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Implementation of Polygamy Law According to the Perspective of Islamic Law and Human Rights: Case Study in Bireuen Regency

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Abstract

Polygamy is a practice permitted by Islamic law under the conditions stipulated in the Qur'an. In practice, polygamy remains a matter specifically linked to human rights. This article examines the implementation of polygamy law in Bireuen Regency, Aceh. The study focuses on the application of Sharia regulations on polygamy, whether they are in line with or contrary to human rights principles. This research uses a qualitative descriptive method with a case study approach. Data were obtained through interviews, documentation, and literature. The results of the study indicate that although polygamy is strictly regulated by sharia law and regional regulations (qanun), in practice, there is still a neglect of women's human rights, such as the lack of consent from the first wife and minimal legal protection for women due to the practice of polygamy. This fact has an impact on emotional weakness, a decrease in social status, and even makes women very vulnerable to the risk of domestic violence.

Keywords: Polygamy, Islamic Law, Human Rights, Bireuen, Islamic Sharia

Abstrak

Poligami merupakan praktik yang diperbolehkan dalam hukum Islam dengan syarat-syarat yang telah ditetapkan dalam al-Qur'an. Dalam praktiknya, poligami masih menjadi perdebatan khususnya dikaitkan dengan hak asasi manusia. Artikel ini mengkaji implementasi hukum poligami di Kabupaten Bireuen, Aceh. Kajian difokuskan pada implementasi peraturan syariat tentang poligami; apakah sejalan atau bertentangan dengan prinsip-prinsip hak asasi manusia. Penelitian ini menggunakan metode kualitatif deskriptif dengan pendekatan studi kasus. Data diperoleh melalui wawancara, dokumentasi, dan kepustakaan. Hasil penelitian menunjukkan bahwa meskipun poligami di atur secara ketat oleh hukum syariat dan peraturan daerah (qanun), dalam praktiknya masih terdapat pengabaian terhadap hak-hak asasi perempuan, seperti tidak adanya persetujuan dari istri pertama dan minimnya perlindungan hukum bagi perempuan akibat praktik poligami. Fakta ini berdampak pada kesenjangan emosional, penurunan status sosial bahkan sangat rentan terhadap resiko kekerasan dalam rumah tangga.

Kata Kunci: Poligami, Hukum Islam, Hak Asasi Manusia, Bireuen, Syariat Islam

Introduction

Polygamy is a form of marriage practice that is permitted in Islam, with certain provisions that must be met, especially regarding the principle of justice. This practice has long been part of the structure of Islamic family law and is a legacy in various Muslim societies in the world, including in Indonesia. In the Qur'an, polygamy is explicitly regulated in Surah An-Nisa verse 3, which gives permission to Muslim men to marry more than one woman, up to a maximum of four wives, provided they are able to act justly. However, the implementation of this provision in the field often generates debate, especially when linked to rapidly evolving contemporary social, economic, and legal realities.

In the context of the Unitary State of the Republic of Indonesia, polygamy is not only viewed from the perspective of Islamic law alone, but must also be viewed through the lens of national law and constitutional principles that uphold equality and justice. Indonesia is a country of law based on Pancasila and the 1945 Constitution, which guarantees the rights of citizens without discrimination. In this case, the implementation of polygamy must remain within the corridor of protection of Human Rights, especially the rights of women who are often directly affected by the practice of polygamy. This becomes more complex when talking about areas that have special laws, such as Aceh Province.¹

Aceh is the only province in Indonesia that is officially authorized to implement Islamic law in its legal system, based on Law Number 11 of 2006 concerning the Government of Aceh. Bireuen Regency, as one of the administrative

¹Ladan Rahbari, "Marriage, Parentage and Child Registration in Iran: Legal Status of Children of Unmarried Parents," *Social Sciences* 11, no. 3 (2022).

areas in Aceh, is the right location to further examine how polygamy is regulated and implemented within the framework of local Islamic law (*qanun*) and how it is implemented in community life. The implementation of sharia law in this area not only affects religious aspects but also has implications for the social structure and protection of citizens' human rights, especially women.²

