

## Requirements of Polygamy by Muhammad Shahrur and It's Relevance to Indonesian Society

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### Abstract

Muhammad Shahrur has a different view of polygamy than other scholars. According to him, polygamy is only permitted for widows who are orphans. This condition applies to second, third, and fourth wives. This requirement refers to the principle of protection for widows and justice for orphans. This research is descriptive qualitative research. The data collection technique is a literature study that explores various works, both in the form of books and articles related to Muhammad Shahrur's thoughts. Likewise, it is related to the social conditions of Indonesian society, especially polygamy. This research explores Muhammad Shahrur's opinions on the requirements for polygamy and examines its relevance to social conditions in society. This research concludes that the conditions for polygamy expressed by Muhammad Shahrur are very relevant and can bring benefits if implemented and legislated into Indonesian regulations. First, polygamy regulations in Indonesia adhere to the principle of open monogamy. Second, polygamy can be a solution for widows and their orphaned children in Indonesia who face many problems. Third, polygamy is not prescribed to cause problems but to provide solutions to social conditions in society. This research can be considered a contribution to the compilation of Islamic Law (KHI) in Indonesia.

**Keywords:** Muhammad Shahrur, Requirements of Polygamy, Indonesian Society.

### Abstrak

Muhammad Syahrur memiliki pandangan yang berbeda tentang poligami dengan ulama-ulama yang lain. Menurutnya, poligami hanya dibolehkan terhadap para janda yang memiliki anak yatim. Syarat ini berlaku bagi istri kedua, ketiga dan keempat. Syarat ini mengaju kepada prinsip memberikan perlindungan terhadap para janda dan prinsip keadilan terhadap anak-anak yatim. Penelitian ini adalah penelitian kualitatif deskriptif. Teknik pengumpulan data adalah studi kepustakaan dengan menelusuri berbagai literatur, baik literatur berupa buku-buku maupun artikel yang berkaitan dengan pemikiran Muhammad Syahrur. Demikian juga yang berkaitan dengan kondisi sosial masyarakat



*Indonesia, khususnya tentang fenomena poligami di Indonesia. Penelitian ini menelusuri pendapat Muhahmmad Syahrur tentang syarat poligami dan melihat relevansinya dengan kondisi sosial di Masyarakat. Penelitian ini menyimpulkan bahwa syarat poligami yang diungkapkan oleh Muhammad Syahrur sangat relevan dan dapat mendatangkan kemaslahatan apabila diterapkan dan dilegislati menjadi aturan di Indonesia. Pertama, karena aturan poligami di Indonesia menganut asas monogami terbuka. Kedua, poligami dapat menjadi solusi bagi para janda dan anak-anak mereka di Indonesia yang banyak mengalami permasalahan. Ketiga, poligami disyariatkan bukan untuk mendatangkan masalah, melainkan untuk memberikan solusi. Termasuk solusi kondisi sosial di Masyarakat. Penelitian ini dapat dijadikan sebagai kontribusi pemikiran dalam melakukan perubahan hukum keluarga di dalam Kompilasi Hukum Islam (KHI) di Indonesia.*

**Kata Kunci:** *Muhammad Shahrur, Syarat Poligami, Masyarakat Indonesia.*

## INTRODUCTION

**T** Polygamy today has become an increasingly controversial issue, with at least four sects having varying perspectives on it. The first sect advocates polygamy, pointing out that those who practice it receive greater rewards than those who are monogamous. The second sect permits polygamy without any conditions. The third sect allows polygamy under specific conditions, whereas the fourth sect prohibits or declares polygamy forbidden.

Polygamy is explicitly addressed and explained in Surah An-Nisa, Verse 3 of the Qur'an and is further regulated by Law No. 1 of 1974 regarding Polygamy. The practice of polygamy possesses a unique allure, capturing the attention of society and eliciting varied reactions from Indonesian citizens. While some express support for polygamy, others vehemently reject it. The discord surrounding polygamy dates back to 1911, when national heroine Kartini voiced her opposition. This sentiment was echoed in the First Women's Congress of 1928, where a call for the prohibition of polygamy was made. In 1930, the Indonesian Women's Association Federation also conveyed its desire to disallow polygamy. The ongoing debate on polygamy remains contentious because of its potential impact on the vulnerability of women and children to various forms of abuse (Putriyanti & Rakhman, 2020).

