

**CLASSICAL SCHOLARS' OPINION ON POLYGAMY: A COMPARATIVE STUDY
OF THE VIEWS OF THE SHAFI'I SCHOOL AND THE HAMBALI SCHOOL**

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ABSTRAK

Poligami merupakan salah satu masalah yang menarik untuk dikaji karena selalu menimbulkan pro dan kontra di masyarakat. Banyak yang mengatakan bahwa poligami hukumnya sunah, namun banyak pula yang tidak sependapat. Terkait hal tersebut, tujuan dari penelitian ini adalah untuk mengkaji poligami dari pendapat para imam madzhab, yaitu mazhab Syafi'i dan mazhab Hambali. Jenis penelitian ini adalah penelitian kualitatif, dengan mengkaji literatur yang berkaitan dengan topik penelitian. Pendekatan yang digunakan adalah deskriptif analitis. Penelitian ini diawali dengan pengumpulan referensi tentang ketentuan poligami dalam Islam, seperti buku-buku dan jurnal. Sumber-sumber tersebut dijabarkan untuk mendapatkan pemahaman yang mendalam. Selanjutnya, data dikaji dan dianalisis dengan metode reduksi data, yaitu menyederhanakan data untuk menarik kesimpulan. Secara umum, kedua mazhab tersebut memperbolehkan umat Islam untuk melakukan poligami asalkan ditujukan untuk beribadah kepada Allah SWT, bukan untuk memuaskan hawa nafsu. Kajian ini menyimpulkan bahwa Imam Syafi'i dan Hambali menegaskan bahwa monogami merupakan bentuk perkawinan yang utama, sedangkan poligami hanya diperbolehkan apabila memenuhi syarat-syarat keadilan dan kemaslahatan.

Keywords: *Poligami, Keadilan, Hukum, Manfaat*

ABSTRACT

Polygamy is one of the interesting issues to study because it always raises pros and cons in society. Many say that polygamy is sunnah, but many disagree. In this regard, the purpose of this study is to examine polygamy from the opinion of the madhhab imams, namely the Shafi'i school and the Hambali school. This type of research is qualitative research, by reviewing the literature related to the research topic. The approach used is descriptive analytical. This Research began by gathering references on the provisions of polygamy in Islam, such as books and journals. The research began with gathering references on the provisions of polygamy in Islam, such as books and journals. The sources were described to gain a deep understanding. Next, the data is reviewed and analyzed using the data reduction method, which simplifies the data to draw conclusions. In general, both schools of thought allow Muslims to practice polygamy as long as it is intended for worshiping Allah SWT, not for satisfying lustful desires. This study concludes that Imam Shafi'i and Hambali emphasized that monogamy is the main form of marriage, and polygamy is only allowed if the conditions of justice and benefit are met.

Keywords: *Polygamy, Justice, Law, Benefits*

INTRODUCTION

Polygamy is a controversial issue; until now, polygamy has invited various perceptions of pros and cons. The anti-polygamy group has made several accusations that discredit and identify polygamy with something negative. Their perception is that polygamy violates human rights, polygamy is a form of exploitation and male hegemony against women, as a form of oppression, acts of immorality, betrayal, and underestimation of women, and is a discriminatory treatment of women. Another accusation is that polygamy is a form of harassment against the dignity of women, because it is considered a means to satisfy the turmoil of lust. A man who

practices polygamy means that he has committed an act of violence or even an oppression of women's rights in its entirety (Puspytasari et al., (2023).

Lately, the talk about polygamy has become very hot again in Indonesia, which is due to various things, especially social media. News about polygamy can be accessed on social media as well as television shows that tell the story of polygamy reaping pros and cons to the actual understanding of polygamy. The controversy over polygamy cannot be separated from various factors, one of which is that the polygamy practiced by the Prophet PBUH as a role model is very different from polygamy that occurs and is shown today. Therefore, to unravel the controversy about polygamy, according to the author, it is necessary to review the meaning of polygamy and the provisions of polygamy based on Islamic law.

