

POLYGAMY IN FAMILY LAW: GENDER PERSPECTIVES AND ITS IMPLICATIONS FOR WOMEN'S RIGHTS

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Abstract

This study aims to analyze in depth how the practice of polygamy in Majene Regency affects the fulfillment and protection of women's rights in the context of family law. This research is a descriptive qualitative research in understanding the practice of polygamy in Majene Regency and its impact on the fulfillment and protection of women's rights. Primary data, namely data obtained directly from four informants, namely (a) Wife in polygamous marriage, (b) Daughter from polygamous marriage, (c) One of the Women's Institutions in Majene Regency, (d) Religious Leaders in Majene Regency. Meanwhile, secondary data comes from documents or literature related to the object of research. Data collection techniques include interviews, observations and documentation studies. Data analysis was carried out thematically through the stages of reduction, presentation, and drawing conclusions. The results of the study show that the practice of polygamy in Majene Regency has a significant impact on the fulfillment and protection of women's rights, especially first wives, in the context of family law. Although there are clear legal rules, their implementation is still constrained by low legal awareness, weak supervision, and a strong patriarchal culture that places women in subordinate positions. In addition, children from polygamous families also experience emotional impacts due to the inequality of parental attention, which has so far received less attention in legal policies. Therefore, a more holistic and gender-perspective legal approach is needed that not only focuses on formal aspects, but also considers social, cultural, and psychological factors to realize fair and comprehensive legal protection for all family members.

Keywords: Polygamy, Family Law, Gender, Women's Rights

Abstrak

Penelitian ini bertujuan untuk menganalisis secara mendalam bagaimana praktik poligami di Kabupaten Majene mempengaruhi pemenuhan dan perlindungan hak-hak perempuan dalam konteks hukum keluarga. Penelitian ini merupakan penelitian kualitatif deskriptif dalam memahami praktik poligami di Kabupaten Majene dan dampaknya terhadap pemenuhan serta perlindungan hak-hak perempuan. Data primer, yaitu data yang diperoleh langsung dari empat informan yakni (a) Istri dalam perkawinan poligami, (b) Anak perempuan dari perkawinan poligami, (c) Salah satu Institusi Bidang Perempuan di Kabupaten Majene, (d) Tokoh Agama di Kabupaten Majene. Sedangkan data sekunder berasal dari dokumen atau literatur yang terkait objek Penelitian. Teknik pengumpulan data meliputi wawancara, observasi dan studi dokumentasi. Analisis data dilakukan secara tematik melalui tahapan reduksi, penyajian, dan penarikan kesimpulan. Hasil penelitian menunjukkan bahwa praktik poligami di

Kabupaten Majene memberikan dampak yang signifikan terhadap pemenuhan dan perlindungan hak-hak perempuan, terutama isteri pertama, dalam konteks hukum keluarga. Meskipun telah ada aturan hukum yang jelas, implementasinya masih terkendala oleh rendahnya kesadaran hukum, lemahnya pengawasan, dan kuatnya budaya patriarkal yang menempatkan perempuan dalam posisi subordinat. Selain itu, anak-anak dari keluarga poligami juga mengalami dampak emosional akibat ketimpangan perhatian orang tua, yang selama ini kurang mendapat perhatian dalam kebijakan hukum. Oleh karena itu, dibutuhkan pendekatan hukum yang lebih holistik dan berperspektif gender yang tidak hanya fokus pada aspek formal, tetapi juga mempertimbangkan faktor sosial, kultural, dan psikologis untuk mewujudkan perlindungan hukum yang adil dan menyeluruh bagi seluruh anggota keluarga.

Kata Kunci: Poligami, Hukum Keluarga, Gender, Hak Perempuan.

Introduction

Polygamy in Indonesian family law is a controversial issue, especially from a gender perspective¹. Normatively, polygamy is allowed with strict conditions as stipulated in Law Number 1 of 1974 concerning Marriage, especially Articles 3 and 4, and is strengthened in the Compilation of Islamic Law (KHI).² A husband must obtain permission from a religious court for valid reasons, such as the wife is unable to carry out her obligations, is physically disabled, or is unable to bear children³. However, in practice, these legal provisions often do not fully protect women's rights. Many women face social and cultural pressures that weaken their bargaining position to reject polygamy⁴, even though they legally have the right to maintain monogamous marriages.

From a gender perspective, polygamy is considered to deepen the inequality of husband-wife relations and has the potential to harm women psychologically, economically, and socially⁵. Women's rights to affection, attention,

and economic security are often ignored when husbands decide to engage in polygamy, even with formal permission⁶. This is contrary to the principles of justice and equal rights as mandated by the 1945 Constitution and various human rights instruments ratified by Indonesia, such as CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women).⁷ By further implication, polygamy without strict control contributes to the reproduction of patriarchal social structures that place women in subordinate positions⁸, weaken women's empowerment in the family⁹, and hinder the creation of gender justice in family and social life¹⁰.

Polygamy in Indonesian family law is recognized on a limited basis with strict conditions, but from a gender perspective, this practice poses serious problems for women's equal rights¹¹. Although the law, such as in Law

Lama Pondok Pinang Perspektif Undang-Undang Perlindungan Anak' (Universitas Islam Indonesia, 2025).

⁶ Nurul Faizatur Rohmah and Budihardjo Budihardjo, 'Praktik Pernikahan Poligami Dalam Pandangan Hukum Islam Dan Hukum Negara', *Profetika: Jurnal Studi Islam*, 22.2 (2021), pp. 237–57.

⁷ Beverly Gabrielle Sanger, 'Perlindungan Hak Politik Perempuan Sebagai Hak Asasi Manusia Dan Pengaturannya Dalam Konvensi Internasional', *Lex Et Societatis*, 7.3 (2019).

