounded in considerations of humanity, religious propagation (*dakwah*), and social protection, particularly for widows and orphans following battles. This demonstrates that polygamy in Islam carries significant moral and social dimensions, rather than serving merely as a means of fulfilling personal desires. However, over time, the practice of polygamy has often undergone a shift in meaning. In modern society, polygamy is frequently practiced without regard for the conditions of justice mandated by Sharia, resulting in various legal, social, and psychological issues, especially affecting wives and children.

On the other hand, Indonesia, as a state governed by law, seeks to regulate the practice of polygamy through a positive legal framework outlined in Law No. 1 of 1974 on Marriage, Government Regulation No. 9 of 1975, and the Compilation of Islamic Law (KHI). These regulations affirm monogamy as the principal foundation of marriage in Indonesia, while still allowing for polygamy under strict conditions. These conditions include obtaining court approval, securing the consent of existing wives, ensuring the husband's financial capability, and guaranteeing fair treatment. Through this legal mechanism, national law does not outright prohibit polygamy but regulates its implementation so that it does not conflict with the values of justice, morality, and humanity.

The harmonization between Islamic law and national law is particularly important, given that both share the same objectives: maintaining family integrity, protecting the rights of women and children, and preventing injustice arising from the misuse of polygamy. From the perspective of Islamic law, polygamy is regulated based on moral and spiritual principles, whereas national law governs it through principles of legality and procedural justice. These two

frameworks are not inherently contradictory; rather, they complement each other in forming a marriage legal system that is both just and civilized.

Accordingly, examining the harmonization of Islamic law and national law regarding the practice of polygamy in Indonesia is crucial. This study is expected to provide a more comprehensive understanding of how these two legal systems interact and support one another in achieving the objectives of the law, namely public welfare, justice, and the protection of all family members.

## **Method**

This research employs a library research method with a juridical-normative and theological-comparative approach. The juridical-normative approach is used to examine the legal norms governing polygamy within Indonesia's national legal system, such as Law No. 1 of 1974 on Marriage, Government Regulation No. 9 of 1975, and the Compilation of Islamic Law (KHI). Meanwhile, the theological-comparative approach serves to analyze the principles of polygamy as reflected in the Qur'an, Hadith, and both classical and contemporary fiqh literature.

The data sources of this study consist of primary legal materials, including the Qur'an, Hadith, fiqh texts, and marriage-related legislation, as well as secondary legal materials such as books, scholarly journals, legal articles, and previous studies. All data were collected through an extensive review of the literature and analyzed using a descriptive-analytical method, which involves describing, interpreting, and comparing Islamic legal principles and national legal norms concerning polygamy.

Through this analysis, the study aims to develop a comprehensive understanding of the position of polygamy within both Islamic and Indonesian legal frameworks, thereby elucidating the relevance, compatibility, and harmonization between religious values and positive law.

## **Literature Review**

This research is grounded in a theoretical framework that has been developed through various previous studies. In this context, the author seeks to outline several prior research findings that are relevant to the topic under investigation. Specifically, the author endeavors to trace and elaborate on a number of previous studies directly related to the theme of polygamy, particularly from the perspective of Islamic law.

(Tahqika, 2023);(Puspytasari, 2023); social, as well as national legal policy perspectives. These studies serve as a conceptual foundation for this research in understanding how polygamy is positioned whether as a conditional permissibility, a socio religious practice, or a form of protection for humanitarian values within Islam (Ahmad & Yusuf, 2025);(N. Rahman & Hidayat, 2024);(Putri & Hasan, 2025);(A. Fauzi, 2023);(Mahmood & Kareem, 2019). Accordingly, this section presents a review of relevant studies that help elucidate the concept, meaning, and purpose of polygamy in accordance with the

principles of justice and public welfare, which constitute the core of Islamic teachings.

## Result

### Polygamy in Islamic Law

Polygamy is a form of marriage considered to be in accordance with human nature (*fitrah insaniyah*) and holds a legitimate position within the law, aiming to establish a harmonious family founded on love, compassion, and divine mercy. The primary objectives of marriage, including polygamy, are to preserve personal dignity and to attain offspring. Historically, the practice of polygamy has been prevalent in various countries such as Japan, India, Africa, Germany, France, Australia, the Netherlands, Denmark, and Sweden, where it was regarded as a normal social institution. Two main factors that have supported the practice of polygamy are material sufficiency and biological needs. In Indonesia, the history of polygamy during the Dutch colonial era was particularly concerning for women, as it was often carried out arbitrarily and without regard to religious principles. In many cases, husbands coerced their wives into granting permission or even resorted to falsifying documents, which ultimately led to domestic conflict, division, and resentment within the family.