Polygamous marriage in Islam is permissible based on Q.S. An-Nisa' verse 3, which has the translation: "And if you are afraid that you will not be able to do justice to an orphan woman (if you marry her), then marry (other) women whom you like: two, three, or four. Then, if you are afraid that you will not be able to do justice, then marry. only one, or the slaves that you have. That is closer to doing no wrong." Polygamy is not necessarily permissible in Islam. Islam has strict restrictions and conditions for a person who wants to commit polygamy, including being allowed to perform polygamy with up to four wives if he can be fair to his wives regarding the issue of living, housing, and time distribution. Islam emphasizes emphatically that if it is feared that it will not be able to act fairly, then one wife is enough (Cahyani, 2018).

The advent of Islam with its polygamy verses (Q.S. an-Nisa'; 3 and 129), although it did not abolish the practice of polygamy, limited the ability of polygamy to only four wives with strict conditions such as the necessity of fairness between wives. According to Islamic law (fiqh), the legal ability of polygamy has become the agreement of scholars, even with strict requirements, namely that they must be fair to their wives. In addition, most classical and medieval scholars also gave opinions that allowed the practice of polygamy. However, polygamy can be done if it meets the conditions for polygamy. From the many opinions of classical scholars, it turns out that the Shafi'i madhhab and the Hambali madhhab also provide views on the ability to practice strict polygamy in accordance with the long history of polygamy and the conditions based on Islamic law (Zulkarnain, 2020).

Even though polygamy is a reality that has been debated for a long time, the discourse of polygamy has never been "stale" until now, if studied the trigger is not due to the unclarity of the evidence but the human being who does not follow the 'rules' that are allowed, polygamy is like a medicine if the rules of the game are not followed, it is likely that the drug will become a poison that can harm the drinker. Some parties abuse the basic spirit of polygamy abilities, because they see that the ability is only at the religious level, which is only binding for those who are aware of religion. Therefore, this study will unravel the controversy about polygamy by reviewing the meaning of polygamy and the provisions of polygamy based on Islamic law. In this regard, the author tries to examine polygamy from the point of view of the opinion of the imam of the madhhab, namely the Shafi'i madhhab and the Hambali madhhab. This study of polygamy is important so that the textual message about the permissibility of polygamy is not misused and does not reap prolonged controversy.

Polygamy is one of the objects in the social sphere. A person will discriminate in giving his or her perception of polygamy. Different views in dealing with the issue of polygamy give different perceptions of polygamy between a person and another person; a person's perception of polygamy is highly dependent on their understanding of polygamy. The word polygamy also comes from the Greek, namely from the words apolus (many) and gamos (marriage). Thus, polygamy is a plural marriage. In the Great Dictionary of the Indonesian Language, polygamy is defined as a marriage system in which one party marries several of the opposite sex at the same time. Polygamy in Arabic is often termed taaddud az zaujât. Meanwhile, polygamy,

according to the term, is a marriage bond where one of the parties, namely the husband, marries several wives at the same time (Elkarimah, 2018).

Polygamy is linguistically made up of two syllables, namely: "poly" which means many and "gami" which means marriage. So polygamy means marriage with two or more women (Algra in Kuzari, 1995). Meanwhile, according to Kuzari (1995), at first polygamy was known as more than one marriage. Polygamy can be distinguished by two definitions, namely, polygamy which means that a man marries many women and polyandry which means a woman marries many men. Then the development of the meaning led to a shift so that polygamy was used for the meaning of men with many wives, while polyandry was not commonly used (Latupono, 2020).

From the description above, the meaning of polygamy in general can be described, namely, where a husband has more than one wife. In practice, usually a man marries a woman in a monogamous marriage, then after having a family for a few years, the man remarries his second wife without divorcing his first wife.

The practice of polygamy has actually existed long before Islam came, which allowed marriage to occur with the number of wives swelling to dozens. When Islam came, there were rules that limited the maximum number of people to only four people, with strict conditions that, for some Muslim thinkers, could not be fulfilled by a man because it emphasized the principle of justice. In Islamic Law, polygamy refers to a marriage performed by a man to marry more than one woman. Islam allows the practice of polygamy for men, but with a maximum limit of four wives. If a husband is unable to meet the stipulated conditions, then he is forbidden to commit polygamy. In the word of Allah, it is mentioned that the basic basis of Islam allows polygamy in Surah A n-Nisa (4):3 (Nopriana, 2024).