⁸ Sanger, 'Perlindungan Hak Politik Perempuan Sebagai Hak Asasi Manusia Dan Pengaturannya Dalam Konvensi Internasional'.

⁹ Sanger, 'Perlindungan Hak Politik Perempuan Sebagai Hak Asasi Manusia Dan Pengaturannya Dalam Konvensi Internasional'.

¹⁰ Samsul Huda, 'Posisi Perempuan Dalam Konsep Dan Realitas: Kontroversi Tentang Relasi Gender Di Dunia Islam', *Harakat An-Nisa: Jurnal Studi Gender Dan Anak*, 5.2 (2020), pp. 73–88.

¹¹ Anis Nur Arifah, 'Poligami Kiai: Praktek Poligami Kiai Di Kota Jember Dalam Pandangan Khi Dan Gender',

¹ Mochamad Nurdin and others, 'DINAMIKA POLIGAMI DALAM HUKUM KELUARGA ISLAM (Analisis Terhadap Perspektif Hukum, Kesejahteraan Keluarga, Dan Kesetaraan Gender)', *Al-Masblabah Jurnal Hukum Islam Dan Pranata Sosial*, 12.01 (2024).

² Nina Agus Hariati, 'Regulasi Poligami Di Indonesia Perspektif M. Syahrur Dan Gender', *Ayy-Syari'ah: Jurnal Hukum Islam*, 7.2 (2021), pp. 187–208.

³ Esther Masri, 'Poligami Dalam Perspektif Undang-Undang Nomor I Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam (KHI)', *Krtha Bhayangkara*, 13.2 (2019), pp. 223–41.

⁴ Bagja Waluya, *Sosiologi: Menyelami Fenomena Sosial Di Masyarakat* (PT Grafindo Media Pratama, 2007).

⁵ Muhammad Aufa Almafakhir, 'Dampak Poligami Terhadap Kesejahteraan Anak Di Kecamatan Kebayoran

No. 1 of 1974 and the Compilation of Islamic Law, stipulates that polygamy must go through a court permit and meet certain conditions, in practice women are often in a weak position to deny or defend their rights¹². Polygamy can cause emotional¹³, economic, and social injustice for women¹⁴, as well as reinforce patriarchal social structures that place women in subordinate positions¹⁵. Further implications are the erosion of the principles of gender justice and violations of women's rights guaranteed by the constitution and various international instruments such as CEDAW,¹⁶ so there is a need to strengthen legal and social protection for women in the context of marriage in Indonesia.

Polygamy in Indonesia shows that even though it is legally restricted, the practice of polygamy still occurs in significant numbers in various regions¹⁷. Based on data from the Directorate General of the Religious Justice Agency (Badilag) of the Supreme Court, in the last five years, there have been thousands of applications for polygamy permits submitted to religious courts, with varying levels of approval depending on the completeness of the legal

requirements¹⁸. National surveys conducted by social research institutions also show that about 2–3% of the married male population has been or is undergoing polygamy¹⁹. This data analysis shows a strong correlation between the level of polygamy practice and socio-economic factors, education level, and the level of religious conservatism in a region. Meanwhile, based on data from the Case Tracking Information System (SIPP) of the Majene Religious Court, it was recorded that from 2014 to 2018 there were only five applications for polygamy permits that were officially submitted to the local Religious Court²⁰. This number is relatively small when compared to the possibility of polygamy practices that occur in the community, so it can be assumed that there are still many cases of polygamy that take place without going through proper legal procedures. This shows the potential for polygamy practices that are not recorded administratively and do not go through the licensing process in accordance with applicable legal provisions, which can be caused by a lack of public legal awareness, weak supervision of marriages carried out outside the legal system, and a tendency to hide the practice due to various social, cultural, or religious considerations. This condition has serious implications, especially in terms of the protection of the rights of wives and children, and poses challenges for religious justice institutions in enforcing the law comprehensively and fairly.

Furthermore, quantitative data on women's well-being in polygamous marriages show that women engaged in polygamy are more vulnerable to economic instability, emotional dissatisfaction, and limited access to their legal rights compared

YUDISLA: *Jurnal Pemikiran Hukum Dan Hukum Islam*, 7.1 (2016), pp. 120–45.

¹² Solikul Hadi, 'Bias Gender Dalam Konstruksi Hukum Islam Di Indonesia', *Palastren: Jurnal Studi Gender*, 7.1 (2016), pp. 25–46.

¹³ Imam Syarifudin and Achmad Khudori Soleh, 'Konsep Poligami Dalam Perspektif Aksiologi Dan Filsafat Hukum', *Jurnal Yaqzhan: Analisis Filsafat, Agama Dan Kemanusiaan*, 10.1 (2024), pp. 136–56.

¹⁴ Muhammad Husni Abdulah Pakarti, Sofyan Mei Utama, and Diana Farid, 'Peran Hukum Keluarga Dalam Menghadapi Tantangan Poligami Dalam Masyarakat Kontemporer', *At-Tabdzib: Jurnal Studi Islam Dan Muamalah*, 11.2 (2023), pp. 36–43.

¹⁵ Yanuarious You, 'Relasi Gender Patriarki Dan Dampaknya Terhadap Perempuan Hubula Suku Dani, Kabupaten Jayawijaya, Papua', *Sosiobumaniora*, 21.1 (2019), pp. 65–77.

¹⁶ Wiwik Afifah, 'Hukum Dan Konstitusi: Perlindungan Hukum Atas Diskriminasi Pada Hak Asasi Perempuan Di Dalam Konstitusi', *DiH: Jurnal Ilmu Hukum*, 2018.

