

CONSTRUCTION OF WIFE'S PERMIT ON POLYGAMY PRACTICE OF TABLIG PILGRIM'S MAYANGAN JOGOROTO JOMBANG

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Abstract: *The focus of this study is the construction of the wife's license to practice polygamy on Tablig Mayangan Jombang Pilgrims. The purpose of the study is to find out the practice of polygamy Of Tablig Mayangan Pilgrims and the model of the wife's license to practice polygamy Tablig Pilgrims Mayangan. This type of field research is qualitative, using the analysis of normative legal and sociological approaches, with inductive reasoning and Data collection techniques using observation, documentation, and interviews. The results showed that polygamous behavior carried out by Tablig pilgrims is based on rational and sharia-laden aspects because polygamous behavior arises due to consideration of the struggle of da'wah as Tablig pilgrims. Polygamy is also considered worship for the husband and wife of Tablig worshippers. Therefore, the practice of polygamy of the husbands and husbands of Tablig pilgrims strictly follows the provisions stipulated in Law No.1 of 1974, article 4 paragraph 2 about committing the cause of polygamous marriage by obtaining the wife's permission. The construction model of the wife's license to practice polygamy Tablig pilgrims is the model of Wira'i, which considers prudence over the property of the third wife as a rich man to avoid disputes over the seizure of Gono - Gini property and so on.*

Keywords: *Permission of Polygamous Wives and Tablig Pilgrims.*

Abstrak: Fokus penelitian ini adalah kontstruksi izin istri dalam praktik poligami pada Tablig Pilgrims Mayangan Jombang. Tujuan penelitian ini untuk mengetahui perilaku poligami Tablig Pilgrims Mayangan dan model

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izin istri dalam praktik poligami Tablig Pilgrims Mayangan. Jenis penelitian ini adalah penelitian kualitatif dengan menggunakan analisis normatif hukum dan sosiologis dengan penalaran induktif. Teknik pengumpulan data menggunakan observasi, dokumentasi dan wawancara. Hasil penelitian menunjukkan bahwa Perilaku poligami yang dilakukan Tablig Pilgrims didasari oleh aspek yang rasional dan sesuai syariat Islam, sebab perilaku poligami timbul karena pertimbangan perjuangan dakwah selaku anggota Tablig Pilgrims. Poligami juga dianggap sebagai ibadah bagi suami istri Tablig Pilgrims. Oleh karena itu, Praktik poligami suami-suami Tablig Pilgrims betul-betul mengikuti ketentuan yang telah ditetapkan dalam Undang - Undang No.1 Tahun 1974 pasal 4 ayat 2 tentang keharusan poligami dengan mendapatkan izin istri. Model konstruksi izin istri dalam praktik poligami Tablig Pilgrims, berdasarkan kasus yang diteliti adalah model *wirā'i*, yakni atas pertimbangan kehati-hatian terhadap harta istri ketiga sebagai orang yang kaya raya, agar terhindar dari sengketa perebutan harta gono - gini dan sebagainya.

Kata kunci: Izin Istri Poligami dan Jamaah Tablig.

Introduction

Marriage is an internal birth bond between a man and a lady as a spouse and Spouse to create an upbeat and interminable family based on preeminent godlikeness.¹ Agreeing to Islamic Law marriage, a firm contract *ormithāqan ghalīzan* to comply with Allah's commandments and carry them out is adored. Marriage point to make a sakinah residential life, *mawaddah wa rahmah*.²

¹Article 1 of Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

² Depag RI, *Kompilasi Hukum Islam* (Jakarta: Direktorat Jenderal Pembinaan Badan Peradilan Agama, 1999), 14.

Marriage benefits the legitimate good thing about holding family law (Spouse and Spouse) between female men, and holding offers assistance. But, on the other hand, a constraint fights for its proprietors and satisfies each commitment.³

After different welfare contemplations, the Indonesian government directs the recording of marriage through enactment plans to realize. Marriage arranges in society in reality. Not all Indonesian Muslims take after the appropriate procedures or rules within the community. A few societies still hone unpublished and unpublished relational unions known as personal, relational, or relational unions beneath the hands.

In orchestrating this marriage with such a position, Islamic Sharia is culminating sharia, covering all things. But in its flawlessness, the marriage rules agreeing to Islam have continuously been the target of feedback from those who mainly contradict this marriage run the show. Particularly for the unusual angle that Islam permits polygamy.⁴

Licensing polygamy among all religious groups is constitutional because it does not violate the clause of the free practice of religion. Polygamy laws in the U.S. exemplify a polygamy licensing model with considerations of democratization and religious denominations.⁵

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³ Gus Arifin, *Menikah Untuk Bahagia Fiqh Tentang Pernikahan dan Kamasutra Islami* (Jakarta: PT Elex Media Komputindo, 2010), 88.

⁴ Abbas Mahmūd al-Akkad, *Wanita dalam al-Qur'an* (Jakarta: Bulan Bintang, 1976), 126.