The practice of polygamy in Bireuen shows a unique dynamic, where religious, customary, and state norms intersect. Although at the normative level, the Sharia law in Aceh has strictly regulated polygamy, including requiring permission from the first wife and a decision from the Religious Court, in practice, there are many cases of polygamy that are carried out without fulfilling these provisions. Many women feel they do not have the space to refuse or do not even receive adequate information about their rights in the polygamous marriage process. This certainly raises questions about the effectiveness of law enforcement and how far law enforcement and religious institutions are able to guarantee protection of women's rights in the Sharia legal system.³

On the other hand, the implementation of polygamy is also often in the spotlight in international forums, especially from a human rights perspective. Several international conventions that have been ratified by Indonesia, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),⁴ highlighted the practice of polygamy as a form of gender discrimination if not carried out with the principles of justice and equality. The CEDAW Committee even stated that polygamy should be reviewed because of its potential to harm women structurally. In this context, tensions arise between Indonesia's commitment to international law and local policies based on Islamic law, such as those implemented in Aceh, including Bireuen Regency.⁵

The main problem that is the focus of this article is how polygamy law is implemented in Bireuen Regency, Aceh, by considering two main approaches: Islamic law and human rights. Through this approach, the article aims to examine the extent to which Islamic norms that underlie the legality of polygamy can be

²Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024), p. 1948–73; Mies Grijns and Hoko Horii, "Child Marriage in a Village in West Java (Indonesia), p. Compromises between Legal Obligations and Religious Concerns," *Asian Journal of Law and Society*, 2018.

³Joseph Natanael Marshan, M. Fajar Rakhmadi, and Mayang Rizky, "Prevalence of Child Marriage and Its Determinants among Young Women in Indonesia," *Child Poverty and Social Protection Conference*, 2013; Windy Triana and Milah Karmilah, "Gender Awareness in Islamic Legal Education," *Ahkam: Jurnal Ilmu Syariah* 19, no. 1 (2019).

⁴Rudyanti Dorotea Tobing, "Prevention of Child Marriage Age in the Perspective of Human Rights," *Sriwijaya Law Review* 2, no. 1 (2018), p. 1–17.

⁵Abdullahi Ahmed An Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and Intern Law* (USA: Syracuse University Press, 1996); Abdullahi Ahmed An-Na'im, "Qur'an, Shari'a and Human Rights: Foundations, Deficiencies and Prospects," *Concillium* 2 (1990); Baharuddin Lopa, *Al-Qur'an Dan Hak-Hak Asasi Manusia* (Yogyakarta: Dana Bhakti Prima Yasa, 1996).

harmoniously integrated with the principles of human rights protection that have been recognized nationally and internationally. In addition, this study also aims to identify normative conflicts that arise due to differences in the interpretation of Sharia law and human rights provisions, and how these conflicts impact the implementation of law at the local level, especially for women who are the most vulnerable in the practice of polygamy.⁶

This article is important to study further because the practice of polygamy in areas that implement sharia law, such as Bireuen, cannot be separated from the complex cultural, religious, and political context. The discourse on polygamy is not only focused on the realm of substantive law, but also concerns the dynamics of power relations between men and women, the position of religious and state institutions in regulating the private lives of citizens, and the challenges in aligning local laws with universal human rights standards. Therefore, through this study, it is hoped that it can provide a more comprehensive understanding of the implementation of polygamy law in Aceh, as well as provide policy recommendations that support substantive justice for all parties.⁷

This study uses a juridical-sociological approach, namely a legal approach that not only views legal norms as something that is written and formal, but also examines how the law is implemented and has an impact on people's lives. In this context, the juridical approach is used to analyze regulations governing the practice of polygamy, both from the perspective of Islamic law (the Qur'an, Hadith, and classical and contemporary fiqh) and positive law in Indonesia, including the qanun sharia in Aceh and Law Number 1 of 1974 concerning Marriage. Meanwhile, the sociological approach is used to understand the practice of polygamy in the real life of the Bireuen Regency community, especially how the law is implemented by the perpetrators, accepted by the community, and viewed by women who are the direct subjects of the practice of polygamy.