¹⁷ Nur Suci Alawiyah, Faisar Ananda, and Irwansyah Irwansyah, 'DINAMIKA PERKEMBANGAN TERKINI TERKAIT POLIGAMI DAN USIA MINIMAL MENIKAH', *Community Development Journal: Jurnal Pengabdian Masyarakat*, 6.1 (2025), pp. 288–92.

¹⁸ Muhammad Sholeh, 'Peningkatan Angka Perceraian Di Indonesia: Faktor Penyebab Khulu'dan Akibatnya', *Qonuni: Jurnal Hukum Dan Pengkajian Islam*, 1.01 (2021), pp. 29–40.

¹⁹ Tim Peneliti INFID, 'Laporan Studi Kuantitatif Barometer Kesetaraan Gender', *Jakarta: Infid*, 2020.

²⁰ Pengadilan Agama Majene, 'Sistem Informasi Penelusuran Perkara', 2025 <https://sipp.pamajene.go.id/list_perkara/search>..

to women in monogamous ²¹ marriages, thus emphasizing the importance of a gender perspective in evaluating the impact of polygamy on women's rights in Indonesia.

The urgency of discussing polygamy in family law from a gender perspective lies in the need to ensure that this practice does not ignore women's fundamental rights in the family and society²². Although polygamy is legally allowed with certain restrictions, the reality is that there are still many women who experience injustice, both emotionally, socially, and economically, due to the inequality of power relations between men and women ²³. Strengthening gender analysis is important to assess whether existing legal provisions are truly capable of protecting women from discriminatory polygamy practices and to encourage legal reform that is more responsive to the principles of equality and justice. In addition, this urgency is also related to Indonesia's commitment to the constitution and international treaties, such as CEDAW,²⁴ in an effort to eliminate all forms of discrimination against women and build a family structure that is just, equal, and respects human dignity.

The main problem that is relevant in polygamy from a gender perspective is the inequality of power relations between men and women in the institution of marriage²⁵. Although Indonesian laws, such as Law No. 1 of 1974 and the Compilation of Islamic Law (KHI), restrict

polygamy with a number of requirements ²⁶, practice on the ground shows that women often do not have a strong bargaining position to reject polygamy or to fight for their rights when their husbands plan to remarry²⁷. Social pressures, patriarchal culture, and gender-biased religious interpretations exacerbate this condition, so that women often experience marginalization both in family decision-making and in access to basic rights such as affection, economic protection, and justice in marital relationships²⁸.

The implications of this problem are widespread, including increasing cases of emotional injustice, neglect of livelihoods, domestic violence, and social insecurity for women and children ²⁹. In a larger context, unbridled polygamy reinforces social systems that discriminate against women and hinder state efforts to realize justice and gender equality as mandated in the constitution³⁰ and international treaties such as CEDAW.³¹ Therefore, the description of this problem demands more progressive legal reforms, strengthening of women's protection mechanisms in the family sphere, and a change in the social paradigm that is more equitable towards women, to ensure that women's rights are still respected and protected in the practice of family life in Indonesia.

The results of an analysis of the existing literature show that much research on polygamy

²¹ Vina Amelia Aristantia, 'Analisis Penyebab Perceraian Pada Perkawinan Usia Anak Di Masa Pandemi Covid-19 Di Kota Metro (Studi Kasus Di Pengadilan Agama Metro)' (IAIN Metro, 2023).

²² Nadia A Naser-Najjab, 'Polygamy, Family Law, and the Crisis of Governance in Palestine', *Journal of Family Issues*, 36.8 (2015), pp. 1087–111.

²³ Zainab Batul Naqvi, 'Introduction: Polygamy, Law and Women's Lives', in *Polygamy, Policy and Postcolonialism in English Marriage Law* (Bristol University Press, 2023), pp. 1–22.

²⁴ Adriaan Bedner and Stijn Van Huis, 'Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism', *Utrecht Law Review*, 6.2 (2010).

²⁵ Hadi, 'Bias Gender Dalam Konstruksi Hukum Islam Di Indonesia'.

²⁶ Masri, 'Poligami Dalam Perspektif Undang-Undang Nomor I Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam (KHI)'.

²⁷ Eri Prima, 'Kritik Feminisme Terhadap Aturan Poligami Di Indonesia' 2010, 2010.

²⁸ Ayu Dwi Putri Rusman, Muhammad Nur Maallah, and Henni Kumaladewi Hengky, *Gender Dan Kekerasan Perempuan* (Penerbit NEM, 2022).

²⁹ RESKI RAHMADANI, 'PEREMPUAN SEBAGAI KORBAN KEKERASAN DALAM RUMAH TANGGA (Studi Kasus Putusan Nomor 169/Pid. Khusus/2020/PN Palopo)' (Institut Agama Islam Negeri (IAIN) Palopo, 2022).

³⁰ Andi Ernie Zaenab Musa and others, *Peran Kepemimpinan Perempuan Dalam Birokrasi* (Nas Media Pustaka, 2023).

³¹ Aditya P Manjorang and Intan Aditya, *The Law of Love: Hukum Seputar Pranikah, Pernikahan, Dan Perceraian Di Indonesia* (Visimedia, 2015).

in family law in Indonesia still focuses on legal-formal aspects, such as the requirements of polygamy according to the Marriage Law and the Compilation of Islamic Law, without sufficiently delving into the social realities and experiences of the affected women³². The available literature often emphasizes the legal legitimacy of polygamy from a normative perspective of religion and culture, but lacks to explore the psychological, economic, and social impacts that women experience in real practice³³. This gap indicates that many studies have not fully integrated critical gender approaches in understanding how legal and cultural structures affect women's inequality of rights in polygamous marriages.