"And if you are afraid that you will not be able to do justice to the orphan (if you marry her), then marry the women you like: two, three, or four. And if you are afraid that you will not be able to do justice, then marry only one person, or the slaves that you have. That is closer to not doing evil.", (QS. A n-Nisa (4):3)

From a Sharia perspective, polygamy is permissible, but only in urgent circumstances and if the husband is able to fulfill his wife's rights fairly. Polygamy is not an obligation, but an alternative that should only be done if the situation is favorable and the husband can guarantee fair treatment to all his wives. Polygamy in Islam is allowed as an alternative to overcome the channeling of male sexual needs or other factors that can disturb inner peace, with the aim of preventing the husband from falling into adultery or other immoral behavior that is clearly prohibited by religion. Therefore, the purpose of polygamy is to provide a halal path for the husband, provided that he can act justly towards all his wives.

The scholars mentioned two conditions that Allah SWT. mentioned in the Qur'an when a man wants to commit polygamy, and other conditions mentioned in the hadith of the Prophet (peace be upon him), namely:

1. The maximum number of wives is four, and there should be no more.
2. Be able to act and act fairly between his wives.
3. The existence of physical ability and sustenance in the form of property.

The three conditions stated above must be met. Be it conditions one, two, and three that allow a man who wants to be polygamous to marry up to four women fairly. The law of fair treatment mentioned above is obligatory or mandatory. So, leaving it is a sin and a transgression (Cahyani, 2018).

Polygamy is allowed in Islam with a maximum of four. The conditions that are treated are fair, which is only physical, because it is stated that a husband can't be fair in matters related to the mind. especially reproduction. Another thing to consider is the agreement of both parties in court orally and/or in writing. In addition, there is another important thing, namely, the

existence of financial guarantees that must be provided as birth support, and there must be guarantees of justice in polygamy. If these conditions are not met, the husband is prohibited from polygamy (Setiyanto, 2017).

RESEARCH METHODS

Research methodology is a part of the science that studies how work procedures seek the truth. To talk about methodology means to talk about the methods used by humans to acquire knowledge about reality in its aspects, in part, or in its entirety. The research method is a scientific way to obtain data with a certain purpose and usefulness. The scientific method means that the research is based on scientific characteristics, namely: First, rational, meaning that research is carried out reasonably. Second, empirical, meaning that the methods used can be observed. Third, systematic, meaning that research uses certain logical steps (Ali et al., 2022).

This research is a type of qualitative research based on the concept of empirical positivism that sees that truth lies in facts that can be proven or tested empirically. This research elaborates three important points to gain a deeper understanding. The first point is to explain the phenomenon or phenomenon that occurs as an illustration of curiosity and the desire to gain an understanding of a condition or event. The second point is the use of numerical data types or data in the form of numbers as the main material for conducting analysis. The third point is to use statistics in conducting analysis. The procedure for conducting quantitative research is very strict because generally this research is carried out to verify a theory through hypothesis testing that has been determined from the beginning by referring to a certain theoretical framework (Andini et al., 2023).

The analysis technique in this study is by examining the literature, notes, and reports related to the problem to be solved. The research was carried out by digging sources that explain the provisions of polygamy in Islam by analyzing the understanding of the Shafi'i school and the Hambali school. The data collection technique in this study uses documentation, where the author collects references in the form of books and journals that are related to the theme of this research, then the author analyzes these books and journals to draw conclusions that are related to the theme of the research. The data analysis technique in this study uses data reduction, namely simplification of the data that has been collected, then data presentation, which is presenting data that has been previously reduced, and verification or concluding the data that has been obtained related to the research theme.

RESULT AND DISCUSSION

Madzhab is etymologically derived from the Arabic term 'dzahaba' in the plural, which means 'thoriqotun' or method, and can be interpreted as a school or understanding adhered to. On the other hand, according to the Islamic encyclopedia, a madzhab is a group view that develops into a doctrine or sect after being informed by an imam's mastery of the fields of philosophy, jurisprudence, theology, etc. So, from the perspective of scholars, madzhab is a way or system that is developed through reflection and investigation, embraced by a community, then developed into a madhhab (manhaj) with restrictions based on the principles and laws of the Qur'an, Hadith, Ijma', and Qiyas. Four famous and widely adhered Madhabs, namely Madzhab Imam Shafi'i, Imam Hambali, Imam Hanafi, and Imam Maliki (Lestari, 2023).