⁵ Patel, Kinari, The Constitutional Paradox Posed By Permitting Polygamy in India (February 24, 2007). Available at SSRN: <https://ssrn.com/abstract=965200> or <http://dx.doi.org/10.2139/ssrn.965200>

practice of religion. Polygamy laws in the U.S. exemplify a polygamy licensing model with considerations of democratization and religious denominations.

In Indonesia, the capacity to be polygamous has been directed within the Marriage Law Article 3 to Article 5. Whereas within the Compilation of Islamic Law, polygamy is held in Articles 55 to Article 59; In any case, polygamy's legitimate capacity as an alternative is constrained to as it were four spouses. Typically affirmed in Article 55 of the Compilation of Islamic Law in Indonesia:

1. Married to more than one individual at the same time, constrained to as it were four spouses.
2. The essential condition of wedding more than once the spouse must be reasonable to this spouses and children.
3. Suppose most conditions specified in section (2) are outlandish to satisfy. For example, the spouse is illegal to wed more than one person.⁶

A man can, as it were, have a spouse. A spouse who needs to wed more than one can be permitted on the off chance that wanted by the parties concerned by the Devout Court have given authorization (Article 3 passage (2) of Law No 1 of 1974). The premise for giving polygamy grants by the Devout Court is stipulated in Article 4 section (2) of the Marriage Act as communicated as takes after.

The Devout Court awards consent to a spouse who will wed more than one individual if :

1. The spouse cannot carry out her obligations as a wife;
2. The spouse gets a body imperfection or infection that cannot be cured;
3. The spouse cannot allow birth to offspring.

Assume you consider the reason for giving the authorization to hone polygamy over. In that case, it can be

⁶ Depag RI, *Kompilasi Hukum Islam*, 17.

caught on that the clarification alludes to the actual reason for marriage's execution, which is to create a cheerful and interminable family (the term KHI is called *sakinah, mawaddah, and rahmah*) based on the incomparable Heavenly nature. On the off chance that the three reasons specified are overcome upon the Spouse and Spouse. At that point, it can be considered that the household will not be able to make a cheerful family (*mawaddah, and rahmah*).⁷

The primary issue of polygamy within the Law that's unequivocally not clarified in Islamic statute is determined by three fundamental focuses, namely:

1. Permission from the Court;
2. Permission from the Spouse in Indonesia, counting the prerequisites concerning the sterility of the spouse;
3. Criteria for equity.

The Fuqaha'' did not clarify part of the Court regarding the need to inquire authorization from the spouse in polygamy. Indeed researchers don't see the pre requires related to the condition of the existing spouse. It happens because polygamy is the correct of the spouse, as divorce (*talak*), no court mediation is required, inquiring about the wife's in any case, the wife's marriage, as long because it is still inside the limits of the Law that's legal, is substantial and nor addressed. The discourse of this subject requires *istinbat* to look for the moorings of the essential standard rules since the discussion in *furu'* or *athar*, reflected within the compositions of the Fuqaha, is not found.⁸

But in truth, the condition to be reasonable to hitched spouses isn't considered vital by a few polygamists. The concept

⁷ Zainuddin Ali, *Hukum Perdata Islam di Indonesia* (Jakarta: Sinar Grafika, 2006), 47.

⁸ Sayid Sabiq, *Fiqh al-Sunnah, II: dalam Abdul Hadi, Fiqih Munakahat* (Semarang: Karya Abadi Jaya, 2015), 136.

of reasonableness caught on the point of view of Law, which states the spouse must be reasonable to spouses in terms of fabric or the dissemination of bread to spouses, a reason in turn. The jurisprudent or tafsir researchers contend that an appropriate state of mind confirms the conditions for reasonableness to hitched spouses in terms of giving their live hood. Whether within the frame of eating or drinking, in expansion, decency which becomes a supreme prerequisite, too incorporates reasonableness in separating time and turning spouses.⁹

Nowadays, a few things must be considered, such as the wife's position breaking even with the spouse so that the spouse ought not to choose something, in this case, polygamy – without examining the spouse and getting her endorsement. Debating with the spouse for the household's survival is exceptionally imperative to avoid conceivable fights and other adverse impacts¹⁰

Within the Mayangan Town Jogoroto Area Jombang Rule range, a Midanatutta'lim boarding school is in the middle of the Tablig traveler base within the Jombang rule. Numerous pioneers take after the exercises of Tablig Pilgrims. There are at slightest the heads of families who take after the developments of Tablig Pilgrims. Since Tablig Pilgrims come from any community, counting different nations such as India, Pakistan, and Saudi Arabia. Cameroon, Somalia, and other nations have dated in Mayangan Town, so numerous encompassing Mayangan individuals need to take after Tablig Pilgrims.

The movement of Tablig Pilgrims is to be more dynamic within the field of da'wah with a strategy called *khurūj fī*

⁹ Neng Dara Affiah, *Islam, Kepemimpinan Perempuan dan Seksualitas* (Jakarta: Yayasan Pustaka Obor Indonesia, 2017), 63..