In addition, there is also a lack of literature regarding systematic attempts to link the practice of polygamy to international human rights instruments such as CEDAW³⁴. Many studies have not examined in depth how national legal provisions on polygamy can conflict with Indonesia's global commitment to eradicating discrimination against women. In fact, this perspective is crucial to encourage more gender-responsive legal and public policy reforms. Thus, this literature gap opens up a large space for research that examines polygamy in a more holistic, critical, and oriented manner towards the protection of women's rights in the context of family law in Indonesia.

A literature review on the theme of polygamy in family law shows that most of the literature recognizes polygamy as a permissible practice

with legal restrictions in Indonesia³⁵. Law Number 1 of 1974 concerning Marriage and Compilation of Islamic Law (KHI) is the main reference in regulating the conditions of polygamy, such as the existence of the permission of the first wife and the decision of the religious court³⁶. For example, studies that emphasize that polygamy in Indonesia is faced with implementation challenges, especially in ensuring the protection of women's rights that are vulnerable to being neglected³⁷. On the other hand, some normative studies attempt to justify polygamy on cultural and religious grounds, without much criticism of the structural impact on the position of women in the family and society³⁸.

From a gender perspective, the literature review shows a consensus among researchers that polygamy risks reinforcing unequal power relations between men and women³⁹. Studies have concluded that despite regulations, women are often unable to fully exercise their rights to reject polygamy or maintain justice in marriage⁴⁰. However, there are still limitations in the literature that discusses the link between polygamy, human rights violations, and concrete efforts to carry out legal reforms⁴¹. Thus, the results of this literature review show that further research needs to be

³⁵ Syaiful Anwar and Rama Wijaya Kesuma Wardani, 'Poligami Dalam Hukum Kontemporer Implikasi Sosial Dan Legal', *Hutanasyab: Jurnal Hukum Tata Negara*, 3.1 (2024), pp. 1–10.

³⁶ Anwar and Wardani, 'Poligami Dalam Hukum Kontemporer Implikasi Sosial Dan Legal'.

³⁷ Muhamad Habib and others, 'Implementasi Prinsip Kesetaraan Gender Dalam Undang-Undang Perkawinan Di Indonesia', *Journal of Mandalika Literature*, 6.2 (2025), pp. 325–34.

³⁸ Muhammad Chabibi, 'Ulama Perempuan Indonesia: Resistensi Terhadap Konstruksi Sosial Patriarki', *Asketik: Jurnal Agama Dan Perubahan Sosial*, 5.1 (2021), pp. 112–36.

³⁹ Nurul Maisyal, 'Reformulasi Hukum Perkawinan Islam Responsif Gender', *Muwazab*, 8.2 (2016), pp. 163–85.

⁴⁰ H B Roni, 'Akibat Hukum Bagi Perempuan Dalam Perkawinan Poligami Di Bawah Tangan Menurut Peraturan Perundang-Undangan (Perspektif Teori Masalah Dan CEDAW)' (Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2020).

⁴¹ Masykuri Abdillah, 'Islam Dan Hak Asasi Manusia: Penegakan Dan Problem HAM Di Indonesia', *MIQOT: Jurnal Ilmu-Ilmu Keislaman*, 38.2 (2014), pp. 374–94.

³² M I S Junanah, 'Studi Kritis Terhadap Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Perspektif Hukum Islam' 2020, 2020.

³³ Muslimah Rohmadi, 'Kehidupan Keluarga Poligami Di Kota Bengkulu Perspektif Hukum Islam Dan Hukum Positif (Kajian Yuridis, Psikologis, Sosiologis Dan Ekonomi)' (UIN Raden Intan Lampung, 2021).

³⁴ Salma Nurul Fadila, Nina Nursari, and Oyo Sunaryo Mukhlis, 'Dinamika Politik Hukum Poligami Dalam Undang-Undang Perkawinan: Tantangan Dan Implikasinya Terhadap Sistem Hukum Indonesia', *Qanuniya: Jurnal Ilmu Hukum*, 1.2 (2024), pp. 34–43.

focused on a multidisciplinary approach, which combines legal, social, and human rights analyses to truly understand the complexities of polygamy in the context of gender justice in Indonesia.

In Majene Regency, the practice of polygamy is still found in the community, both in urban and rural areas. Although legally polygamy must go through a licensing process in a religious court in accordance with Law Number 1 of 1974 and the Compilation of Islamic Law (KHI), in reality it still happens that polygamy is carried out informally without legal legality. Still strong local cultural factors, such as patriarchal values and conservative religious interpretations, are often used to justify the practice of polygamy without considering its impact on women's rights. This condition causes women who become first wives to often not get the information, consent, or legal protection they should have, thus increasing their vulnerability to injustice in emotional, economic, and social aspects. Therefore, more serious efforts are needed, both from the legal, social, and educational aspects of the community, to strengthen awareness of women's rights and encourage the application of the principle of gender justice in the practice of family life in Majene.

Based on the explanation above, this study aims to analyze in depth how the practice of polygamy in Majene Regency affects the fulfillment and protection of women's rights in the context of family law.

Method

This type of research is descriptive qualitative research⁴². This research aims to gain a deep understanding of the practice of polygamy in Majene Regency and its impact on the fulfillment and protection of women's rights, by exploring the experiences, perceptions, and social realities of the parties involved. The research was conducted in Majene Regency, West Sulawesi Province, with a focus on areas with polygamy practices, such as

sub-districts with strong communities that hold conservative cultural and religious values. The research data sources⁴³ consisted of: 1) Primary data, namely data obtained directly from four informants, namely (a) Wife in polygamous marriage, (b) Daughter from polygamous marriage, (c) One of the Women's Institutions in Majene Regency, (d) Religious Leaders in Majene Regency. 2) Secondary data, which is data obtained from documents, such as official documents related to the research object, academic literature and previous research results. The data collection technique⁴⁴ was carried out through several methods: (a) In-depth interviews with four informants, including a wife from a polygamous marriage; A daughter from the practice of polygamous marriage, one of the Women's Institutions in Majene Regency and one person from the Majene Regency Religious Leader. (b) Non-participatory observation of the social situation in the community in polygamous marriages, in order to see firsthand the context of their lives. (c) Documentation study on legal data and relevant research results regarding polygamy in Majene Regency. The data analysis technique uses thematic analysis⁴⁵, which is identifying, grouping, and interpreting important themes that emerge from field data. The data collected were analyzed through the stages of data reduction, data presentation, and conclusion drawing in a systematic⁴⁶ manner, with an orientation to answering research questions about how polygamy impacts women's rights in the context of family law in Majene Regency.