a. Provisions of Polygamy in the Imam Shafi'i School

Imam Shafi'i's full name is Muhammad bin Idris bin al-Abas bin Uthman bin Shafi'i bin as-Saib bin Ubaid bin Abdu Yazid bin Hasyim bin al-Muththalib bin Abdi Manaf bin Qushay bin Kilab bin Murrah bin Ka'ab bin Luay bin Ghalib bin Abu Abdillah al-Qurasyi as-Shafi'i al-Makki and the full name of Imam Shafi'i. He was born in 150 AH/767 AD in the city of Ghazzah

He lost his father when he was a child and was raised by his mother in poverty. He memorized the holy book of the Qur'an in Makkah, he studied Hadith and Fiqh with Muslims Abu Khalid az-Zanji and Sufyan bin Uyainah. Imam Shafi'i memorized Al-Muwatta at the age of 13 (Badriyyah et al., 2020). The first teachers of Imam Shafi'i were Muslim Khalid Az-Zinji and others of the Imams of Mecca. When he was thirteen years old, he traveled to Medina. In Medina, he studied with Imam Malik until Malik died. And there were many other teachers from the villages or cities he visited. In making the law, Imam Shafi'i took several methods, including: the Quran, Sunnah, Ijma', Qiyas, and Istishab (Chaerunnisa, 2017).

Most classical and medieval scholars allowed the practice of polygamy. However, polygamy can be done if it meets the conditions for polygamy. These conditions include that men are only allowed to marry four women and must be able to act fairly. The author of al-Umm, al-Shafi'i, argues that the hadith narrated by Ibn Umar's companion about Gailan bin Salamah al-Saqafi, a companion of the Prophet who converted to Islam with ten wives, was then ordered by the Prophet to choose four of them as evidence of the ability of polygamy. The number four in question is the maximum limit for a person who wants to commit polygamy. It can be said that Al-Shafi'i allowed the practice of polygamy on the condition that it must meet the requirements, namely being able to do justice to his wives and the limit of four women. If there are more than four then it is considered haram (Sayyidah et al., 2021).

The concept of justice in polygamy according to Imam Shafi'i is that the Qur'an has affirmed in Surah an-Nisa Verse 3 that a husband who is going to commit polygamy is obliged to be fair to his wives. According to Imam Shafi'i, a husband who is going to practice polygamy is required to be fair to his wives, and what is meant by this justice is related to physical problems, such as visiting his wife at night or during the day. Justice in polygamy according to Imam Shafi'i that is obligatory for husbands to do to their wives is as follows: (Rifki et al., 2019).

1. Justice for Schedule Sharing

The important division that is made by a husband to his wives is a rotation. In the book of fathul mu'in written by Shaykh Zainuddin bin Abdul Aziz al-Malibary (1993: 130) it is explained that if a husband works during the day, he should do rotations at night and conversely, if he works at night, he should do rotations during the day. If he has spent the night at his wife's house, the husband must also spend the night at his other wife's house. And the shortest turn time for a wife is one night, from sunset to dawn, and the longest is three nights.

2. Justice gives a place to live

A polygamous husband is obliged to provide for his family, especially for his wife. One of them the livelihoods that must be fulfilled is to provide a comfortable place to live. So, a husband, in addition to being required to be fair in the division of rotations, is also obliged to provide a safe place to live for his wives.

3. Justice in alimony

A polygamous husband, in addition to giving the same rotation time, providing support in the form of a place to live, must also provide for his wives' living expenses as well as clothes for his wives.

b. Provisions of Polygamy in the Imam Hambali School

Based on its period, Madzhab Hanbalî ranks fourth after Madzhab Hanafi, Maliki, and Shafi'i. This madhhab is known to strictly adhere to the sunnah of the Prophet after the Qur'an, so some call it fiqh sunnah (fiqh al-sunnah). This madhhab is also known to strictly adhere to the fatwa of the Companions. This madhhab emerged from the birthplace of its founder in Baghdad at the end of the 2nd century AH and the beginning of the 3rd century AH. Imam Ahmad ibn Hanbal considered Imam Shafi'i as his great teacher; therefore in thought, he was

greatly influenced by Imam Shafi'i. However, unlike his teacher who used his *istinbath* method (*ushul fiqh*), Imam Ahmad did not leave an essay/book about the *istinbath* method. The method of Imam Ahmad ibn Hanbal in forming his *Madzhab* was obtained through his followers in the reproach of his *fiqh* fatwa and through those questions. However, his way of doing *ijtihad* is not much different from the way of doing *ijtihad* of Imam Shafi'i (Sakhawi, 2021).