¹⁰ Supardi Mursalin, *Menolak Poligami, Study Tentang Undang-undang Perkawinan dan Hukum Islam* (Yogyakarta: Pustaka Pelajar, 2007), 25.

sabilillah (not to lecture). The pioneers dive straightforwardly into each component of society with an arrangement of three days each month, 40 days yearly, and four months the slightest once in a lifetime. Tablig Pioneers in Mayangan Town named the time tree days in each month, 40 days in each year, and four months at slightest once in a lifetime is Nisab if it has one month indeed at that point *khurūj* three days, in case it has been indeed one year at that point it must be *khurūj* 40 days. So on, a few indeed take off his pregnant spouse to go *khurūj* when the spouse, such as dropping off school children. Instruction and supervision of children must too be done by the spouse herself when the spouse is absent. Overwhelming family chores that require the husband's offer assistance must be done by the spouse herself, such as finding.

Several studies on Polygamous Marriage, including Emma Nayly Syifa's.¹¹ This study discussed the issue of polygamy and focused on explaining the factors of polygamy practice that occur in Suruh Village, a review of Islamic Law and legislation in Indonesia against the practice of polygamy. In contrast, this article discusses the construction of a wife's permit as a condition of polygamy. Another research is the work of Sunarnoto.¹² This article discussing the issue of polygamy focuses on one of the methods to test faith because faith is only based on five words, namely patience and sincerity.

In contrast, this article discusses the Perception of Tablig Pilgrim Muslims about the wife's permission and the concept of

¹¹ Emma Nayly Syifa, "Perkawinan Poligami Menurut Hukum Islam dan Perundang-undangan di Indonesia (Studi Kasus Pelaku Poligami di Desa Suruh Kec. Suruh Kab. Semarang 2011)", (Skripsi—IAIN Salatiga Jawa tengah, 2018).

¹² Sunarnoto, "Poligami dalam Perspektif Keluarga Salafi (Studi Kasus Satu keluarga Bapak AR di Desa Sumberejo Kecamatan Pabelan Kabupaten Semarang)", (Skripsi—IAIN Salatiga Jawa tengah, 2018).

polygamy. Shada Oliviatie conducted other research.¹³ This study discusses polygamy and focuses on the concept of Hizbut Tahrir activists who view the Law of polygamy as a *disaster*.

In this research, the contribution can be developed by strengthening the literacy of the concept of polygamy according to the *Tablig* pilgrims in the center of Mayangan Jogoroto Jombang Village. The implementation of the construction of a wife's permit as a fair condition in the practice of polygamy for Tablig pilgrims and the *role of* modeling the concept of polygamy with the condition that there is a wife's permit for the Muslim community universally.

Polygamy in Indonesia

The term polygamy comes from the Greek word "polygamy." Poy implies numerous, and gomos implies mating. Implies having more than one spouse at the same time. But open life can be deciphered as the marriage of a spouse with more than a Spouse simultaneously. Based on this understanding, polygamy can be understood as a Marriage that's done more than one simultaneously. The term polygamy within the Awesome Lexicon of Indonesia may be a framework of marriage that one party has wedded several opposite genders at the sat time. Based on this understanding, polygamy can be translated as marriage that's done more than one simultaneously.¹⁴

The term polygamy within the Grat dictionary of Indonesian could be a framework of marriage that one party has wedded a few inverse genders simultaneously. In the interim, polygamy is known as ta'dddud zaujah, expanding the number of spouses in Islam. Subsequently. Polygamy can be said to be an

¹³Shada Oliviatie "Praktik Poligami Perspektif Aktivis Hizbut Tahrir Kota Malang", (Skripsi—UIN Maulana Malik Ibrahim Malang Jawa Timur, 2010).

¹⁴ Djubaedah, Neng, et al, *Hukum Perkawinan Islam di Indonesia* (Jakarta: Hecca Mitra Utama, 2005),15.

everlasting marriage. This term contains an ordinary meaning. Specifically, individuals have two or more spouses at the same time. The inverse of this frame of marriage is monogamy, in which the spouse has, as it were, one spouse.¹⁵

A spouse can be said to be polygamous if he has more than one spouse simultaneously, so it can be said that he is polygamous. Hence, when an individual says polygamy. It is based on the number of spouses he has simultaneously, not the number of spouses he wed. A spouse whose spouse deserts at that point remarried cannot be polygamous since he, as it were, weds one Spouse at a time. So if a spouse has been hitched four or more times, but the final number of spouses is as if it were one individual, at that point, it is additionally polygamous.¹⁶

Polygamy isn't the new sharia that Islam permitted, but maybe an ancient culture that the Middle Easterners recently possessed. Ghilan container Salamah al-Tsaqaf and al-Harith canister Qais sometimes changing over to Islam. So it's fair that Islam came to direct and clean up the issue of polygamy so that not everybody can do this without rules or satisfy his model.¹⁷

Sometime recently, the entry of Islam, Middle easterners, and Non-Arabs were utilized for polygamy. When Islam rose, Islam restricted the number of spouses an individual seemed to wed. Islam appears to be the heading of excellent and affluent polygamy. In Islam, polygamy isn't mandatory but is allowable, among other things. Based on the word of Allah SWT in al-Nisa verse 3, it is emphasized within the verse that those who art

¹⁵ Muhammad Jawad Mughniyah, *Terjemah al-Fiqh 'alā al-Mazāhib al-Khamsah*, diterj. Masykur A.B Afif Muhammad Idrus (Jakarta: PT Lentera Basritama, 2005), 332.