⁴³ Undari Sulung and Mohamad Muspawi, 'Memahami Sumber Data Penelitian: Primer, Sekunder, Dan Tersier', *Edu Research*, 5.3 (2024), pp. 110–16.

⁴⁴ Komang Ayu Henny Achjar and others, *Metode Penelitian Kualitatif: Panduan Praktis Untuk Analisis Data Kualitatif Dan Studi Kasus* (PT. Sonpedia Publishing Indonesia, 2023).

⁴⁵ Yuli Asmi Rozali, 'Penggunaan Analisis Konten Dan Analisis Tematik', in *Penggunaan Analisis Konten Dan Analisis Tematik Forum Ilmiah*, 2022, xix, p. 68.

⁴⁶ Dedi Susanto and M Syahrani Jailani, 'Teknik Pemeriksaan Keabsahan Data Dalam Penelitian Ilmiah', *QOSIM: Jurnal Pendidikan, Sosial & Humaniora*, 1.1 (2023), pp. 53–61.

⁴² Urip Sulistiyo, *Metode Penelitian Kualitatif* (PT Salim Media Indonesia, 2023).

Research results

The practice of polygamy in Majene Regency is still taking place on a fairly relative scale, especially in areas that are thick with conservative religious traditions and values. In the legal aspect, although laws and regulations in Indonesia, such as Law No. 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI), have provided strict restrictions on the practice of polygamy, the reality is that implementation at the local level such as in Majene still faces various challenges, even some women do not know that the rules for the practice of polygamy must obtain permission from religious courts, so they never get legal protection which should be. This shows that legal awareness among women in Majene is still weak, especially in understanding their rights in marriage.

The documentation study went through the Decision granting the application for a polygamy permit submitted by the initials (M). based on the consideration that the Respondent (first wife) was not present at the trial even though she had been officially summoned, so it was considered to admit the Applicant's reason, namely the Respondent's inability to carry out her obligations as a wife because she did not accompany the Applicant at her workplace. Therefore, it is considered that the conditions of polygamy according to Law Number 1 of 1974 and the Compilation of Islamic Law have been met, including the Respondent's approval (evidenced by a statement), the Applicant's financial ability, and the willingness of the second wife-to-be with the initials (N) who is unmarried and has no legal impediment to marriage. In addition, it is accompanied by the determination of the property obtained during the first marriage as joint property between the Applicant and the Respondent, as well as charging the Applicant the cost of the case. This decision reflects the strict application of Islamic law and laws and regulations related to polygamy, taking into account the formal and material aspects submitted by the Applicant.

The analysis of the above decision shows that the practice of polygamy carried out through legal channels requires the fulfillment of strict conditions as stipulated in Law Number 1 of 1974 and the Compilation of Islamic Law, including the existence of valid reasons, consent of the first wife, financial ability, and the absence of legal obstacles from the second wife-to-be. In this case, even if the first wife is absent, consent is considered to exist due to absence without a valid reason as well as the presence of proof of a statement, so that the application is granted and the joint property remains protected.

The above is in stark contrast to the practice of polygamy that is carried out without going through the courts, which not only violates legal procedures, but also has the potential to ignore women's rights, both as a first wife and as a second wife-to-be, and creates legal uncertainty regarding marital status and joint property. Thus, the ruling affirms the importance of legality in the practice of polygamy so that the legal rights of all parties can be guaranteed and protected fairly.

The results of the interview were conducted with a woman with the initials "T" (age 49), a resident of Majene Regency, who was the first wife in a polygamous marriage. She revealed that her husband's decision to remarry was made without his consent and without going through a legal process at the Religious Court. According to her, she only found out that her husband had remarried after hearing news from a close relative. The feeling of betrayal and disrespect was the main psychological impact he felt. "T" states that during the process, there is no room for him to express his opinion or objection. She felt that her right as a wife to be heard and involved in household decisions had been ignored. She also mentioned that since her husband became polygamous, the attention, time, and financial support she received has decreased dramatically. From a legal point of view, she did not know that her husband had to apply for official permission to the court before remarrying, nor did she understand what legal steps he could take to

protect his rights. This interview illustrates how the practice of polygamy in Majene Regency carried out without a legitimate legal mechanism has had a direct impact on the non-fulfillment of women's rights in the context of family law, including the right to protection, justice, participation in decision-making, and legal recognition.

The results of the interview were conducted with a woman with the initials "NS" (age 22), who is the child of the first marriage in a family that undergoes polygamy practice in Majene Regency. She said that her father remarried when she was still in elementary school. The marriage of his two fathers was carried out without his mother's knowledge and did not go through an official legal process at the Religious Court. According to "NS", since his father remarried, there has been a great change in the dynamics of his family, especially in terms of the attention and affection of the father to the children of the first marriage. "NS", feels that the presence of his father's second wives has limited his closeness to his father, who now spends more time at his young wife's house. This makes him feel undercared for and emotionally loses his father. She also witnessed how her mother often sat pensively, silently and felt helpless because there was no legal process that could guarantee her rights. In his view, the practice of polygamy not only reduces the father's affection for his children, but also deprives the mother of the legal protection that should be provided by the state, because the second marriage is carried out without the court's permission. Furthermore, "NS", revealed that he and his siblings felt like an abandoned family. She felt that the law should be able to protect women like her mother from being treated arbitrarily. In addition, children should also receive emotional and psychological protection when in situations like this.