Imam Ahmad Hambali was the founder of the Hambali school, whose real name was Abu Abdullah Ahmad ibn Muhammad ibn Hilal al-Syaibani. He was born in Baghdad in the month of Rabiul Awal in 164 AH or 780 AD. Ahmad ibn Hambal was raised in an orphanage by his mother. Meanwhile, his father died when he was a baby. From that childhood, he had shown a great interest in knowledge, which at that time Baghdad was the center of knowledge. Imam Hambali's teachers include: Yusuf Hasan ibn Ziyad, Husyaim, Umair, Ibn Umam, and Ibn Abbas. Imam Hanbal studied and narrated a lot of hadith. He will not take hadith except *saheeh* hadith. He died in Baghdad at the age of 77, precisely in the year 241 AH or 855 AD. The fundamentals of the Imam Ibn Hanbal School are as follows: (Zulkarnain, 2020).

1. The Qur'an and Hadith: i.e., if he has found *nash* in the Qur'an or Al-Hadith, then he does not pay attention to other postulates and also to the opinions of the companions who contradict him.
2. Fatwa of Shahaby: i.e., when he does not get *nash* and he finds an opinion that he does not know that there is someone against him, then he adheres to this opinion, not considering that it is *ijma'*.
3. The opinion of some Companions is to take an opinion that is closer to the Qur'an and As-Sunnah, sometimes he does not give a fatwa if he does not get a *Pentarijih* for an opinion.
4. Hadith Mursal or Da'if: Mursal, according to the language, is *isim maf'ul*, which means released. While mursal hadith, according to the term, is a hadith that the narrator drops from his *sanad* after the *tabi'in*. Like when a *tabi'in* said, "The Messenger of Allah (peace and blessings of Allaah be upon him) said this or did this".
5. Qiyas: will be used if there are no legal provisions from points a-d mentioned above, but this Qiyas has a small position in the determination of the Law (at that time), but it does not rule out the possibility that Qiyas will be important in the future.

Regarding the issue of polygamy, the *madhhab* of Imam Hambali stated that polygamy is permissible and the maximum limit is 4 wives and must be fair, for example in the division of the wives in turn, then it should not be more in favor of one of the wives. Imam Hambali emphasized the justice in polygamy contained in Surah an Nisa' verse 129 that justice is in the material sense, while justice in the heart is impossible for humans to divide their hearts justly (Zukhdi & Faisal, 2020).

More clearly, the Hambali school explains about polygamy that it is forbidden to marry a man who is free to gather more than 4 wives, and a *sahaya* servant is only allowed to marry no more than 2 women of a *sahaya*. A man marries 2 (two) women, it must be fair between his two wives because justice is legally mandatory. the tendency to love one of his wives in loving innocently, is basically QS. An-Nisa/4:129. If the wife is afraid of being divorced by her husband and the wife is willing to take her turn to be divided unfairly, it is allowed, the case of Saudah and Aisyah. Husbands may marry 4 (four) wives, wives may not have more than one husband, the reason is because:

1. Naturally, male lust can be aroused twice in a night.
2. The Prophet (peace and blessings of Allaah be upon him) married his wife in a *hadas* bath. and the Prophet Solomon married all his wives, 90 (Ninety) women.
3. A woman, after having sex, her lust is lethargic and slacking to repeat again overnight.