Polygamy is one of the classical issues in marriage that continues to attract scholarly and social attention to this day. This topic consistently sparks debate, particularly due to differing interpretations of religious texts, which are influenced by diverse social and cultural backgrounds. Etymologically (*lughawi*), the term *polygamy* originates from the Greek words *poli/polus*, meaning “many,” and *gamein/gamos*, meaning “marriage.” Thus, polygamy can be defined as a form of marriage involving more than one spouse. Terminologically (*ishthilahi*), polygamy refers to a marital system in which one party marries or has more than one partner of the opposite sex simultaneously. Meanwhile, when a woman has more than one husband, it is called *polyandry*, derived from the Greek words *polus* (many) and *andros* (man). (Imeldatur Rohmah, 2022).

In addition, debates regarding polygamy have also emerged among scholars, particularly concerning the interpretation of the concept of justice, which serves as the main requirement in the practice of polygamy. Quraish Shihab, for instance, argues that the justice referred to in this context is limited only to material aspects and does not include non-material aspects such as love and affection. In contrast, Fazlur Rahman contends that justice should not be confined merely to material

dimensions but must also encompass non-material aspects.(Ashidiqie, 2021).

Polygamy in Islam is not permitted without restriction; rather, it is accompanied by specific limitations and strict conditions. A man is allowed to marry up to four wives on the condition that he is able to treat them justly particularly in matters of financial support, housing, and the allocation of time. Islam emphasizes that if there is any concern about the inability to act justly, then marrying only one wife is preferable. This principle is explicitly affirmed by Allah in His words in *Surah al-Nisā* (4:3).

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ وَرُبُعٍ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ أَذْنَىٰ أَلَّا تَعُولُوا

Translations:

*"If you fear that you will not be able to deal justly with the orphan women, then marry those that please you of other women two, three, or four. But if you fear that you will not be able to deal justly, then [marry only] one, or those your right hands possess. That is more likely to prevent you from committing injustice".*

Based on various sources, the revelation of this verse is associated with several historical contexts (*asbāb al-nuzūl*). First, the verse is related to the practice of certain guardians who intended to marry orphaned girls because of their wealth but were unwilling to provide them with a proper dowry. (Katsir, 2000). Secondly, another narration mentions that the revelation of this verse was related to a man who had more than four wives, each of whom was caring for orphans under her guardianship. The man was reported to have used the orphans' property to provide for his wives, which prompted the revelation of this verse as a divine prohibition and regulation concerning such conduct.(Asyur, 1997). Thirdly, there is also a narration stating that the verse was revealed in response to a man who married a female orphan solely with the intention of taking control of her property. (al-Thabari, 1999). Substantively, the verse was revealed as a form of admonition to men who unlawfully took or exploited the wealth of orphans. Such practices are strictly prohibited in Islam, and this verse serves to reaffirm that prohibition. Moreover, the concept of justice toward one's wives refers only to the aspects within human capacity to uphold fairness such as in the division of time, financial support, clothing, and housing.

## The Polygamy of the Prophet Muhammad

The practice of polygamy carried out by the Prophet Muhammad (peace be upon him) was profoundly different from the forms of polygamy found today. Therefore, to clearly understand the purpose and intent behind the Prophet's practice of polygamy, one must examine the circumstances and reasons that led him to engage in it. Among these are:

First, the Prophet was sent by Allah Almighty to spread compassion and mercy to all creation, in accordance with His words in Surah *al-Anbiyā'*. (21):107

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

Translation:

*"And We have not sent you except as a mercy to all creation."*

Second, the Prophet was sent as an exemplary model for all humankind, as explained in Surah *al-Ahzāb*. (33):21

لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ لِّمَن كَانَ يَرْجُوا اللَّهَ وَالْيَوْمَ الْآخِرَ وَذَكَرَ  
اللَّهَ كَثِيرًا

Translations:

*"Indeed, in the Messenger of Allah you have an excellent example for those who hope for (the mercy of) Allah and the After Life, and who remember Allah much."*

Third, the Prophet was sent to protect and uplift the dignity of women, orphans, slaves, and other oppressed groups. Regulated on QS. *al-Nisā* (4): 127