¹⁶ A. Rodli Makmum, *Poligami dalam Tafsir Muhammad Syahrur*, cet ke-1 (Ponorogo: STAIN Ponorogo Press, 2009), 16.

¹⁷ Tim Almanar, *Panduan Syar'i untuk Rumah Tangga Islam*, (Bandung: Syamil Cipta Media, 2003), 102.

stressed cannot treat them reasonably. A vagrant must wed the lady he is hitched. Two wives or three or four. If you/'re not reasonable, wed one Spouse. If you still can't get equity, at that point, coordinate your slave. Such behavior is superior to oppression.

In expansion to letter an-Nisa section 3 concerning the capacity of polygamy, The foundation of the lawful premise is additionally based on perspectives of existing enactment. In-Law No 1 of 1974 on Marriage. There are arrangements and rules of execution, taking after the necessities of Islamic Law. Agreeing to the Law, of course. The framework grasped by the Republic of Indonesia Marriage Law is the guideline of monogamy, one Spouse to one Spouse. But in a few occurrences or reasons, a spouse is allowed to wed more than one. As expressed in Article 3 of Law No 1 of 1974, namely;

- a. In a marriage, a man can, as if he were a spouse. Likewise, a lady can, as it were, have a husband.
- b. The Court may allow a spouse to wed more than one individual n a case craved by the parties concerned.

The things alluded to from the clarification of Article 3 of Law No. 1 of 1974 over is fundamentally in marriage contains the rule of monogamy. It is implied that a marriage can have a spouse, but if a spouse needs to perform polygamy at that point must get authorization from the Court and get consent from the parties concerned. Article 3, 4, and 5 of Law No. 1 of 1974 on Marriage immovably suits all things concerned approximately polygamy since they clearly expressed the reason in address and the prerequisites. A spouse allowed to wed more than one must be drawn for an arrangement of extreme reasons. The reason in question may be a reason utilized as the premise for polygamy. As clarified in Article 4 states:

- a. If a spouse will wed more than once, as expressed in Article 3 paragraph (2) of this Law, he is obliged to apply

to the Court within the region where he lives.

b. The Court alluded to in section (1) of this article as it gave authorization to a spouse will wed more than once if:

- 1) The spouse cannot carry out her obligation as a wife;
- 2) The spouse gets a body deformity or disorder that cannot be cured;
- 3) The spouse cannot grant birth to offspring.

The over article clarified that there are reasons that must be satisfied by the spouse who will wed more than one. Within the Court case specified within the article is the Devout Court within the zone where he lives. At that point, advance in passage (2) clarifies that the Court will allow authorization to a spouse who will wed more than once the clarification in a passage (2) is fulfilled.

Polygamy has been input since long, sometime recently, the entry of Islam. We call Russia, Yugoslavia, Czechslavia, Germany, Belgium, the Netherlands, Denmark, Sweden, and England polygamous countries. Moreover, easterners like Jews and Middle easterners are too polygamous. So in this manner, it isn't veritable on the off chance. There are allegations that Islam is the one that gave birth to the rules on polygamy since the rules that apply nowadays live and create in countries that don't follow Islam, such as Africa, India, China, and Japan. So it isn't genuine that polygamy exists as it were in Islamic countries.¹⁸

As said earlier, polygamy does not exist in Muslim tribes but in Christian tribes that don't prohibit polygamy since there's no clear information about the denial of polygamy within the Accounts.

¹⁸ Hasan Aedy, *Poligami Syari'ah dan Perjuangan Kaum Perempuan* (Bandung: Alfabet, 2007), 60.

Review of Law No. 1 Of 1974

The term polygamy comes from the Greek word "*polygamy*." *Poly* means many, and *gomos* implies mating. Implies having more than one spouse at the same time. Public life can be interpreted as the marriage of a husband with more than a wife simultaneously. Based on this understanding, polygamy can be construed as marriage done more than one simultaneously.¹⁹

The term polygamy in the Great word of Indonesian could be a framework of marriage that one party has wedded a few inverse genders simultaneously. Based on this understanding, polygamy can be translated as marriage that's done more than one simultaneously.

The term polygamy within the excellent word reference of Indonesian could be a framework of marriage that one party has wedded a few inverse genders simultaneously. In the meantime, in Islam, polygamy is known *asta'adudu zaujah*, expanding the number of spouses.²⁰ Subsequently, polygamy can be said to be an everlasting marriage. This term features an ordinary meaning. Specifically, individuals have two or more spouses at the same time. The inverse of this time of marriage is monogamy, in which the spouse has, as it were, one wife.²¹

The legitimacy of polygamy as stated in Law Number 1 of 1974 concerning marriage, article 3, paragraph 2. Polygamy also has rules that require the husband to obtain formal permission from the wife through a court process. the regulation of polygamy in Indonesia is carried out to protect women's and children's rights. Furthermore, the rule aims to build a happy, peaceful, and prosperous family in the long run (*sakinah*,

¹⁹ Djubaedah, Neng, et al, *Hukum Perkawinan Islam di Indonesia*, 15.