It is forbidden for a wife to remarry while she still has a husband. It was not lawful for a woman to marry two men at the same time; the Apostle annulled the marriage of the second woman. Dividing the turn is at night, because humans go home and sleep with their wives at night. The origin of the law of division of turns is one day and one night, because the Prophet divided his wives one night, it is not permissible to add anything other than getting the pleasure of those who have the right. The newlyweds of the girl get a turn of 7 (seven) days, while if the widow gets a turn of 3 (three) days, if the husband travels he is ordered to vote, because the drawing is favored in dividing justice, if a person has wives from 2 (two) countries, then he must remain fair in dividing his turn, the time is adjusted to the circumstances that allow it (Laily, 2021).

c. Critical Analysis of the Provisions of Polygamy Based on the Views of the Madhhab of Imam Shafi'i and Imam Hambali

Polygamy is a dilemmatic concept of marriage. This is because of the emergence of pros and cons, agreeing disagreeing, and may or may not be allowed. Debates related to polygamy have never reached a common point among Muslims. This discourse has been going on from ancient times to the present. Each has a view based on opinions, religious beliefs, philosophers, imams, mahzab, and the Quran. Therefore, it is important to conduct comparative studies in order to see the opinions of the Imams.

Based on the discussion points, the following information was obtained:

Table 1. Imam Shafi'i and Imam Hambali's thoughts on polygamy

Aspect	Imam Syafi'i	Imam Hambali
Limit on the number of wives	Maximum 4	Maximum 4
Main requirement	Justice (material/physical, livelihood, sexual intercourse)	Not required, deemed impossible
Justice in feelings	Not required, deemed impossible	Not required, deemed impossible
Wife's permission/court	Not required	Not required
The law of polygamy	Permissible, but can be discouraged if there is no religious necessity.	Permissible, provided one can act justly.

The table above shows that Imam Shafi'i had a different view of the law than Imam Hambali. Imam Shafi'i argues that the law of polygamy is Mubah and can even be Makruh while according to Imam Hambali the law is only mubah. Makruh is one of the categories of law in Islam which means an act that is recommended to be abandoned because it is not liked or hated by the shari'a, but does not reach the level of strict prohibition such as haram. If the act of makruh is abandoned, the perpetrator receives a reward or praise, but if it is done it is not sinful and does not receive punishment. Meanwhile, Mubah is a legal status in Islamic law that states that an act is allowed to be done or not done without any demand for reward if it is done or sin if it is abandoned. However, what is important is that there are elements of sharia needs and the conditions for fair application in the law.

The two main principles that are the foundation of polygamy are justice (al-'adl) and benefit (al-maslahah). The table that compares the views of Imam Shafi'i and Hambali confirms that both place justice as an absolute condition for polygamy, especially in material aspects such as alimony, turns, and residence. This justice is qualitative—not just an equal distribution, but considers the needs and benefits of each party. Justice in polygamy not only means equitable

distribution of materials, but also the protection and fulfillment of the rights of wives and children so that injustice does not occur. However, justice in the inner aspects—such as feelings and love—is considered impossible to achieve perfectly, so the conditions of justice are focused on the objectively measurable aspects (material and physical). This is reflected in the opinion of the two imams who do not require justice of feeling as a valid condition of polygamy.

Islamic legal philosophy views polygamy not as an end, but as an instrument to realize social and family benefits. Polygamy is permissible in certain contexts, such as to protect women and orphans, or if the first wife is unable to carry out the full marital functions due to illness or infertility. Thus, polygamy must be seen as a solution to social problems, not simply the fulfillment of personal desires. Philosophically, both Shafi'i and Hambali affirm that monogamy is the main form of marriage, and polygamy is only permissible if the conditions of justice and benefit are met. This is in line with the principles of Islamic law philosophy, which places justice and benefit as the main goal of the law, not just following customs or traditions. The philosophical analysis also highlights that the application of polygamy must take into account the social context and potential negative impacts, such as gender injustice or family conflict. Therefore, the emphasis on justice and benefits in the table becomes very relevant to ensure that polygamy does not become a source of harm or tyranny for the parties involved

CONCLUSION

Imam Shafi'i and Hambali's views on polygamy reflect the philosophy of Islamic law that places justice and benefit as the main conditions. Polygamy is only allowed if it is able to realize measurable justice and real benefits, and must not be a tool of oppression or injustice in the family. Therefore, the requirements for polygamy are very heavy and must have a positive impact on every individual, family, and society. Based on the results of the above research, the suggestion that can be recommended for further research is to conduct an in-depth study related to the impact of polygamy in a certain area. Mainly, research can be reviewed from the aspect of fairness and its benefits.

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