This interview shows that the practice of polygamy in Majene Regency, especially those carried out without following legal procedures, has a major impact on the fulfillment of the rights

of women and children in the family. A father's affection that should be shared fairly becomes focused on his new family, while the first family experiences neglect. This not only causes deep emotional wounds, but also shows how weak family law protection for women and children is in the practice of polygamy that is not officially recorded.

This study also found that the role of religious leaders in the practice of polygamy in Majene is very large. Most religious leaders still use conservative interpretations of religion to justify polygamy without considering the principle of substantive justice for women. The results of an interview with the initials "AG" (45 years old) as a religious figure in Majene Regency revealed that the practice of polygamy is still often seen as a natural thing and an absolute right of a man in domestic life. This view is generally rooted in religious interpretations that place men as family leaders and holders of full authority in decision-making, including in the matter of adding wives. In the decision-making process related to second marriage and beyond, women's voices, especially first wives, are often ignored or considered less important. In cases, sometimes women are not given the space to voice their opinions or objections openly, and some even find out about their husband's marriage after the fact occurred. This shows that there is an imbalance in power relations in the household that weakens the position of women in determining the direction and structure of marriage. The above interview reflects the persistence of patriarchal norms in local communities, which is a major challenge in efforts to promote gender equality and the protection of women's rights in marriage institutions.

The results of an interview conducted with one of the institutions in the field of women in Majene Regency, explained that in Majene Regency there is still a need to improve legal counseling and women's empowerment programs, especially those related to women's rights in marriage and polygamy practices. The program

needs to be carried out in a structured and sustainable manner that specifically targets family law education for women at the grassroots level. In addition, most women in Majene, especially in rural areas, have not fully understood their basic rights as wives, including the right to justice and protection in the practice of polygamy. This is also supported by a strong patriarchal culture, where women's voices are often not considered in household decision-making, including when husbands decide to engage in polygamy without consent or healthy communication.

She further said that weak access to legal information makes many women unaware that the practice of polygamy must go through formal legal mechanisms and the legal consent of the first wife. In many cases, she continued, women only accept fate because they are afraid of stigma, social pressure, or because of economic dependence. She also added that there has not been optimal synergy between government agencies, religious leaders, and law enforcement agencies to jointly advocate for the importance of protecting women's rights in the family. According to her, there needs to be more serious intervention from local governments, both through the preparation of regional regulations, training of women paralegals, and increasing the capacity of civil society organizations so that women are more empowered legally and socially.

Thus, the results of this study confirm that the practice of polygamy in Majene Regency, from a gender perspective, is still far from the principle of substantive justice. The implications for women's rights are enormous, both in terms of economic rights, emotional rights, and the right to legal protection. This research encourages the need to reformulate legal approaches and strengthen gender awareness education at the local level to ensure that women's rights are more respected and protected in the context of family law in the future.

Discussion

The results of the study revealed that although normatively the practice of polygamy has been strictly regulated in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI), the reality is that in the field, especially in Majene Regency, the implementation of the law still faces various obstacles. In the case of polygamy that is carried out without official permission from the Religious Court, which should be an absolute requirement based on the applicable law. The lack of legal understanding among women and the dominance of patriarchal culture have led to laws that have been drafted with the intention of providing protection to be unable to reach vulnerable groups that should be protected, such as first wives and children from previous marriages. This shows that there is a serious gap between ideal law and real practice.

Satjipto Rahardjo's view is particularly relevant in this context, where he states that law cannot stand alone as a normative text, but must be understood as a social institution that lives in society⁴⁷. In situations where the social structure of society is still steeped in patriarchal values, the law becomes ineffective because dominant cultural norms are often more influential in shaping societal behavior than the prevailing legal rules⁴⁸. Therefore, efforts to enforce the law that are fair for women are not enough just to improve regulations, but must also be accompanied by a change in social and cultural paradigms through legal education, women's empowerment, and social reforms that support gender equality.

Furthermore, the findings in this study explain that the first wife in the practice of polygamy is not given the space to voice her opinions, confirming the existence of inequality in power relations in the family which is greatly influenced by patriarchal structures. This is in line with the feminist theory of Sylvia Walby, who

⁴⁷ Satjipto Rahardjo, *Hukum Dalam Jagat Ketertiban (Bacaan Mahasiswa Program Doktor Ilmu Hukum Universitas Diponegoro)* (UKI press, 2006).

⁴⁸ Yanuarius You, *Patriarki, Ketidakadilan Gender, Dan Kekerasan Atas Perempuan: Model Laki-Laki Baru Masyarakat Hubula Suku Dani* (Nusamedia, 2021).

states that the family is one of the six main patriarchal structures that sustain male dominance in social life⁴⁹. Within this framework, the family is not only a place for the socialization of patriarchal values, but also an arena where male power is legitimized and maintained, one of which is through the practice of polygamy. When women are not involved in important decisions such as the marriage of two husbands, it shows that women's position in the family is positioned as subordinate, whose voice is not considered important even in matters that deeply affect their own lives.

In the context of Majene Regency, the practice of polygamy carried out without the consent of the first wife reflects a form of male domination that is still very strong and legitimized by conservative cultural and religious norms. Women's non-involvement in the marriage decision-making process shows that gender relations in households are still unequal and unequal. This male domination is not only symbolic, but has a real impact on women's rights, both emotionally, legally, and economically. Thus, this analysis emphasizes the importance of applying a gender perspective in family law policy and the importance of encouraging value transformation in society so that women get an equal and dignified space in the family.