وَيَسْتَفْتُونَكَ فِي النِّسَاءِ قُلِ اللَّهُ يُفْتِيكُمْ فِيهِنَّ وَمَا يُتْلَىٰ عَلَيْكُمْ فِي الْكِتَابِ فِي يَتِمَّى  
النِّسَاءِ الَّتِي لَا تُوْتُونَهُنَّ مَا كُتِبَ لَهُنَّ وَتَرْغَبُونَ أَن تَنْكِحُوهُنَّ وَالْمُسْتَضْعَفِينَ مِنَ  
الْوِلْدَانِ وَأَن تَقُومُوا لِلْيَتَامَىٰ بِالْقِسْطِ وَمَا تَفْعَلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ كَانَ بِهِ عَلِيمًا

Translations:

*“And they ask you for a legal ruling concerning women. Say, “Allah gives you a ruling concerning them, and [so does] what has been recited to you in the Qur’an regarding orphaned women those to whom you do not give what has been prescribed for them while you desire to marry them and concerning the weak among children. And Allah commands you to deal justly with orphans. Whatever good you do, indeed, Allah is ever All-Knowing of it”.*

Fourth, the Prophet encouraged his followers to establish households that cultivate prosperous, harmonious families and to nurture strong Islamic generations for the future not merely to satisfy sexual desires. Fifth, given the many revelations received by the Prophet Muhammad (peace be upon him), it is essential to study them carefully so that their meanings become clear and are exemplified in practice in accordance with their true essence. By understanding these implicit meanings, the underlying reasons behind the Prophet’s practice of polygamy can be clearly discerned..

The Prophet Muhammad’s (peace be upon him) practice of polygamy was clearly not motivated by biological needs or the desire to have offspring. In his marriages, the Prophet predominantly married women of advanced age except for Aisha and his polygamous marriages did not occur under ordinary circumstances. Rather, they took place in times of war, struggle, and devotion, with the primary purpose of supporting the mission of da’wah and upholding the principles of Islam (Rohmah et al., 2021).

The practice of polygamy by the Prophet Muhammad (peace be upon him) even exceeded the limit of four wives. However, the Qur’an explicitly sets a specific provision restricting the Prophet’s polygamy so that it may not be taken as a general example for the Muslim community to follow without regulation. Through a comprehensive understanding, the Prophet’s practice of polygamy can thus be interpreted more proportionally and contextually. (Rohmah et al., 2021). By understanding the history of the Prophet Muhammad’s (peace be upon him) practice of polygamy along with its noble reasons and purposes it becomes clear that his practice was fundamentally different from the form of polygamy commonly found in society today, which often neglects the essential element of justice as the primary condition for polygamy and instead prioritizes the fulfillment of mere biological desires.

### **Polygamy on the Several Perspectives**

The verse in Surah *an-Nisā’* (4:3), which serves as the primary reference for the permissibility of polygamy, has given rise to differing

interpretations among scholars. Those who generally allow the practice of polygamy do not treat it lightly; rather, they impose very strict conditions for its permissibility. In contrast, scholars who tend to prohibit polygamy are mostly contemporary scholars. According to them, Islam in essence upholds the principle of monogamy and strongly discourages polygamy, viewing it as a pre-Islamic Arab custom that granted men a dominant social and legal position over women.

The following are statements of exegetical scholars regarding the interpretation of the verse, among others:

1. Ibnu Katsir In his interpretation of the verse, Ibn Kathir cites the statement of Imam al-Shafi'i: "The Sunnah of the Messenger of Allah (peace be upon him), which serves as an explanation of Allah's words, indicates that it is not permissible for anyone other than the Messenger of Allah to marry more than four wives." Ibn Kathir further explains: "This statement of al-Shafi'i represents the consensus (*ijmā'*) of the scholars, except for a group within the Shi'a who permitted marrying more than four wives up to nine." The verse thus signifies that if you fear being unjust toward orphaned women should you marry them, then marry free women two, three, or four or those whom your right hand possesses.
2. Al-Qurthubi In his interpretation, it is explained that although the verse specifically refers to orphaned women, its legal implication applies to all women both orphans and non-orphans. This understanding is derived from the generality of the wording rather than the specificity of its cause. Hence, it becomes clear that the Qur'an permits polygamy, provided that the condition of justice is fulfilled.
3. Al-Khasin In interpreting the above verse, he states: *"That is, you will never be able to act justly among your wives in matters of emotional inclination, for such matters are beyond your control and capability."*
4. In the *Tafsir al-Jalalayn*, it is stated: *"You will never be able to act justly among your wives in matters of love, even if you sincerely desire to do so. Therefore, do not incline completely toward the wife you love in matters of night allocation and financial support"*.