²⁰ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Indonesia Cetakan -4* (Jakarta: Hall Book 1995), 779.

²¹ Muhammad Jawad Mughniyah, *Terjemah al-Fiqh .ala al-Mazahib al-Khomsah.*, 332.

mawaddah, wa rahmah)²²

Law No. 1 of 1974 on Marriage follows the guideline of monogamy, as expressed in article 3, which says a man may as if it were a spouse and a lady may as if it had a spouse. In other parts, it expressed that under certain circumstances, polygamy is allowed. The polygamous capacity clause in Law No. 1 of 1974 on Marriage is if it were an exemption, and the articles list the reasons that permit it.²³

Article 4 of Law No. 1 of 1974 on Marriage is expressed: a spouse who will wed more than one individual if:²⁴

1. The spouse cannot carry out her obligation as a wife;
2. The spouse gets a body imperfection or disorder that cannot be cured;
3. The spouse cannot deliver birth to offspring.

With the presence of articles that permit polygamy, indeed for particular reasons, it is evident that the principle grasped by Law isn't the rule of supreme monogamy. Still, instep called the rule of open monogamy, or in other dialects, can too be called the rule of comprehensive monogamy. Polygamy is put in crisis law or under extraordinary²⁵ circumstances. In expansion,

²² Dri Santoso, Muhammad Nasarudin, "Polygamy In Indonesia And Its Relevance To The Protection Of Women And Children In The Perspective Of Islamic Law Philosophy", *Akademika: Jurnal Pemikiran Islam*, Vol. 26 No.1 (Januari-Juni 2021).

²³ Undang-Undang Perkawinan di Indonesia, (Surabaya: Arkola, tt), 6.

²⁴ Ibid.

²⁵The Prophet affirmed that the teachings of Islam negate all sorts of destructive forms, and this affirmation is a benefit. The Messenger of Allah said: "And in the hadith of Amr bin Yahya of his father of the Prophet saw. It is a *mursal hadith*, "There is no destructive deed in religion, towards oneself and others," and is narrated *maushully* by mentioning Abi Sa" id in it. See Al-Baihaqi, al-Sunan al-Şaghir li al-Baihaqi, Al-Maktabah al- Shamilah (CD-Rom: Al-Maktabah Al-Syamilah, Digital, tt.), vol. IV, 459. In the book of *Al-Ashbah wa al-Nazāir and the book of Idāh al-Qawāid al-Fiqhiyah*, by Abdullah ibn Sai" d Muhammad there is also a rule that is the reasoning or derivation form of the hadith, namely: A disaster or solitude is omitted. see Abdullah

polygamy teaches are not exclusively the complete specialist of the spouse but based on the Judge's authorization (Court). In this manner, in article 3, section 2, there's an explanation: The Court allows a spouse to wed more than once in the event the parties concerned want.²⁶

With this verse, it is evident that Law No. 1 of 1974 on Marriage has locked the Devout Court as an institution critical sufficient to legitimize polygamy for an individual, which has no veritable point of reference within the classical Fiqh.

Concerning article 4 over, at the slightest appears, there are three reasons on which to apply for polygamy. *First*, the spouse cannot carry out her obligations as a spouse. *Second*, the spouse gets a body imperfection or disorder that cannot be cured (agreeing to the Doctor). *Third*, it cannot grant birth to a sibling. These reasons are physical, but for the third reason. Inspired since a spouse does not get the most extreme fulfillment from his spouse, at that point, the elective is polygamy. In any case, it turns out that the marriage law contains conditions for polygamy capacities. As expressed in article 5 paragraph 1 of Law No. 1 of 1974 on Marriage, desires met for a spouse who needs to hone polygamy are:²⁷

1. The consent of the wives.
2. There may be a certainty that spouses can ensure the living needs of their spouses and children.
3. There could ensure that the spouse will be reasonable to his spouse and their children.

The contrast between the necessities in articles 4 and 5 is that Article 4 is called an elective necessity, suggesting that one must exist to apply for polygamy. Whereas article 5 could be a

ibn Sai" d Muhammad Ubbadi al-Lahji, *Iḍāh al-Qawā'id al-Fiqhiyah* (Surabaya: al- Hidayah, tt.), 42. See Al-Suyuthi, *al-Ashbah wa al-naẓā'ir*, (Beirut-Lebanon: Dar al- Kutub al-Scientific, 2001), Juz I, 165.

²⁶ Undang-Undang Perkawinan di Indonesia, (Surabaya: Arkola, tt), 6.

²⁷ Ibid., 6-7.

total prerequisite that the spouse must satisfy all who will perform polygamy.

In article 5, section 2, it is clarified that the consent alluded to in section (1) letter a of this article cannot to essential for a spouse in case his spouse cannot be inquired for his authorization and cannot be a party to the assentation. In case there is no news from his spouse for at slightest 2 (two) a long time, or for other reasons, he got to be judged by the Judge of the Court.