When simplified, there are two main groups: those in favor of polygamy and those opposed. The pro-polygamy group believes that polygamy elevates the status and dignity of women. The purpose of polygamy, according to this perspective, is to protect human morality by preventing people from engaging in sinful acts, such as the spread of places for prostitution and women resorting to selling themselves for livelihood. Therefore, they argued that polygamy can be a solution to avoiding such situations. On the contrary, those against polygamy believe that it diminishes the status and dignity of women. Polygamy is considered a violation of human rights and is seen as part of the hegemony and exploitation of women. It is perceived as oppression, injustice, betrayal, discrimination, and violation of women's rights. Polygamy is viewed as a means to satisfy the lustful desires of men and a form of violence and oppression against women's rights (Elkarimah, 2018).

M. Quraisy Shihab holds a different perspective when declaring that polygamy is a form of oppression perpetrated by men against women. In his view, women who become second or third wives consciously and voluntarily participate in polygamy. Shihab emphasizes that polygamy is not a recommendation or obligation but rather an alternative to address the imbalance in the numbers of women and the longer fertile period of men. He also states that polygamy could be a solution for women who lost their husbands due to war, as seen in West Germany, where women were compelled to engage in indecent behavior due to the government and church prohibitions (Shihab, 2007).

Polygamy controversy is increasing due to at least several factors. First, this is because of the shift from patriarchal to matriarchal culture. Second, it is because of the increasingly massive feminist movement in various parts of the world. Third, because of the demands of the times, which naturally require a shift in the role of women in public spaces. Therefore, the issue of polygamy remains an interesting topic to study from various perspectives.

Departing from differences between scholars, both classical and contemporary, regarding polygamy. Regulations regarding polygamy differ among Muslim countries worldwide. There are countries that prohibit polygamy absolutely, such as Türkiye and Tunisia. There are countries that allow polygamy under certain conditions, such as Egypt, Syria and Indonesia.(Trigiyatno et al., 2023). The differences in these regulations are not only influenced by the opinions of scholars in the respective countries but also by the socio-cultural norms (*al-'urf*) of that country (Harwis Alimuddin & Abdurrahman, 2023). Therefore, the state has full authority to regulate polygamy regulations by considering the context and conditions of the country with various considerations. As long as the rules do not conflict with the principle of benefit to which the Shari'a was revealed, they can even become universal values of all religions.

Muhammad Shahrur is a modern scholar who has exerted a major influence through his theories and views on polygamy. Muhammad Shahrur has a different view of polygamy than other scholars. According to him, polygamy is only permitted for widows who have orphans. This condition applies to second, third, and fourth wives. This requirement refers to the principle of justice for orphans (Muhammad Syahrur, 2000). It needs to be underlined that the marriage regulations implemented by the government should not ignore the aim of protecting women and children (Fahmi et al. 2023).

The next question that arises next is whether this perspective is relevant to the culture and social conditions of Indonesian society. Is this condition worth future consideration for the submission of revisions to the draft Compilation of Islamic Law in Indonesia? Can it even serve as a reference for changes in positive legal regulations during the legislative process in Indonesia? According to Shahrur, the strength of Islamic teachings lies in two types of movements: a constant movement (*istiqamah*) and a dynamic movement (*hanifiyyah*). This is what makes Islamic teachings adaptive. However, this adaptive nature remains within the bounds of Allah's law (*hudud Allah*) (Bukhori, 2021).

If the conditions for polygamy are relaxed, there is concern that it may undermine what is expected from marriage, namely, the protection of the civil rights of wives and children born from the union. Therefore, various marriage regulations have been attempted with the intention of preventing injustice toward women and arbitrary actions against descendants (Santoso, 2021). Polygamy that is relaxed without strict conditions may result in domestic violence (Harwis & Djalal, 2023). Based on this mindset, the approach taken by Muhammad Shahrur in determining the conditions for the permissibility of polygamy should be analyzed more deeply and its relevance to the state of society, community needs, and culture in Indonesia.