In conclusion, for a husband who practices polygamy, it is permissible for his affection and love to be inclined toward one of his wives, provided that such inclination does not affect his obligations in matters

of financial support and time allocation. In these aspects, the husband remains strictly required to act justly toward all of his wives.

### **Scholarly Perspectives on Polygamy**

Imam Wahbah al-Zuhaili (1932–2015) interprets the phrase *matsnā wa tsulāthā wa rubā'a* as the foundational basis for permitting a man to practice polygamy with a maximum of four wives namely, two, three, or four. (Wahbah az-Zuhaili, 2003);(Diana & Khoiriyah, 2024). According to M. Quraish Shihab, Surah *an-Nisā'* verse 3 does not contain an obligation or recommendation to practice polygamy; rather, it merely grants permission for its practice. Even then, polygamy is regarded as a narrow path that may only be taken by those who are genuinely in need and under very stringent conditions. Therefore, discussions on polygamy in the Qur'an should not be viewed in terms of ideality or moral judgment whether good or bad but should instead be understood within the framework of legal formulation that takes into account the various circumstances that may arise. (Quraish Shihab, 2002);(Hidayat, 2020).

Quraish Shihab views polygamy as a “narrow gate” that can only be taken by those who are truly in need and under stringent conditions. According to him, the permissibility of polygamy may be justified when a wife is unable to fulfill her domestic functions due to infertility or an illness that prevents her from carrying out her marital duties. In such circumstances, consideration is given to how the husband's biological needs may still be fulfilled in a reasonable and lawful manner. To support his view, Quraish Shihab poses a series of rhetorical questions that, in his opinion, are difficult to refute. For instance, he highlights the fact that the number of men is generally smaller than that of women, both among humans and animals. Furthermore, he notes that the average lifespan of women tends to be longer than that of men, while men's reproductive capacity generally lasts longer than that of women. This is because women experience menstruation and menopause, whereas men do not (Quraish Shihab, 2002).

Wahbah al-Zuhaili, in his work *al-Fiqh al-Islami wa Adillatuhu*, explains that polygamy has two fundamental requirements, such as:

1. The existence of justice for all wives

Justice in the context of polygamy does not encompass aspects of affection, love, or emotional inclination, as these are subjective matters that cannot be equalized. However, a wife's sense of comfort may be reflected in how her husband treats her with kindness and wisdom. On the other hand, a husband is obligated to uphold justice in material aspects, such as providing food, clothing, housing, and other physical necessities. This obligation applies without distinction to the social

status or economic background of each wife, whether she comes from a prominent family or an ordinary background.

2. The ability to provide financial support

According to Islamic law, marriage whether with one wife or more is not permitted unless a man possesses the ability to provide the necessary means and expenses for the marriage and is capable of ensuring the continuous fulfillment of his obligatory financial responsibilities toward his wife. These two conditions are those required by Wahbah al-Zuhaili for a husband who wishes to practice polygamy (Diana & Khoiriyah, 2024). Muhammad Syahrur according to *limit's theory* (*naẓariyyah al-ḥudūd*) emphasizes that polygamy has two limitations: a minimum limit (*al-ḥadd al-adnā*) and maximum limitation (*al-ḥadd al-a'lā*). According to him, the minimum limit of marriage is one wife; therefore, actions falling below this limit such as not marrying at all are not justified in Islam. Meanwhile, the maximum limit of polygamy is four wives. (Azni, 2015).

**The Polygamy Rules In Indonesia**

The regulation of polygamy in Indonesia is explicitly governed by Law No. 1 of 1974 concerning Marriage, which fundamentally affirms the principle of monogamy as the primary foundation of marital relations. This is stated in Article 3 paragraph (1), which provides that, in principle, a man may have only one wife, and a woman may have only one husband. However, the law also allows for limited exceptions, as outlined in Article 3 paragraph (2), whereby the court may grant permission for a husband to have more than one wife, provided that there are legitimate reasons and specific conditions are fulfilled as stipulated in the subsequent articles. (R. Fauzi, 2021); (Firly, 2022).