Data collection was conducted through two main sources, namely primary data and secondary data. Primary data was obtained through in-depth interviews with key informants, such as religious figures (ulama), officials of the Office of Religious Affairs (KUA), judges of the Sharia Court, and women involved in the practice of polygamy, either as the first wife, the second wife, or subsequently. In addition, observations of the process of resolving polygamy cases in religious institutions and

⁶John Stuart Macdonald and Leatrice D. Macdonald, "Transformation of African and Indian Family Traditions in the Southern Caribbean," *Comparative Studies in Society and History*, 1973; Muhammad Syahril Razali Ibrahim, "Teungku Muhammad Hasbi Ash-Shiddieqy's Concept Of Marriage: A Maqasidi Approach to Polygamy and Interfaith Marriage Verses in Tafsir An-Nuur," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 47, no. 1 (2023).

⁷Nadezda Belyakova and Taisiya Belyakova, "Women's Rights in the Late Russian Empire: The Paradoxes of the Legislative Basis in the Family Sphere," in *Women in Law and Lawmaking in Nineteenth and Twentieth-Century Europe*, 2016.; Muhazir Muhazir, "Islam, Fatwa Dan Negara: Meretas Pluralisme Hukum Perceraian Di Aceh," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021); Ahmad Bello Dogarawa, "Marriage and Divorce in Islam," *Islam Zeitschrift Für Geschichte Und Kultur Des Islamischen Orients*, no. 23194 (2009).

legal institutions were also conducted to capture the factual dynamics that occurred. Meanwhile, secondary data was obtained from legal literature, academic journals, regulatory documents, and reports from relevant national and international human rights institutions. Data analysis was conducted qualitatively, emphasizing the interpretation of the social and legal meaning of the practice of polygamy and its relationship to human rights values and gender justice.

Islamic Law and Polygamy

Polygamy is one of the most controversial aspects of Islamic family law in modern legal discourse. In Islam, polygamy is explicitly permitted in Surah An-Nisa verse 3: "And if you are afraid that you will not be able to do justice to (the rights of) an orphan woman (if you marry her), then marry (other) women that you like: two, three, or four. But if you are afraid that you will not be able to do justice, then (marry) just one."

This verse is the normative basis that is most often cited in discussions about the legality of polygamy in Islam. However, the verse does not stand alone, but is accompanied by the main condition that is the key to its implementation, namely, justice. The reason for the permissibility of polygamy is that the number of women is greater than the number of men, and if monogamy continues to be maintained, there will be many prostitution practices.⁸

The concept of justice in polygamy is a crucial issue that continues to be debated, both by classical and contemporary scholars. Scholars agree that justice is an absolute requirement in the implementation of polygamy. In the classical view, the justice in question includes balanced treatment in material aspects such as the division of income, time shifts, residence, and emotional attitudes. However, reality shows that many Muslim men are unable to fulfill this principle of justice in full, and some are even unaware of the complexity of the demands of justice inherent in the practice of polygamy.⁹

In contemporary Islamic legal discourse, several Islamic scholars have tried to reinterpret this verse using the maqashid sharia approach, namely an approach based on the noble goals of sharia, including protection of the soul, mind, descendants, and honor. In this context, polygamy can only be justified if it does not cause harm (damage) to the rights of women and children. This view challenges the textualist approach that only sees the verse literally, and proposes that justice be understood in a broader spectrum, including psychological, social, and moral justice.¹⁰

⁸J Priandika et al., "Prostitution, Crime, and Law Enforcement: Criminology Studies in the Argorejo Resocialization and Rehabilitation of Semarang City," *Law Research Review*, 6 (2020).

⁹Raihanah Abdullah and Soraya Khairuddin, "The Malaysian Shari'ah Courts: Polygamy, Divorce and the Administration of Justice," *Asian Women* 25, no. 1 (2009).