Previous research related to this study includes the work of Abdul Rahman Muqsith, Sudirman, and Fadil, which compares the laws of polygamy from the perspectives of Muhammad Shahrur and Musdah Mulia. The difference between their research and this study lies in the focus: Abdul Rahman's research centers on the laws of polygamy, whereas this study focuses on the requirements for polygamy. Abdul Rahman and his colleagues concluded that polygamy is forbidden in Musdah Mulia and permissible under strict conditions in Muhammad Shahrur (Muqsith et al., 2022).

Other studies did not specifically address the requirements for polygamy according to Muhammad Shahrur but rather focused on interpretive methods used to understand polygamy verses. Examples include research by Nur Khasanah in 2020 (Nur Khasanah, 2020) and by Kholid 2021 (Kholid, 2021). The difference from this study is that it is more focused on the requirements for polygamy according to Shahrur and its relevance to social conditions in Indonesia.

This study uses a qualitative approach with a method that analyzes the suitability of the polygamy requirements proposed by Muhammad Shahrur to Indonesian society. This research conducts an in-depth examination of polygamy requirements from Shahrur's perspective through a comprehensive review of his works and other scholarly articles. The social conditions of Indonesian society were analyzed using secondary data from sociological studies, legal documents, and cultural reports. Data collection includes a review of relevant texts, laws, and cultural practices. The analysis focuses on comparing Shahrur's views with the current social dynamics in Indonesia to assess their relevance and implications. The findings are then contextualized within the broader discourse on polygamy in Islamic jurisprudence and Indonesian culture.

## DISCUSSION

### **The Biography of Muhammad Shahrur**

Muhammad Shahrur's real name is Muhammad Syarur al-Dayyub. His father's name is Daib and his mother's name is Shiddiqah. Muhammad Shahrur was born in Damascus on April 11, 1938 M. Muhammad Shahrur was blessed with three children. Tarik, Lays, Rima, Basil, and Masun. Muhammad Shahrur's formal education began with *ibtidaiyyah*, *iddadiyah*, and *tsanawiyah* at the 'Abdul Rahman al-Kawakib

educational institution in the southern city of Damascus in 1957 AD. Subsequently, he continued his studies, majoring in civil engineering in Moscow (Bukhori, 2021). Therefore, it can be concluded that Muhammad Syarur has an exact educational background.

Upon completing his secondary education, Shahrur secured a scholarship from the Syrian government to study in Moscow, the Soviet Union, focusing on Civil Engineering (*al-Handasah al-Madaniyyah*). During his time in Russia, Shahrur was exposed to and learned about the principles of Marxism and Communism, which formed the ideological foundation of the government. It was in Moscow that he crossed paths with Ja'far Dak Albaab, whose influence, particularly in language studies, would later significantly influence Shahrur. He graduated from Moscow Technical University in 1964). In 1965, Shahrur returned to his homeland and dedicated himself to academic pursuits at Damascus University in Syria (Nur Khasanah, 2020).

In 1982-1983, Shahrur was invited to become an expert by the Al Saud Consult of the Kingdom of Saudi Arabia. Until 1995, he was an honorary participant and was involved in debates on Islamic thought in Lebanon and Morocco. Although he initially worked in the engineering field, Shahrur became interested in Islamic studies. He studied the Koran seriously from the perspectives of linguistic theory, philosophy, and even modern science. Shahrur's seriousness in studying Islamic knowledge and the Koran is reflected in his outstanding works. Some of his important works include: "Al-Kitab wa al-Qur'an," "Qira'ah Mu'ashirah" (1990), "Al-Dirasah al-Islamiyah fi al-Daulah wa al-Mujtama'" (1994), "Al-Islam wa al-Iman; Manzumah al-Qiyamah" (1996), "Nahwa Ushul Jadidah li al-fiqh al-Mar'ah" (1999), and "Masyru' al-Mitsaq al'Amal al-Islamic" (2000) (Jendri, 2020).

Syahrur is also an engineering consultant in addition to his teaching position. This was confirmed when Syahrur was sent to Saudi Arabia by Damascus University with the aim of becoming an expert staff member at the al-Saud Consult in 1982-1983. He also founded an institution or so-called engineering consultancy bureau named *Dar Al-istiklik al-handasiyah*, an engineering consultancy located in the city of Damascus (Supriyanto, 2018). Although Muhammad Shahrur had a fundamental vocational education, he is well versed in Islamic discourse. Over time, he developed a keen interest in the thorough study of the Quran and hadith, approaching them with a philosophical understanding of language and aligning them with precise scientific theories. Shahrur has not only delved into academic publications within his specialized field but has also authored books and articles on Islamic thought. Alongside several works distributed in Damascus focusing on his academic expertise, such as the three-volume set on Foundation Engineering and Land Engineering (Hasballah, 2020).