According to Article 4 paragraph (1), if a husband intends to have more than one wife, he is required to submit an application for permission to the court within his place of residence. The court may grant such permission only if there are legally justified reasons, as stipulated in Article 4 paragraph (2), namely: if the wife is unable to fulfill her marital obligations, if the wife suffers from a physical disability or an incurable illness, or if the wife is unable to bear children. In other words, the law provides room for the practice of polygamy only under specific and compelling circumstances that can be legally proven before the court.

Furthermore, Article 5 paragraph (1) stipulates that before a husband may submit a request for polygamy, a number of cumulative requirements must be fulfilled simultaneously. These requirements include obtaining consent from the existing wife or wives, ensuring the husband's ability to provide for the financial needs of his wives and children, and guaranteeing that he will act justly toward

all members of his family. The consent of the wife serves as an essential condition to uphold the principles of justice and the balance of rights within the household. However, Article 5 paragraph (2) provides exceptions, namely in cases where it is impossible to obtain the wife's consent, when she is legally incapable of entering into an agreement, when her whereabouts are unknown for two consecutive years, or when other valid reasons are deemed appropriate by the court. In such cases, the requirement for consent may be waived based on the court's assessment (Masri, 2019).

In the context of marriage law, the requirements stipulated in the legislation can be categorized into two types: cumulative requirements and alternative requirements. Cumulative requirements refer to conditions that must be fulfilled simultaneously for polygamy to be considered legally valid. These requirements emphasize the aspects of justice and the moral responsibility of a husband toward his wives. A man intending to practice polygamy is obligated to demonstrate his ability to act justly both in providing material and emotional support and to ensure the welfare of all his wives and children. This principle of justice is also reflected in Article 3 paragraph (2) of Law No. 1 of 1974, which stipulates that a husband who has more than one wife must be capable of ensuring fairness to all his wives, both physically and spiritually.(Mulyanto, 2022).

Meanwhile, alternative conditions are conditions that can be fulfilled by choosing one of several conditions stipulated in the law. This means that only one of the reasons mentioned needs to be fulfilled for the court to grant permission for polygamy. Some of these reasons include: (1) the wife is unable to fulfill her obligations as a wife for certain reasons, whether physical or psychological; (2) the wife has a physical disability or suffers from an incurable disease that prevents her from fulfilling her role as a wife; and (3) the wife is unable to bear children, which in the context of Indonesian society is often considered a valid reason for a husband to apply for polygamy. This provision is explicitly outlined in Article 4 paragraph (2), which states that permission for polygamy can only be granted if one of these three reasons is proven to be valid.

Thus, it can be concluded that Law No. 1 of 1974 continues to uphold the principle of monogamy as the basis of the national marriage system, but provides limited space for the practice of polygamy through strict and controlled legal mechanisms. Polygamy cannot be practiced unilaterally by the husband, but must be approved by the court after fulfilling all the specified requirements, both formal and material. This provision shows that the state seeks to balance religious values, social morality, and legal protection for women and children. Through court supervision, the state ensures that polygamy is not practiced arbitrarily, but only in truly urgent circumstances that are legally justifiable. With this mechanism, justice and welfare within the household are expected to

be maintained even when polygamy is practiced under conditions permitted by law.(Fudola & Yusuf, 2024).

Indonesia, as a country governed by the rule of law, has its own regulations regarding marriage, which are stipulated in Law No. 1 of 1974. Article 3 (1) of Law No. 1/1974 clearly states that marriage law in Indonesia adheres to the principle of monogamy for both men and women. However, this law also contains an exception, whereby a husband may have more than one wife if he has permission from the relevant party, in this case his first wife. This exception is based on religion, which does not prohibit the practice of polygamy.

In relation to the laws that apply in Indonesia, which do not allow polygamy, except in urgent circumstances where there is no other option, in line with Islamic teachings that impose strict conditions on prospective practitioners of polygamy. Therefore, if the specified conditions are met, the practitioner of polygamy will not experience difficulties in his household as a result of the demands of his wives.

Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1/1974 also explicitly prohibits polygamy unless the parties concerned give their consent. Similarly, Article 55 of the Compilation of Islamic Law (KHI) states that a man can have more than one wife, up to four, on the condition that the husband must be able to treat his wives and children fairly. and if there is concern that this condition will not be met, then the husband is prohibited from having more than one wife.