¹⁰Nasaiy Azis, Rispalman, and Tika Anggraini, "Polygamy in the Perspective of Tafsir Al-Ahkām and Islamic Law: An Examination of the Gayo Luwes Community in Aceh, Indonesia," *Samarah* 7, no. 3 (2023).

In many Muslim countries, including Indonesia, Islamic law governing polygamy has been adopted into the national legal system with a number of modifications aimed at protecting women's rights. For example, in Law Number 1 of 1974 concerning Marriage, Article 3, paragraph 2 states that a husband may have more than one wife if desired by law and permitted by the court. This provision shows the existence of a form of state regulation of the practice of polygamy based on the principles of justice and protection of women. This means that even though it is permitted by religion, the state still has the authority to regulate its implementation so as not to cause injustice.¹¹

In local contexts such as Aceh, polygamy is further regulated through the Islamic Sharia Qanun. However, this sharia-based legal framework also often fails to accommodate women's rights substantively due to the limitations of the interpretation of justice in Islam. When justice is only understood in the technical aspect of material distribution, the deeper spiritual and social dimensions are often ignored. Therefore, it is important to present a new discourse in Islamic law that is progressive and responsive to social realities, where the practice of polygamy can be evaluated from the perspective of its impact on family welfare, child protection, and household integrity.¹²

Thus, Islamic law cannot be separated from the context of its application. Although it provides legal space for polygamy, the principle of justice remains a key element that must be realized in real terms, not just used as normative rhetoric. In this case, the role of ulama, the state, and civil society is very important to supervise and review the practice of polygamy so that it remains within the framework of substantive Islamic values and does not violate individual rights, especially women.

Human Rights and Polygamy

Human rights are a set of universal values and principles that guarantee the freedom, equality, and dignity of every individual without discrimination. In this context, the issue of polygamy is one of the crucial points in the debate between cultural and religious norms and human rights principles, especially concerning gender equality and the protection of women. One of the most relevant human rights instruments in this regard is the CEDAW, which has been ratified by Indonesia through Law Number 7 of 1984.¹³

CEDAW emphasizes that all forms of discrimination against women must be eliminated, both in public and private spaces, including in the family institution. In the context of polygamy, the CEDAW Committee has consistently stated in its

¹¹Dahlia Haliah Ma'u, "The Harmonization of Polygamy Between Islamic Law and Legal Law in Indonesia," *Samarah* 7, no. 2 (2023).

¹²John C. Mubangizi and Mpho T. Tlale, "How Gender-Based Cultural Practices Violate Women's Property Rights and Inhibit Property Ownership: A South African Perspective," *Women's Studies International Forum* 96 (2023).

¹³Jonathan Porter, "L'amour for Four: Polygyny, Polyamory, and the State's Compelling Economic Interest in Normative Monogamy," *Emory Law Journal* 64, no. 6 (2015).

reports that polygamy is a practice that has the potential to violate the principle of equality because it places women in a subordinate position to men. When a man is given the right to marry more than one woman, while women do not have the same rights, then the power relations in the household become unequal and open up great opportunities for structural injustice.

In various studies, it has been found that the practice of polygamy often leads to various forms of human rights violations. Women who become first wives are often not given the space to give free and conscious consent, which is contrary to the principle of free and informed consent in human rights. Meanwhile, second or third wives often do not have clear legal protection, especially if the marriage is carried out informally (*nikah siri*). Children from these marriages are also at risk of not getting their full rights, such as the right to identity, sustenance, and legal protection.¹⁴

As a state party to CEDAW, Indonesia is obliged to harmonize national and regional laws with the principles of the convention. However, in its implementation, there are still many challenges faced, especially in the context of regions that apply religious-based laws, such as Aceh. In this region, although the implementation of polygamy is regulated through qanun, supervision of its implementation is often weak, and the human rights perspective has not been fully internalized in the legal process or public policy. This creates vulnerability for women, especially in the context of family law.¹⁵

One of the main challenges in integrating human rights with religious law is resistance to the concept of “universality” of human rights, which is considered a product of Western culture that is not fully compatible with local or religious values. In Bireuen, as found in field research, there is a skeptical attitude towards the idea of gender equality, which is considered contrary to Sharia principles. In a situation like this, a dialogical and educational approach is very important so that society does not see human rights as a threat to religion, but rather as part of an effort to protect human dignity, as also taught in Islam.