Regarding women's lack of understanding of their rights in marriage, such as the right to give consent in the practice of polygamy or the right to legal protection from marriage without consent, it shows that legal awareness among women is still very low. This is not only due to the lack of access to information, but also because of the social and cultural environment that does not support women to recognize and demand their rights. Lawrence M. Friedman, in his theory, states that the legal system consists of three main elements: structure (legal institutions), substance (rule of law), and culture (people's awareness and attitude

towards the law).⁵⁰ In this case, although the structure and substance of the law in Indonesia such as Law No. 1 of 1974 and the Compilation of Islamic Law have provided protection for women's rights in marriage, the cultural element is still a major obstacle.

In addition, the legal culture that is still full of patriarchal values causes women to tend to be passive and helpless in dealing with unfair polygamy practices. A culture that normalizes male dominance and places women as parties who must submit to their husbands' decisions makes many women reluctant or even unaware of how to claim their rights legally. In this context, the law cannot run effectively because it is not supported by the collective awareness of the community regarding the importance of gender equality and protection for women. Therefore, to realize a legal system that is truly in favor of justice, intervention in cultural aspects is needed through legal education, gender awareness campaigns, and legal empowerment for women at the community level.

Women's rights in marriage, including in terms of giving consent to the practice of polygamy, are an integral part of human rights⁵¹. CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), as an international instrument that has been ratified by Indonesia, emphasizes that the state has an obligation to eliminate all forms of discrimination against women in all fields⁵², including in family institutions. In this context, women have the right to be treated fairly, equally, and to be protected from practices that can harm their dignity and dignity. When polygamy is carried out without legal procedures, without the permission of the court and without the valid consent of the first

⁵⁰ Lawrence M Friedman, *Sistem Hukum: Perspektif Ilmu Sosial* (Nusamedia, 2019).

⁵¹ Ramdan Wagianto and Moh Sa'i Affan, 'Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia', *Asy-Syari'ah: Jurnal Hukum Islam*, 8.2 (2022), pp. 81–102.

⁵² Del Pilar Sandoval, 'CEDAW-Convention on the Elimination of All Forms of Discrimination' 2010, 2010.

⁴⁹ Achmad Mulyadi, 'Perempuan Madura Pesisir Meretas Budaya Mode Produksi Patriarkat', *KARSA Journal of Social and Islamic Culture*, 2011, pp. 200–13.

wife, there is a violation of the basic principles of women's protection guaranteed in CEDAW.

In practice in Majene Regency, it was found that the practice of polygamy that does not go through formal legal mechanisms tends to have a negative impact that shows the weakness of the state in ensuring access to justice for all its citizens, especially women. The absence of effective regulations at the local level, weak legal socialization, and lack of assistance to women in unfair domestic situations, show that the implementation of CEDAW principles is far from hopeful. The state is not only responsible for making the rule of law, but also for ensuring that it is implemented in real terms and reaches women at all levels of society, including in remote areas such as Majene. Therefore, the implementation of the principle of non-discrimination in family law must be a priority to ensure substantive justice for women in every marriage practice.

Interviews with children from polygamous families in Majene Regency show that the emotional and psychological impact caused by the practice of polygamy is not only limited to the first wife, but is also deeply felt by the children in the family. Children feel less attention, affection, and emotional involvement from their fathers, especially when fathers focus more on their new family. This feeling of neglect creates deep emotional wounds and forms a negative perception of the father figure, and can even affect the way a child views family relationships and trust in future marriages.

This explanation is in line with the developmental ecological theory of Urie Bronfenbrenner, who views the family as part of a microsystem that is highly influential in the formation of children's behaviors and personalities⁵³. When there is disharmony or dysfunction in the family system, as in the case of unfair polygamy, children are in a vulnerable

position to impaired emotional, social, and even academic development. The absence of a father figure psychologically and a lack of attention from parents can hinder the development of empathy, confidence, and the ability of children to form healthy interpersonal relationships. Therefore, the practice of polygamy that ignores the welfare of children should be a serious concern within the framework of legal protection and social policies.

Legal decisions that focus only on formal aspects without taking into account the psychological and social impact on women show a lack of application of the principle of substantive justice. Substantive justice demands that the law is not only seen in terms of procedures or written rules, but must also accommodate the real conditions and deep needs of the affected parties, especially women. When legal rulings ignore the psychological and social dimensions, women as parties who are often vulnerable in legal contexts, especially in practices such as polygamy, do not receive adequate protection. This has the potential to cause ongoing injustice, because the impact felt by women is much more complex and not just formal legal requirements.

Martha Nussbaum in the capabilities approach emphasizes the importance of justice that guarantees women's ability to live with dignity⁵⁴, including the ability to actively participate in household decision-making. This approach emphasizes that justice must open up space for women to develop their potential and freedom, not simply be positioned as objects of decisions made without a voice. The practice of polygamy that does not involve women's voices in decision-making clearly violates this principle, as it puts women in a marginalized position and reduces their ability to live a life with dignity and autonomy. Therefore, fair law enforcement must include the recognition and protection of

⁵³ Musrayani Usman, *Teori Dan Isu Kontemporer Mengenai Keluarga: Sosiologi Keluarga* (Nas Media Pustaka, 2025).

⁵⁴ Iswahyudi Iswahyudi and Naupal Asnawi, 'Menuju Kebijakan Sosial Berorientasi Kapabilitas: Telaah Pemikiran Amartya Sen Dan Martha Nussbaum', *Multikultura*, 3.4 (2024), p. 4.

women's rights in a substantive, not just formal, manner.