Muhammad Syahrur is one of the controversial contemporary Muslim scholars from the Middle East. In the view of Western orientalists, Syahrur was positioned on par with Immanuel Kant<sup>1</sup> and Martin Luther. As a Muslim liberal, Syahrur is

considered the most radical liberal thinker compared to other Muslim liberal thinkers (Kholid, 2021).

An interesting aspect of the historical landscape of Shahrur's intellectual journey is his serious attention to Islamic studies. According to him, Muslims are now imprisoned in cages of truth that are taken for granted, even though in fact they must be re-examined. Truths turned upside down, like a painting drawn from the reflection of a mirror. Everything seems to be right, even though it is actually wrong. Since the beginning of the twentieth century, various thought efforts have tried to correct this error by presenting Islam as a religion and way of life. However, because these efforts did not touch the most basic issues in Islamic thought, they were ultimately unable to resolve the dilemma that confronted them (Auliya & Gazali, 2020).

### **Muhammad Shahrur's Reflections on Polygamy and Its Requirements**

According to Muhammad Shahrur, the principle of marriage in Islam is monogamy. Allah SWT commands monogamy to avoid cruel actions by acting unfairly toward women. This was confirmed by Alla Swt. in Qs. al-Nisa's third verse: "that way (it is enough to marry just one woman if you are unable to act fairly) is closer to not committing abuse. According to Shahrur, monogamy is more likely to achieve harmony in the household than polygamy (Muqsith et al., 2022).

Muhammad Shahrur believes that justice is an obligation in polygamy practice. This means that polygamy is not permitted if justice cannot be ensured. Therefore, to be fair, he outlines several conditions that must be fulfilled. First, the maximum number of women one can marry is four. Second, there must be a genuine concern for the ability of orphaned children and second, third, and fourth wives to treat orphaned children honestly. Third, the second, third, and fourth wives should be widows with one or more children. The justice referred to the concerns social and societal aspects, not biological considerations (Muqsith et al., 2022).

The logical reason, according to Shahrur, Qs. al-Nisa's third verse, speaks in the context of orphans. This verse discusses polygamy from a social, not a biological, perspective. The second logical reason is Allah's command to be satisfied with only one wife. This means that being content with just one wife (monogamy) will keep one away from the shackles of hardship and of being unkind toward orphans (Nina Agus Hariati, 2021). Shahrur's hermeneutic framework is underpinned by three fundamental keys, serving as the cornerstone of his philosophical perspective on hermeneutics. These key elements are intricately connected and serve as foundational elements in the exploration of various philosophical realms, encompassing discussions on Godliness (theology), nature (naturalistic), and humanity (anthropology) (Arafah, 2023).

Through his theory of limits, (*nadzariyyah al-hudud*), Shahrur expresses that polygamy has both minimum and maximum boundaries. The minimum limit is that a man can marry only one woman. The maximum permissible limit is that a man can

marry up to four women. If there is a verse prohibiting polygamy, the verse about polygamy can still be practiced by marrying only one woman. Conversely, if polygamy is allowed, a man can only marry up to four women and this is still within the bounds set by Allah (*hudud Allah*) (Jendri, 2020).

Shahrur believes that the polygamy command in Surah al-Nisa is an integral unit that cannot be separately understood. This verse address polygamy, widows, and orphans simultaneously (Hamim, 2022). This indicates that the noble purpose of polygamy is to protect widows and orphans. This aligns with the practice of polygamy by Prophet Muhammad (peace be upon him) who married women in need of protection.

This view is based on his hermeneutic approach, which he adopts with the theory of *hudud*. The theme of equality between men and women, often referred to as "gender," is a theme in Muhammad Shahrur's *hudud* thinking. The discourse on equality initially represented a new breakthrough in Islam in reforming various forms of injustice against women during the pre-Islamic period (*jahiliyyah*) in Arabia. Practices of unlimited injustice, such as unrestricted polygamy, which were replaced by Islam with regulated polygamy that did not exceed four wives (Nur Khasanah, 2020). Muhammad Shahrur's opinion regarding the conditions for polygamy is, in principle, based on the principle of protection for widows and justice for orphans. When viewed from a historical perspective, polygamy is prescribed, and then Muhammad Shahrur's opinion is very logical because polygamy is actually prescribed to provide protection and justice.