It is also important to understand that human rights law and Islamic law actually have complementary goals, namely maintaining human dignity, upholding justice, and protecting vulnerable groups. Therefore, the integration of the two should not be seen as a conflict, but as an opportunity to enrich a more humanistic and just legal approach. Within this framework, the state must play an active role, not only as a regulator, but also as a protector of citizens' rights, including in the realm of family and marriage.¹⁶

¹⁴ M Tahir, “Perempuan Dalam Bingkai Hak Asasi Manusia Dalam Hukum Keluarga Islam,” *Musāwa Jurnal Studi Gender Dan Islam*, 2016.

¹⁵ Mubangizi and Tlale, “How Gender-Based Cultural Practices Violate Women’s Property Rights and Inhibit Property Ownership: A South African Perspective.”

¹⁶ Silvana Tapia Tapia, “Human Rights Penalty and Violence Against Women: The Coloniality of Disembodied Justice,” *Law and Critique*, 2023.

Overall, the implementation of polygamy that does not pay attention to human rights principles not only violates Indonesia's international legal obligations but also weakens the position of women in society. Therefore, strengthening the human rights perspective in the national and local legal systems, increasing public awareness, and reforming family policies are urgent matters to ensure that the practice of polygamy is no longer a tool of injustice, but runs in accordance with the principles of substantive justice recognized by all legal systems, both religious and international.

Polygamy in Bireuen: Conflict between Sharia Regulations, Human Rights Violations

Bireuen Regency, as part of Aceh Province that implements specialization in the field of Islamic law, has a legal basis that regulates the issue of polygamy through qanun. One of the main regulations that regulates marriage issues, including polygamy, is Aceh Qanun Number 6 of 2008 concerning Procedures and Conditions for Marriage. In this qanun, polygamy is regulated more strictly by requiring prospective husbands who wish to practice polygamy to obtain written consent from the first wife and official permission from the Sharia Court. This provision substantively aims to maintain the principles of justice, transparency, and protect women's rights in the institution of marriage.¹⁷

However, the implementation of the qanun does not always go according to expectations. Based on the results of field research, interviews with officers of the Office of Religious Affairs, and analysis of case documents at the Sharia Court, various forms of deviation from legal procedures were found. Many cases show that men enter into second marriages without obtaining legal consent from their first wives. In fact, some of these marriages are carried out secretly, through the practice of unregistered marriages, which are not officially recorded in the state legal administration system or regional qanuns. This causes an unclear legal status for the second wife and the children born from the marriage.¹⁸

Weaknesses in the implementation of this regulation can be caused by several factors, including minimal legal supervision, lack of public legal awareness, and limited capacity of sharia law enforcement agencies at the local level. In addition, there is a tendency for some religious figures and Office of Religious Affairs officials to justify the practice of polygamy without formal permission on the basis of "social emergency" or certain personal reasons, such as the inability of the first wife to fulfill

¹⁷Danial, "Polygamy in Perspective of Islamic Law Hermeneutics," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023); Syeh Khaliluddin, "Persepsi Perempuan Bireuen Terhadap Rancangan Qanun Poligami Di Aceh," n.d; Sonia Boulos, "National Interests Versus Women's Rights: The Case of Polygamy Among the Bedouin Community in Israel," *Women and Criminal Justice* 31, no. 1 (2021).