In this view, the consent of the Devout Court appears to be exceptionally definitive and noteworthy. From this, it is clarified that the recorder is disallowed from recording the marriage of a spouse who will wed more than one individual, sometimes recently the Court consent. Besides, as clarified in this article, the KHI audit does not appear to be much more diverse than the Marriage Act depiction related to polygamy.

KHI Review

KHI contains these polygamy issues in segment IX with the title. Wedding more than one individual uncovered from articles 55 to 59. Article 55 states:²⁸

- a. Married more than one individual at the same time, restricted to as it were four spouses; The essential condition of wedding more than one individual, the spouse must be able to be reasonable to his spouses and

²⁸ The compilation of Islamic Law is a form of the result of cooperation of thinking (ijtihad), both between Islamic figures in various jurisdictions, especially in the executive area (Ministry of Religion-Minister of Religion) in the judiciary (Supreme Court), as well as in universities (IAIN, UI), and society (Kiai, ulama). The cooperation model as occurred in the process of forming the compilation of Islamic law can be used as a milestone as well as a valuable experience for efforts to foster and develop Islamic law in Indonesia in the future, both through legislative and non-legislative channels. Lihat Warkum Sumitro, *Perkembangan Hukum Islam di Tengah Dinamika Sosial Politik di Indonesia*, (Malang: Bayumedia Publishing, 2005), 214.

children;

- b. If most conditions specified in a passage (2) cannot be satisfied, the spouse is denied more than one individual from the wedding.²⁹

Assist in KHI article 56, it is clarified:³⁰

- a. Husbands who wish to wed more than one individual must get consent from the Court.
- b. The application of authorization is expected in section 1 to be carried out within the statutes as stipulated in Chapter VIII of PP No. 9 of 1975;
- c. Marriages performed with a moment, third, or fourth Spouse without the authorization of the Devout Court have no lawful force.

The over articles, KHI does not appear to contrast the soul of his Fiqh with Law No. 1, 1974, on marriage. Although Law No. 1 of 1974 on Marriage and KHI follows the monogamy guideline, the opening for polygamy is too wide open. That being said, the commitment of Law No. 1 of 1974 on Marriage and KHI was restricted to strategy applying for polygamy.

Article 4 of Law No. 1 of 1974 on Marriage is expressed: a spouse who will wed more than one individual if:³¹

The Religious Court only permits the husband who will marry more than one person if:

1. The spouse cannot carry out her obligation as a spouse.
2. The spouse gets a body imperfection or disorder that cannot be cured;
3. The spouse cannot deliver birth to offspring.

As shown in article 57 of the KHI above, the Religious Court only permits the husband who will marry more than one if there are reasons concerning marriage, as mentioned in article 4 of

²⁹ Kompilasi Hukum Islam, dicetak bersama Undang-Undang Perkawinan di Indonesia, (Surabaya: Arkola, tt), 196.

³⁰ Ibid.

³¹ Ibid. 196-197.

Law No. 1 of 1974. However, the Court can permit a husband to marry more than one person if the parties concerned desire.

Furthermore, article 59 also illustrates how much authority the Religious Court has in granting permission. For example, for wives who do not want to consent to their husbands being polygamous, the Religious Courts can take the consent. More complete is the sound of the article as follows:³²

"In if the wife does not wish to give consent, and the application for permission to marry more than one person based on the wrong reasons set out in articles 55 paragraphs (2) and 57. the Religious Courts may establish concerning the granting of permission after examining and hearing the wife concerned at the Religious Court Proceedings, and against this determination the wife or husband may appeal or cassation".

The problem of refusing to give consent can occur, although there are reasons used by the husband, such as one of the reasons contained in article 57. But the reason is unclear. For example, the husband's accusation that his wife cannot perform her duties as a wife can deny that she has completed her assignments properly. As a result of no size, debates can occur, and the wife still does not want to give his consent. In this case, the Religious Courts can grant the polygamy permit. It seemed that the position of women was fragile.

However, despite the criticisms that arise related to some issues of polygamy, from the above explanation, it can be concluded that Indonesia's marriage legislation on polygamy has tried to regulate. Men who practice polygamy are men who are really: (1) able to economically live and meet all the needs (food-board) of the family (wives and children), and (2) able to be fair to their wives so that they can be fair to their wives. The wives and children of polygamous husbands are not wasted.

³² Ibid.

Likewise, Indonesian legislation is seen to try to appreciate the wife as a husband's life partner. The husband must first get the wives' consent for husbands who will carry out polygamy.

On the other hand, the Religious Court's role in legitimizing polygamy becomes very decisive. It can even be said to be the only institution with authority to allow polygamy.

Polygamous Behavior of Tablig Pilgrims

Polygamy is indeed common among Indonesian people, who are known to practice polygamy in the upper-middle class. There are several reasons for the people who practice polygamy. Still, it may not be the same as the polygamy of Tablig Mayangan pilgrims, namely Ustaz Sholeh, Ustaz Sultan, Ustaz Khoiron, Ustaz Musbar, and Ustaz Talib. As Tablig Mayangan Pilgrims, they have a background for the same reason that Tablig proselytizes jihad. They practice polygamy with fellow Tablig worshippers (*internal polygamy*) or with other citizens of the congregation (*eternal polygamy*).