### **Polygamy as a Solution to the Problems Faced by Widows and their Children in Indonesia**

The percentage of widows in Indonesia is significantly higher than that of widowers in 2021. This is evident from the percentage of women with divorced status reaching 12.83% last year, while only 4.32% of men were widowers (Mahdi., 2022). The widow status for a woman can drastically alter her life, both in terms of psychological burden due to changes in her social status and domestic responsibilities within the family. Domestic chores have to be carried out solely by a widow, including childrearing, educating the children, household maintenance, and even providing for her children's livelihood for those widows who have children (M. N. Fahmi et al., 2022).

Likewise with the number of orphans in Indonesia, research conducted by Nirwan Syafrin Manurung revealed an increase in the number of orphans in Indonesia, especially after the outbreak of Covid-19. However, the peak death rate observed in 2020 had a significant impact on society. This finding is attributed to the elevated mortality rate among families' heads. Fathers or family heads face a higher risk of exposure to the Covid-19 virus, often due to outdoor professions, resulting in many children becoming victims upon the death of their fathers. This has led to a surge in the number of orphans during the pandemic. According to data from the Ministry of Social Affairs, the current number of orphans in Indonesia stands at 4,023,622 children. This

figure includes 45,000 children under the care of social welfare institutions and 3,978,622 children under the care of impoverished families. Of these, approximately 41,000 children are attending school under the care of social institutions, while 4,000 children are not enrolled. Meanwhile, 2,665,676 children under the care of underprivileged families have access to education, whereas 1,312,946 children have not attended school. According to Muchaddam in the Research Center of the Expertise Agency of the DPR RI Brief Info Vol. XIV No. 11, there was an increase of 32,216 children who became orphans due to the Covid-19 pandemic (Manurung1 et al., 2023).

The widow status of a mother can even affect the growth of her children, as evidenced by research conducted by Laksono and colleagues. Their research concluded that various factors were associated with the occurrence of stunted toddlers in Indonesia who had mothers who were employed. Specifically, type of residence, maternal education level, and age of the toddler were identified as influencing factors for toddler stunting among working mothers. Additionally, the study revealed that residence, maternal age group, maternal marital status, maternal education level, and toddler age were linked to severe stunting among working mothers in Indonesia (Laksono et al., 2022).

Furthermore, the data indicate a significant increase in the number of orphaned children in Indonesia. In 2023, the number of orphaned children in Indonesia reached four million (Dota, 2023). The significant number of widows and their orphaned children and the problems that arise from this should rightfully receive attention from the government. This attention can take the form of an effort to reduce the percentage and provide protection to such individuals.

One aspect that should raise concern is opening opportunities for remarriage, either as a first- or second-wife for those who are willing to practice polygamy, particularly for those who have orphaned children in need of protection. Ironically, on average, men who practice polygamy do not seek partners with widow status but instead seek younger wives. Ideally, the existence of polygamous laws should not be seen as something that brings problems but rather as something that provides solutions. This includes a potential solution for women with widower status, especially those with children. Polygamy is expected to offer a solution to social issues in society (Nasrulloh & Witro, 2021).

Prostitution in Indonesia is partly caused by economic conditions. Generally, prostitution in Indonesia is classified into two groups: traditional (common) and non-traditional. Common prostitution involves activities that occur mostly in designated areas where women are involved in economic reasons. In other words, in this group, money is the sole motivation. Service providers in this group usually come from low economic backgrounds, have minimal education, and engage in sex work in response to economic difficulties. On the other hand, nontraditional prostitution is generally carried out by individuals with middle to upper socioeconomic backgrounds and higher



levels of education, especially in major cities. This group includes prostitution practices by students (in the form of sugar babies, escorts, call girls) as well as professionals or individuals with stable jobs, such as in the case of Secretaries Plus (Rusyidi & Nurwati, 2019). Research conducted by Dr. Ariasih and colleagues concluded that 48.5% of married female sex workers in Jakarta are widows (Ariasih & Sabilla, 2020). Therefore, polygamy should be a solution to justice and protection for people experiencing problems. At least it will reduce their burden from both a psychological and economic perspective.