¹⁸Interview with Siti Salwa, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on November 30, 2024; Interview with Muhajir, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on December 1, 2024.

household obligations. These reasons are often not tested objectively, thus opening up space for systematic violations of the law.¹⁹

On the other hand, although normatively the qanun is in line with the principles of Islamic law regarding polygamy, from the perspective of national positive law and human rights, the regulation has not provided maximum protection to women. The absence of a clear redress mechanism for wives who feel disadvantaged by the practice of polygamy, as well as the absence of firm sanctions for perpetrators of illegal polygamy, is a major gap in the local legal system. This creates legal vulnerability, especially for women and children who do not receive adequate legal recognition and social protection.²⁰

Therefore, although the Bireuen Regency Government has a regulatory framework related to polygamy, the implementation of the qanun still needs to be critically evaluated. Strengthening regulations is not only needed in the form of tightening procedures, but also in building a monitoring and law enforcement system that is fair, transparent, and responsive to women's rights. Reformulating the qanun that prioritizes substantive justice and the involvement of women's groups in the legislative process can be a solution to encourage the creation of polygamy practices that are truly in accordance with Islamic values that are *rahmatan lil alamin* and in line with the principles of human rights.

Polygamy Practices and Human Rights Violations

In practice, polygamy in Bireuen Regency not only causes legal and social problems but also leads to violations of human rights, especially women's rights. Based on field data obtained through interviews with women who are first and second wives in polygamous marriages, various forms of injustice and inequality were found. Many of them admitted that they were not given information or the opportunity to give their consent to their husband's plan to remarry. In some cases, the first wife even found out about her husband's second marriage after it had been going on for quite some time. This clearly contradicts the principle of free and informed consent in human rights, which emphasizes the individual's right to approve or reject decisions that have a direct impact on their lives.²¹

In addition, conditions were also found where second wives did not receive proper legal protection. Because the marriage was not officially registered, second wives were in a very vulnerable position, both legally and socially. They did not have access to inheritance rights, clear rights to support, or protection in cases of divorce.

¹⁹Interview with Islahul Umam, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on December 2, 2024; Interview with Muhammad, Head of the Samalanga Religious Affairs Office, Bireuen, Aceh on November 30, 2024; Interview with T. Mursal M. Nur, Head of the Juli Religious Affairs Office, Bireuen, Aceh on November 30, 2024; Interview with Ibnu Mujahid, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on November 30, 2024.

²⁰F M Yunus, "HKI: Legislasi Qanun Hukum Keluarga (Ahwal Al Syakhsiyyah) Analisis Metode Penalaran Hukum Islam Dalam Proses Taqin Di Aceh" (repository.ar-raniry.ac.id, 2020).

²¹Khawla Zoabi and Carol Fuller, "Reflexivity and the Change in Women's Status: The Case of Arab Bedouin Women in Israel," *Cogent Social Sciences* 10, no. 1 (2024).

Children born from unofficial marriages also potentially face difficulties in obtaining legal identities, such as birth certificates. From a human rights perspective, this situation is a form of violation of children's rights, the right to a legally recognized family, and women's rights to equal legal and social protection.²²

Reports from several women's protection institutions in Aceh also noted that the practice of polygamy in several areas, including Bireuen, is often accompanied by domestic violence, both physical and psychological. First wives who feel betrayed or have lost their social position often experience mental stress, depression, and in some cases are forced to leave the household without getting their rights. On the other hand, husbands who practice polygamy often neglect their responsibilities towards their wives and children from their first marriage, especially in economic aspects. This inequality shows that polygamy carried out without the principle of justice actually opens up a large space for structural human rights violations.

From an international legal perspective, polygamy practices that do not meet the principles of justice and equality are considered to violate the provisions of the CEDAW, which has been ratified by Indonesia. The CEDAW Committee, in its various reports, explicitly states that polygamy is a form of gender discrimination that has the potential to harm women in the long term. Therefore, the state—including regional governments with special autonomy such as Aceh—is obliged to ensure that applicable laws and practices do not disadvantage one group based on their gender or social status.

Considering these facts, the practice of polygamy that is not in accordance with procedures and is not accompanied by legal protection is actually contrary to the spirit of Islamic law, which prioritizes justice and protection for the weak. Violation of women's rights in this context is not only a legal problem, but also a moral and social problem that needs to be addressed systematically. Local governments, religious institutions, and civil society need to work together to create a system that is not only legally valid but also substantively just.