From the several principles and rules that have been mentioned, it can be understood that the basis of marriage is absolute monogamy, but open monogamy, because according to Article 3 (1) of Law No. 1/1974 states that a husband may only have one wife, and vice versa. However, Article 3 (2) of Law No. 1/1974 states that "the court may grant permission to a husband to have more than one wife if desired by the parties concerned. The existence of paragraph (2) means that this law adheres to the principle of open monogamy, therefore it is possible that in certain circumstances a husband may practice polygamy, which of course would be under the supervision of the court. Looking at several laws that apply in Indonesia, there is no regulation that explicitly prohibits polygamy. This is because these regulations allow for exceptions on the condition that the parties concerned, in this case the wife, give their consent.

The permissibility of polygamy does not mean that a husband can practice it freely without regard to the applicable provisions. Article 58 paragraph (1) of the Compilation of Islamic Law (KHI) stipulates that a husband who intends to marry more than one wife must obtain permission from the Religious Court. In addition, the requirements set out in Article 5 of Law Number 1 of 1974 must also be met. (Hidayat, 2020).

a. The consent of the wife.

b. There is certainty that the husband is able to provide for the needs of his wives and children..

The scholars mention two conditions that Allah SWT mentions in the Qur'an when a man wants to practice polygamy, and another condition mentioned in the hadith of the Prophet Muhammad *Pbuh*:

1. The maximum number of wives is four, and no more than that.
2. Be able to act and behave fairly between his wives
3. The existence of physical abilities and sustenance in the form of wealth

The three conditions mentioned above must be fulfilled. Conditions one, two, and three allow a man who wishes to practice polygamy to marry up to four women fairly. The law of fairness mentioned above is *fardhu* or obligatory. Therefore, abandoning it is a sin and a violation.

## **Discussion**

### **Harmonization of Polygamy Regulations Between Religion and State Law**

From a legal harmonization perspective, Indonesia's rules on polygamy attempt to reconcile Islamic teachings with positive law. Islamic teachings do allow polygamy, but only under very strict conditions: it must be fair, the husband must be able to provide for all his wives, and it must be done for a good purpose. (Mulyanto, 2022). This principle was later regulated in Law No. 1 of 1974, Government Regulation No. 9 of 1975, and the Compilation of Islamic Law (KHI). All of these regulations emphasize that monogamy is the main principle, while polygamy is only permitted with court permission and clear reasons. (Masri, 2019). In practice, the court acts as a balance between the rights of the husband and the protection of the wife and children. Judges cannot simply grant permission, but must assess evidence of the husband's ability, fairness, and the wife's consent. In addition, judges may not rule beyond what is requested by the petitioner (known as the principle of *ultra petita*). In this way, religious law and state law complement each other: religious teachings provide moral values, while state law ensures that they are implemented in an orderly and fair manner through the judicial process. (Subagyo, 2020).

### **Harmonizing Polygamy Regulations Between Legal Objectives and Social Reality**

From a legal perspective, Indonesia's rules on polygamy seek to maintain a balance between religious values and social protection. In Islam, the purpose of marriage is to create a happy, prosperous, and loving family. (Laila & Syukri, 2025). Therefore, even though polygamy is permitted, its practice must not cause suffering to the wife or children. For this reason, positive law regulates polygamy very strictly so that it is only practiced under certain conditions, such as when the wife is ill, unable to carry out her household duties, or unable to

bear children.(Masri, 2019). From a social perspective, this regulation also emerged as a response to the abuse of polygamy in the past, such as coercion of wives or neglect of families. The state seeks to prevent this by requiring court permission and judicial supervision. Thus, polygamy is no longer a free practice as it was in the past, but has become a legal act that is controlled and supervised to protect justice and family welfare. Therefore, through this harmonization, Islamic law and positive law do not conflict with each other, but rather complement each other so that the objectives of marriage are still realized, namely peace, justice, and benefit for all parties.

## Conclusion

The harmonization between Islamic law and national law regarding the practice of polygamy in Indonesia reflects the state's efforts to unite religious values with the principles of justice and legal protection. Islamic law permits polygamy under strict conditions, namely the ability to be fair and provide financial support, while national law through Law No. 1 of 1974, Government Regulation No. 9 of 1975, and the Compilation of Islamic Law (KHI) translates these values into formal rules in the form of a court permit mechanism and judicial supervision. Thus, polygamy is no longer seen as an absolute right of men, but as a legal dispensation that can only be exercised under certain conditions and through a fair process. This harmonization shows that the law in Indonesia does not negate Islamic teachings, but rather adapts them to the social context and principles of protection for women and children, thereby creating a balance between religious, moral, and positive legal values in maintaining the integrity and welfare of the family.

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