### **Phenomenon and Rules of Polygamy in Indonesia**

The polygamous practices phenomenon is diverse in Indonesia. There are legally sanctioned polygamous marriages that are conducted through official registration, and there are also illegal polygamous unions that go unrecorded. The reasons behind individuals engaging in polygamy vary, as revealed by Ridwan and colleagues in Makassar, Indonesia. Their study concluded that a significant proportion of polygamous marriages in Makassar are not registered with the Office of Religious Affairs or the Civil Registry. Polygamous individuals often refrain from seeking official approval because of the expensive and complicated bureaucratic process of marriage. This is further exacerbated by the stringent regulations surrounding polygamy in Indonesia, such as Regulation No. 1 of 1974 on Marriage, Presidential Instruction No. 1 of 1991 on Islamic Law Compilation, combined with Government Regulation No. 10 of 1983 and later amended by Government Regulation No. 45 of 1990 on Monogamous Marriage for Civil Servants. As a result, men who seek to marry multiple wives often do so in secret. There are five factors contributing to the prevalence of polygamy in Makassar: infertility, ignorance of the first wife, the husband's sexual needs, incurable illnesses affecting the first wife, and adherence to the Prophet's Sunnah (Ridwan et al., 2024).

The transformation of gender perspectives in Indonesia is explored, culminating in the enactment of a new marriage law. Following May 21, 1998, significant shifts in gender perspectives were identified in Indonesia. This date signifies the onset of the reformation era, signifying the conclusion of the New Order era, which was marked by President Soeharto's resignation after 32 years in office. Throughout the period, women actively participated in demonstrations and advocacy, particularly in addressing the distribution of essential items during the economic crisis. They also engaged in issues related to the assault on a Chinese-Indonesian journalist and advocated for women's rights. Economic roles underwent alterations, with women no longer being confined to household duties but increasingly entering industrial labor. These changes, coupled with extensive media coverage, have granted women greater freedom (Nada, 2020).

Some regulations governing marriage and polygamy include: Law Number 1 of 1974 concerning Marriage. This legislation is the initial regulation addressing these matters; Government Regulation No. 9/1975, regarding the Implementation of Law

No. 1/1974 concerning Marriage; Government Regulation No. 10 of 1983, in conjunction with Government Regulation No. 45 of 1990, concerning marriage and divorce permits for Civil Servants; Presidential Instruction No. 1 of 1991 regarding the Dissemination of the Compilation of Islamic Law (KHI) (Santoso, 2021).

Indonesia embraces legal pluralism in its determination of polygamy cases, drawing from various sources. This acknowledgment stems from the government's recognition of unwritten laws as valid legal doctrines that influence decision-making processes. This legal diversity encourages the public to select legal provisions that align with their preferences while remaining within the bounds of legality, particularly in polygamy cases.

The regulations pertaining to polygamy in fiqh differ from those outlined in Indonesian Positive Islamic Law, as evident in Law Number 1 of 1974 concerning Marriage (Marriage Law) and the Compilation of Islamic Law (KHI). Fiqh offers varying standard requirements for polygamy, reflecting diverse perspectives, whereas positive law presents a unified approach. Fiqh provides certainty, albeit from different sects and interests. On the other hand, positive Islamic law ensures certainty by adhering strictly to a written legal framework; the law is confined to what has been explicitly documented (Hadi, 2023).

The initiation of the polygamy process involves the husband submitting an application to the Religious Court. Before granting or denying a polygamous permit, the Court meticulously examines the conditions to ensure their validity and sufficiency. For a polygamous permit to be granted, the application must satisfy at least one optional condition and three cumulative conditions. The optional conditions include the following: (a) the wife's inability to fulfill her marital duties, (b) the presence of a debilitating or incurable illness in the wife, or (c) the wife's inability to conceive. The cumulative requirements comprise: (a) obtaining written approval/permission from the spouse, (b) ensuring that the husband is financially prepared to support his wife and children, and (c) securing a written commitment from the husband to treat his wife and children fairly. The wife's consent is legally confirmed in court, except in situations where she cannot be present, participate, or provide approval for a period of at least two years. In such cases, the Religious Court Judge will assess the necessity of the wife's approval. Additionally, evidence of the husband's financial capability to meet the family's needs must be substantiated through documents like income statements, tax certificates, and other acceptable certificates. Moreover, a commitment by the husband to treat his wife fairly is typically formalized through an agreement (Widiani, 2022).