Tensions between Islamic Law and Human Rights in the Practice of Polygamy in Bireuen Regency

The tension between Islamic law and human rights in the practice of polygamy in Bireuen Regency is a reality that cannot be ignored. This region, as part of Aceh Province, which formally implements Islamic law, is in a unique position because it has a local legal framework (qanun) that is derived from religious teachings, while on the other hand, it remains bound by the national constitution and international commitments to the protection of human rights. In this context, polygamy is a very sensitive issue because it concerns the interpretation of Islamic teachings that have been established for centuries, but must also be adjusted to the

²²Khairul Hamim, "Comparison Between Double Movement Theory And Nazariyyat Al-Hudūd Theory On Polygamy Laws," *El-Mashlahah* 12, no. 2 (2022).

development of the times, especially in terms of gender equality and the protection of women's rights.²³

Most people in Bireuen still hold conservative views towards religious texts, including in understanding the legality and validity of polygamy. The interpretation of Surah An-Nisa verse 3, which allows Muslim men to marry more than one woman up to four, as long as they are able to act fairly, is often interpreted literally and normatively. In this view, polygamy is considered a male prerogative protected by religion, and therefore, should not be questioned or limited by state law. This narrative is widely supported by some religious figures who still use the classical fiqh approach without considering the current socio-cultural context which has changed significantly.

However, this approach often causes problems when faced with the basic principles of human rights that prioritize equality, freedom of choice, and women's rights to live without discrimination. In practice, polygamy often places women in a subordinate position, both legally and socially. Based on interviews with women's activists and victim support institutions in Bireuen, it was found that many women feel they have no power in decision-making regarding polygamy. They are not given space to voice their opinions, let alone to reject their husbands' decision to remarry. In some cases, women even experience psychological, social, and economic pressure due to the unilateral decision of their husband to practice polygamy without considering the impact on the family that has been built.²⁴

This tension becomes stronger when Islamic law used as a local reference is not accompanied by a contextual reading of the basic values of Islamic teachings themselves. In fact, in the history of Islamic thought, many contemporary scholars such as Fazlur Rahman, Amina Wadud, and Abdullah Saeed emphasize the importance of understanding the Qur'an historically and contextually. In this perspective, the verses on polygamy are not intended to open the way as wide as possible for men to marry more than one, but rather as a form of regulation against the practice of wild polygamy that occurred in the early days of Islam. The goal is to limit, regulate, and demand great responsibility from a husband who wants to marry more than one, not to encourage polygamy as a form of normative relationship in the family.²⁵

In the context of human rights, the practice of polygamy that does not meet the principle of justice can be categorized as a form of gender-based discrimination. The CEDAW Committee, which is part of the international legal system that has been ratified by Indonesia through Law No. 7 of 1984, firmly states that polygamy is a violation of women's rights, especially if it is carried out without the free consent

²³Najichah Najichah, "Reconstruction of Islamic Family Law in Indonesia Through Constitutional Court Decisions," *Walisongo Law Review (Walrev)* 4, no. 2 (2022).

²⁴Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika*, 2020.

²⁵Haikal Fadhil Anam, "Poligami Dalam Hermeneutika Feminis Amina Wadud," *Musāwa Jurnal Studi Gender Dan Islam* 19, no. 1 (2020).

of the first wife and without clear guarantees of justice. In its periodic reports, the CEDAW Committee has encouraged member states, including Indonesia, to limit the practice of polygamy and ensure that women receive equal legal protection.²⁶

However, in Bireuen, resistance to the human rights approach is still quite high. Many parties consider that the concept of human rights is a Western product that is not in accordance with Islamic values. This view is reinforced by the absence of a balanced discourse between Islamic values and human rights in education, local media, and religious forums. As a result, there is a sharp polarization between parties advocating for human rights-based marriage law reform and parties that want to maintain Islamic law rigidly. Several women activists in Bireuen even experience social pressure when voicing criticism of the practice of polygamy, because it is considered to be against Islamic law or disrespectful of local customs.²⁷