Since long ago, some people have been polygamous because it is the sunnah of the Prophet Muhammad SAW. However, there are those whose status is kept secret or stealthy. There is also a blatant. In this fact, it is not surprising that pilgrims practice polygamy not based on the orders of the Kyai or Master but have become a call of conscience and the power of God's destiny. Partly, polygamy is associated with the spirit of jihad as Tablig pilgrims because they have to educate all their families into one family that longs for the atmosphere of Islamic life in the time of friends and the Prophet. This is also reinforced by the statements of Gus Im, Gus Huda, and Gus Shidiq.³³³⁴

Tablig Pilgrims consider polygamy not taboo, let alone

³³ Gus Shidiq, (boarding school leader), *Wawancara*, Jombang, 27 September 2021.

³⁴ Ustadz Sholeh, (polygamist), *Wawancara*, Surabaya, 3 Oktober 2021.

complicated, because various things are the conditions in Islam, according to Indonesia's provisions of state regulations. According to one of the perpetrators of polygamy practice in Tablig Pilgrims Mayangan, polygamous marriage is very secretive of Allah that must be opened by daring to carry it out with the spirit of jihad da'wah spirit. Ustaz Sholeh had lived for a long time in the KH. Muhammad Minhaj Mayangan, for seven years, also said that the factor that makes it easy to polygamy is the consensual factor based on jihad.³⁵

Based on these factors, polygamy occurs without the first wife's consent. Judging from the existing data, among the 5 (five) heads of families who practice polygamy, which is official through polygamous marriage and recorded in KUA, only 4 (three) people. The rest perform polygamy, secret (*sirri*). And the other got permission from the first wife of 4 (four) people. The rest were done clandestinely (without permission).³⁶

No.	Name	Number of Wives	Status	Residence
1.	Ustaz Sholeh	Four people	COW	Stay independent
2.	Ustaz Sulhan	Two people	COW	Stay independent
3.	Ustaz Khoiron	Two people	COW	Stay independent
4.	Ustaz Musbar	Two people	COW	Stay independent
5.	Ustaz Talib	Two people	Sirri	Stay independent

Two factors cause polygamy in Tablig Mayangan, among others:

1. Internal

Internal factors that indicate the emergence of polygamous practices in Tablig Mayangan Jamaat are unfulfilled desires, either biological or other lust

³⁵ Ustadz Sulhan, (polygamist), *Wawancara*, Jombang, 5 Oktober 2021

³⁶Ibid.

satisfaction. The desire to practice polygamy arises from the people's hearts to fulfill their desires, although law No.1 of 1974 on marriage is a category of worry. Therefore, based on mere ego and lust, polygamists do not heed the conditions of polygamy in the Law. Factors that often appear in people who practice polygamy include:

- a. Interest in other women
- b. Lack of biological needs of the first wife
- c. Have no children
- d. Follow along with others

2. External

As for external factors that affect Tablig Mayangan Jamaat practicing polygamy is a consequence of the concept of *khurūj* for men in Tablig Mayangan Jamaat. The practice of *khurūj* provides an opportunity to meet God's destiny through the course of polygamy. The primary purpose of *khurūj* is jihad and preaching. But the secret of Allah is shown at the time of practicing the teaching following the affirmation of Ustaz Sholeh when he found a third married soul mate who comes from NTT pilgrims.³⁷

Including external factors is the relationship of work interaction or muamalah pilgrims outside the activities as Tablig pilgrims. In his explanation, Ustaz Sholeh strengthened the spirit of jihad and tablig da'wah so that every movement of the lives of pilgrims must be focused on the principle. That is not left behind in terms of the practice of polygamy. All their wives must also be invited to wage jihad and preaching, namely, carrying out the *Masturah* program of Tablig pilgrims with their extended families for their wives and children.³⁸

³⁷ Ustadz Sholeh, (polygamist), *Wawancara*, Surabaya, 3 Oktober 2021..

³⁸ Ibid.

Ustaz asserted that tablig pilgrims must carry out this *masturah* concept to teach their families how to feel the atmosphere of jihad and preach to friends and messengers of Allah. *Masturah* program in 1 year can be implemented twice for three days and 15 days. All my wives I have participated in have even run *khurūj* programs abroad or worldwide many times.³⁹ We have invited together but often *masturah* program independently that alternates from my wives, according to additional explanation Ustaz Sholeh.⁴⁰

Model of Wife's Permission on The Polygamous Practice of Tablig Pilgrims Mayangan

Polygamy carried out by some Tablig Mayangan Pilgrims is nothing but the same as the behavior of a man who is married to more than one. Polygamy is limited to four wives. If more than four wives then deny the good that Allah SWT narrates, that is, can keep away from the benefits of life for married couples. Polygamy is the marriage bond in which the husband marries more than one woman to be his wife simultaneously but is limited to four wives.

A person who will be polygamous must obtain permission first from the religious Court and be completed by the Religious Court following the authority of the Religious Court. The regulation is contained in article 4 paragraph (1) of Law No. 1 of 1974 on marriage, article 4 of Government Regulation No. 9 of 1975 on the implementation, Law No. 1 of 1974 on Marriage, and article 56 paragraph (1) compilation Islamic Law.