Although polygamy rules in Indonesia are not absolutely prohibited, polygamous marriages are very strict. This is because the culture in Indonesia is different from that of other countries, which makes polygamy a source of pride and a symbol of success. Polygamy is considered an ancestral heritage that must be protected. (Ridwan et al., 2024). This perception is different from that of Indonesians who view polygamy as an

abnormal marriage (Nasrulloh & Witro, 2021). Therefore, it is very natural that the existing regulations in Indonesia are trying to narrow the opportunities for polygamy, and the requirements are being tightened.

### **Relevance of Polygamy Requirements from Shahrur's Perspective to Indonesian Social Conditions**

The polygamy requirements proposed by Muhammad Shahrur are worth considering, given the cultural perception in Indonesia that tends to view polygamy as a social disgrace. Therefore, the conditions for polygamy, which require the woman being married to be widowed, can dispel the notion that polygamy is solely driven by sexual needs. Instead, it is based on the principle of mutual assistance, as exemplified by Prophet Muhammad.

Muhammad Shahrur's perspective on the prerequisites for polygamy fundamentally aligns with the principles of safeguarding widows and ensuring justice for orphans. By examining this viewpoint through a historical lens, it becomes evident that his opinion is highly logical. This is because, historically, polygamy was prescribed as a means of providing protection and justice. Indonesia adopts the principle of monogamy, which is culturally and legally known as open monogamy. This means that a husband can only have one wife. However, there are exceptions where a husband can have more than one wife by meeting specific conditions and obtaining permission from the court. A condition is to obtain approval from the existing legal wife, except under special circumstances (Harwis Alimuddin & Abdurrahman, 2023).

In Indonesian law, both the Marriage Law and the Compilation of Islamic Law explain alternative and cumulative requirements. Polygamy may be allowed if any of the alternative requirements are met. However, cumulative requirements are absolute conditions that must be fulfilled by the applicant. Cumulative requirements are crucial in determining whether polygamy is eligible for grant (Hadi, 2023). In Indonesia, the monogamous culture is a marriage system in which an individual officially and legally has only one spouse. This basic principle is reflected in the monogamous open principle of Indonesian culture and law. It is essential to note that Indonesia follows a variant of monogamy known as open monogamy.

The requirements for polygamy, as articulated by Muhammad Shahrur in the context of this study, hold considerable significance in the Indonesian context. The supplementary criterion for engaging in polygamous unions with widows who have dependent children resonates with the notable prevalence of widowed individuals in Indonesia. This particular condition has the potential to reduce the prevailing social perception that predominantly associates polygamy with the fulfillment of carnal desires. Should these specified prerequisites be effectively implemented and steadfastly observed, it would serve as a tangible manifestation that the principles underpinning polygamy are being genuinely employed as a remedial approach to address complex social challenges.

The pertinence of Muhammad Shahrur’s outlined polygamous prerequisites to the prevailing social circumstances in Indonesia can be elucidated comprehensively through the tabulated representation below.

Table Relevance of Muhammad Shahrur’s Polygamy Requirements to the Conditions for Society in Indonesia.

No.	Polygamy's requirements by Shahrur	The Conditions of Indonesian Society	Relevance of Societal Conditions in Indonesia
1.	Must be a widower	The data indicate that there are many women in Indonesia who are widowed, and the majority of them experience concerning economic conditions. Many are compelled to engage in activities such as selling to meet their economic needs.	These polygamous requirements can become an economical solution for windows facing financial difficulties.
2.	Must be with a widow who has orphaned children.	The data indicate a significant annual increase in the number of orphaned children in Indonesia.	These polygamous requirements can be a solution for orphaned children in need of love and education:

The sociocultural conditions in the Arab region differ from those in Indonesia. Indonesia has a monogamous culture, whereas the Arab region has a polygamous culture. Polygamy is a source of pride for them, whereas in Indonesia, it is considered a disgrace. Arab conditions can be traced back to their historical civilization, which was culturally polygamous. Sharia in the Arab region did not advocate polygamy but rather limited it. In the historical context of the Arab region, polygamy aimed not only to increase progeny but also to expand political power.(Shiddiq, 2023). Therefore, in the modern context, polygamous practices in Indonesia are not as significant as those in Saudi Arabia (Hadi, 2023).