To overcome this tension, a dialogical and integrative approach is needed. There must be an effort to find common ground between Islamic law and human rights principles, not in the sense of imposing certain values, but within the framework of seeking substantive justice that is in line with the maqashid sharia, the main objectives of Islamic law—namely protecting religion, soul, mind, descendants, and property. Within the framework of maqashid, gender justice and protection of women are part of the objectives of sharia itself. Therefore, rereading the verses on polygamy and reformulating the qanun that are more responsive to human rights are not only possible, but are a necessity.²⁸

As a strategic step, the local government and the Bireuen Regency People's Representative Council can involve women's organizations, academics, and progressive religious figures in the process of revising the qanun on marriage. Education and legal literacy for the community, especially women, are also very important so that they understand their rights and have a bargaining position in marriage relations. Religious institutions such as the Ulama Consultative Assembly need to be encouraged to provide a more inclusive interpretation of Islamic teachings, which prioritize justice and mercy for all humans, not just formal legality.²⁹

Thus, the tension between Islamic law and human rights in the practice of polygamy is not something that cannot be bridged. Through a contextual approach,

²⁶Mohamad Hidayat Muhtar et al., "Critical Study of Sharia Regional Regulations on Women's Emancipation," *International Journal of Religion* 5, no. 2 (2024), p. 23–26; S Fakhriah et al., "Keadilan Gender Dan Pemaksaan Perkawinan Berkedok Budaya Di Aceh-Indonesia Dan Negeri Selangor-Malaysia.," *Jurnal Ilmu Hukum*, 2024.

²⁷Euis Nurlaelawati, "For the Sake of Protecting Religion: Apostasy and Its Judicial Impact on Muslim's Marital Life in Indonesia," *Journal of Indonesian Islam* 10, no. 1 (2016), p. 89-112.

²⁸Mohd Kalam Daud and Rahmatul Akbar, "Hareuta Peunulang: Protection of Women in Aceh According to Customary and Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, vol. 4, June 2020; Sayuthi Sayuthi and Dedy Sumardi, "Model Penyelesaian Sengketa Waris Dalam Masyarakat Aceh," *Indonesian Journal of Shariah and Justice* 1, no. 2 (2021).

²⁹Abu Bakar, "Women on the Text According to Amina Wadud Muhsin in Qur'an and Women," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 13, no. 1 (2018).

inter-community dialogue, and the courage to reform local regulations, the practice of polygamy can be directed so that it is not only legal according to religious law, but also fair according to conscience and universal human values.

Conclusion

Based on the study that has been conducted, it can be concluded that the implementation of polygamy law in Bireuen Regency presents a complex dynamic between Islamic legal norms, local regulations based on sharia, and human rights principles. Although normatively polygamy is permitted in Islam with the main condition of justice, in practice, this condition is often ignored or interpreted loosely. The Qanun that regulates marriage in Bireuen has indeed established a mechanism for approval from the first wife and permission from the court, but there are still many cases of polygamy that take place outside the formal legal mechanism, which results in the vulnerability of women and children in terms of legal protection and their rights. This shows that the principle of justice that is the foundation of polygamy in Islam has not been fully realized in social reality. From a human rights perspective, polygamy practices that do not meet the principles of justice and free consent have the potential to violate the principles of gender equality and protection of women as mandated by CEDAW and the 1945 Constitution. Tensions between religious norms and human rights principles arise when religious interpretations are used to justify discriminatory practices. Therefore, an integrative approach is needed between contextual Islamic values and human rights principles that guarantee substantive justice. Policy reformulation, strengthening the capacity of law enforcement institutions, and comprehensive public education are important steps to ensure that the practice of polygamy in Bireuen is not only legally valid but also socially and humanely just.

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Interview

Ibnu Mujahid, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on December 1, 2024.

Islahul Umam, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on December 2, 2024;

Muhajjir, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on December 1, 2024.

Muhammad, Head of the Samalanga Religious Affairs Office, Bireuen, Aceh, on November 30, 2024;

Siti Salwa, Judge of the Bireuen Sharia Court (Mahkamah Syar'iyah) on November 30, 2024;

T. Mursal M. Nur, Head of the Juli Religious Affairs Office, Bireuen, Aceh, on November 30, 2024;