The role of religious leaders who justify polygamy as an absolute right of men reflects the dominance of conservative interpretations of religious texts that tend to be rigid and do not consider social changes and current contexts. This kind of interpretation often places polygamy as the exclusive authority of men without critically considering the negative impact it may have on women and the family as a whole. This approach ignores the diversity of meanings in religious texts and overlooks the aspect of social justice that should be the main foundation for understanding religious teachings in a complete and comprehensive way.

Fazlur Rahman in his approach to contextual interpretation emphasizes the importance of understanding the values of the Qur'an by paying attention to the social and historical context behind it, especially in terms of social justice. According to him, the understanding of religion cannot be separated from the real conditions of society that continue to change, so that rigid and literal interpretations can cause injustice⁵⁵. In the context of polygamy, if this practice is accepted without any criticism of its social impact, then the value of justice that is at the core of religious teachings will be ignored. Thus, a contextual understanding opens up space for the evaluation and reform of religious practices to be more responsive to the principles of justice and the protection of women's rights in society.

The lack of legal counseling programs related to women's rights, as conveyed by one of the informants from the Majene Regency Government institution, illustrates the weak role of the state in providing concrete support for women's empowerment at the local level. When access to legal information and opportunities to develop women's capacity are limited, women become vulnerable to various forms of injustice,

both economically and socially. This limitation strengthens the subordinated position of women in society, especially in areas with a strong patriarchal culture, making it difficult for women to obtain their rights fully and securely.

Nancy Fraser in her theory asserts that social justice must be understood in two main dimensions, namely economic redistribution and cultural recognition⁵⁶. In the context of women who experience injustice due to the abandonment of their husbands, the economic inequality experienced cannot be separated from their inability to be recognized socially and culturally in a patriarchal society. The inability to voice rights and aspirations in the local culture exacerbates the conditions of injustice experienced by women. Therefore, true social justice must include efforts to redistribute economic resources as well as the recognition of women's identities and voices in the cultural structure of society.

The results of the study show the urgency of reformulating a legal approach to polygamy practices reflect the fundamental need for more gender-sensitive changes. Polygamy, which is often considered only from a formal legal aspect, actually has a complex impact on women, both psychologically, socially, and economically. Therefore, legal approaches that focus only on procedures without considering the power relations between men and women and the social impact that arises, tend to fail to provide adequate protection for women. This reformulation is important so that the law can function as an instrument of justice that is able to overcome inequality and discrimination in family practice.

Caroline Moser in mainstreaming gender theory emphasizes the importance of integrating gender perspectives into every legal policy and practice. This approach invites policymakers to always consider how the power relationship

⁵⁵ Dari Khazanah Pemikiran Islam hingga Barat, 'ANEKA PENDEKATAN DALAM TAFSIR AL-QURAN'.

⁵⁶ Agus Miswanto, 'Rekognisi Dan Redistribusi Dalam Pencapaian Keadilan Sosial: Analisis Komparatif Terhadap Model Teoritis Nancy Fraser Dan Axel Honneth', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 11.2 (2022), pp. 141–60.

between men and women affects the outcome of the policy⁵⁷. In the context of family law and polygamy, legal programs should be designed in such a way that they not only meet the formality aspect, but also respond to women's needs and rights substantively. Thus, family law can be an effective tool in promoting gender justice and ensuring that women have an equal and protected position in family and societal structures.

Based on the discussion above, it shows that the unfair practice of polygamy not only has an impact on women, especially the first wife who is often the main victim, but also has a great influence on the children in the family. Children often experience serious psychological and emotional impacts, such as feelings of neglect, lack of affection from fathers, and emotional uncertainty due to family disharmony. Unfortunately, most studies on polygamy are still focused on women and have not explored in depth the experiences and needs of children growing up in polygamous family situations. Neglect of this aspect can lead to an incomplete understanding of the complexity of the impact of polygamy, thus hindering efforts to formulate truly comprehensive and fair legal policies. Therefore, expanding the analysis to include the child's perspective is crucial to strengthen the protection of rights in the family as a whole and ensure that every member of the family, both women and children, receives the attention and protection the law deserves.

Conclusion

Based on the results of the analysis that has been carried out, it can be concluded that the practice of polygamy in Majene Regency has a significant impact on the fulfillment and protection of women's rights in the context of family law. Although normatively polygamy has been strictly regulated in Law No. 1 of 1974 and

the Compilation of Islamic Law, its implementation at the local level still faces a variety of serious challenges, including low legal awareness among women, weak institutional oversight, and patriarchal cultural dominance that ignores women's voices in household decision-making. Inequality in power relations in the family puts women, especially first wives, in a position of legal, social, emotional, and economic vulnerability. In fact, court decisions that prioritize formal aspects often do not fully accommodate the needs and substantive protection of women's rights.

In addition, although the main focus of the study was on women who were polygamous, the results of the interviews showed that children in polygamous families also experienced profound psychological and emotional impacts due to the inequality of parental affection and attention. This aspect is often overlooked in legal and policy analysis, even though its existence is important to broaden the perspective on the impact of polygamy in the family context. Therefore, in the future, a more holistic legal and policy approach is needed, which not only pays attention to the formal fulfillment of women's rights, but also considers the social, psychological, and cultural conditions that affect the well-being of all family members. Gender-sensitive family law reform, supported by legal education and women's empowerment and child protection, is an important step towards a fair and inclusive legal system.

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⁵⁷ Okta Dewi, 'Implementasi Gender Mainstreaming Dalam Konteks Pembangunan: Studi Kasus Keberhasilan Kesetaraan Gender Di Filipina Tahun 2018', *Jurnal Ilmiah Hubungan Internasional*, 17.2 (2021), pp. 200–18.

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