In the context of open monogamy in Indonesia, a husband is officially permitted to have only one wife. However, there are exceptions that permit a husband to have more than one wife, provided certain conditions are met and court permission is obtained. One key requirement is the consent of the existing legal wife, except under specific conditions. The principle of monogamy in marriage in Indonesia is not absolute but rather limitative. Monogamy as a principle of marriage is an open concept that can be implemented according to the wishes of the parties and with permission from the court (Askar, 2021).

This open monogamy principle reflects the social values and norms of Indonesian society that value commitment in marriage while providing flexibility in specific situations. The monogamous culture in Indonesia is also influenced by religious factors, as most Indonesian population is Muslim, and Islam regulates marriage procedures. It is important to remember that although the open monogamy principle is widely applied, each region in Indonesia may have varying marriage traditions and practices. Understanding the concept of monogamy and its application can differ among ethnic groups and communities in Indonesia.

Applying the conditions for polygamy advocated by Muhammad Shahrur is equivalent to restoring one of the primary purposes of legislating polygamy based on the concept of "*asbab nuzul*" from the polygamy verse. The revelation of the verse in Surah An-Nisa: 3 and its historical context in relation to Arab society are the reasons behind its descent. In a contextual sense, this verse came to safeguard, protect, and elevate the status of orphaned children or widows left behind by fathers or husbands who perished during the Battle of Uhud. In the pre-Islamic era (Jahiliyyah), the customary treatment of women in Arab society involved marrying or possessing women without limitations, treating women as if they were animals or commodities suitable for trade. The tradition of the Arab people during Jahiliyyah considered marrying numerous women to be a form of wealth. Therefore, substantively examined in the macro and micro contexts, polygamy aims to protect and elevate the status of women, steering away from forms of adultery grounded in principles of welfare and justice (Izzati, 2021).

Furthermore, after revealing the social conditions of society in Indonesia, where it was found that many widows were experiencing economic difficulties, there were even quite a few who were willing to do illegal work to make ends meet. Likewise, there are many orphans who have to work to help support their family's economic needs. If the polygamy requirements proposed by Muhammad Shahrur can be implemented, they could solve the problem of widows and orphans in Indonesia. This means that if these conditions for polygamy are implemented, then one of the objectives of the revelation of the Shari'a can be achieved, that is, to provide protection for life.

This research is expected to contribute to the development of ideas on how to modify Islamic family law in Indonesia. The Compilation of Islamic Law (KHI) in Indonesia was initially drafted to suit the conditions of the time. Therefore, future revisions are necessary that take into account the social conditions of society, including the requirements for allowing polygamy.

## CONCLUSION

Muhammad Shahrur has a different view of polygamy than other scholars. According to him, polygamy is only permitted for widows who have orphans. This condition applies to second, third, and fourth wives. This requirement refers to the principle of protection for widows and justice for orphans. In Indonesia, with its open monogamy principle, allows

polygamy under specific conditions. Considering both the social aspects and the prevailing culture in Indonesia, the conditions proposed by Muhammad Shahrur are relevant to the conditions of Indonesian society. This study asserts that the implementation of polygamy is not only related to religious law but also depends on social conditions, education, and gender justice. Therefore, Shahrur's thoughts provide a more comprehensive view of polygamy, emphasizing the need to consider social aspects when assessing and practicing this in Indonesian society. The study concludes that the polygamy conditions articulated by Muhammad Shahrur are highly relevant and can bring benefits when applied and legislated as rules in Indonesia. *First*, polygamy regulations in Indonesia adhere to the principle of open monogamy. *Second*, polygamy can be a solution for widows in Indonesia who experience many problems. *Third*, polygamy is not prescribed to cause problems but to provide solutions, including solutions to social conditions in society. This research is expected to serve as a basis for making changes to Islamic family law in Indonesia. Specifically, in proposing the draft of the Compilation of Islamic Law (KHI) in Indonesia, it should include the requirements for polygamy as proposed by Muhammad Shahrur.

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