In article 4, paragraph (1) of Law No. 1 of 1974 on marriage, which reads, "If a husband marries more than one, as stated in article 3 paragraph (2) of this Law, then he shall apply to the court in his area of residence." The article relates to the

³⁹ Ibid.

⁴⁰ Ibid.

article above as the content of article 3, paragraph 2 of Law No. 1 of 1974 on marriage which reads, "The Court may permit a husband to marry more than one if desired by the parties concerned."

Then strengthened its implementation in article 40 of Government Regulation No. 9 of 1975, which reads, "If a husband intends to marry more than one, then he is obliged to apply in writing to the Court." The purpose of these rules is that Marriage in Indonesia is based on monogamy, where a man can only have a wife. But it turns out that this principle does not apply absolutely because in Islam, polygamy is allowed, and Islam is the majority religion of the Indonesian population.

This follows article 29 of the 1945 Constitution: "the State guarantees independence of each population to embrace their religion. and to worship according to his religion and his beliefs."

According to the provisions of Article 3 of Law No. 1 of 1974 on Marriage, basically, in one marriage, a man can only have a wife, and a woman can only have a husband. However, the Court may permit a husband to marry more than one if the parties concerned desire. Based on the provisions of the above article, it can be seen that the report states that Marriage in Indonesia is based on monogamy. Still, the Law provides exceptions, as we can see in Article 3 paragraph (2) of Law No. 1 of 1974 on marriage, which states that the husband can still remarry another woman but must comply with the Court's provisions. The Court permits a husband to marry more than one if the parties concerned desire. To be able to practice polygamy in Indonesia is not easy. A person must apply for polygamy to the Religious Court in the area where the man lives and must meet the requirements that are not easy to fulfill but become a mandatory requirement in the application for polygamy permit as stated in article 4 paragraph (2) of Law No.1

of 1974 concerning Marriage.⁴¹

That the Court will only grant polygamy to a husband if:

1. The wife cannot serve the husband in general.
2. The wife has a body defect or disease that does not heal
3. The wife cannot give birth to offspring.

The article must be strengthened by the wife's confession before the Court directly or in writing and witnessed in the trial as in article 5, paragraphs 1 and 2 of Law No.1 of 1974 concerning marriage reads:

- (1) To be able to apply to the Court, as referred to in Article 4 paragraph (1) of this Law, must be fulfilled the following conditions:
 1. The consent of the wives/wives;
 2. There is a certainty that husbands can guarantee the living needs of their wives and children;
 3. There is a guarantee that husbands will be fair to their wives and children.

The consent referred to in paragraph (1) of this article is unnecessary for a husband if his wife/wives may not be asked for his consent. Cannot be a party to the agreement if there is no news from his wife for at least 2 (two) years or for other reasons that need to be judged by the Judge of the Court.

If the husband cannot provide evidence of the wife's consent in the trial before the Court, the application cannot be granted in the above article. Article 5 paragraphs 1 and 2 of Law No. 1 of 1974 concerning marriage above also refers to article 41 letter B of Government Regulation No. 9 of 1975 concerning the Implementation of Law No.1 of 1974 concerning marriage, which reads that the consent of the wife or wife can be given in writing or by mouth. Still, even if there has been written permission, This agreement is affirmed oral consent of the wife

⁴¹Abdul Kadir Muhammad, *Hukum dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004), 81.

at the Religious Court hearing. Suppose the wife does not want to give support. In that case, the Religious Courts may establish the granting of permission after examining and hearing the wife concerned at the religious court hearing. Against this determination, the wife or husband can appeal for cassation (Article 59 compilation of Islamic Law).

- (2) In this regard, following the provisions of Article 43 of Government Regulation No. 9 of 1975 concerning the Implementation of Law No.1 of 1974 on marriage, which states: "If the Court holds that there is sufficient reason for the applicant to marry more than one, then the Court gives its verdict in the form of permission to marry more than one person"

Conclusion

Based on an analysis of discussions on the construction of wife permits on the practice of polygamy Tablig Mayangan pilgrims, the researchers concluded some of the following:

Polygamous behavior carried out by Tablig pilgrims is based on rational and sharia-laden aspects because polygamous behavior arises due to consideration of the struggle of da'wah as Tablig pilgrims. Moreover, polygamy is also considered worship for the husbands of Tablig worshippers. Therefore, the practice of polygamy of the husbands and husbands of Tablig pilgrims strictly follows the provisions stipulated in Law No.1 of 1974, article 4 paragraph 2 about committing the cause of polygamous marriage by obtaining the wife's permission.

Construction of the wife's license to practice polygamy Tablig pilgrims and fulfilling the provisions of polygamy in Law No.1 of 1974 on marriage to polygamous behavior Tablig pilgrims have a unique model. The wife gives the husband permission to the provisions of the Law. But on consideration of prudence / *Wira'i* on the property of the third wife. She happens to be a rich man. Nevertheless, the husband still does not design to

take care of officially feared later if some disputes and problems lead to divorce, it will avoid disputes over the seizure of gono - gini property.

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