



## **REVIEW OF KHI ON POLYGAMY LIFE OF POST PANDEMIC (study in Troso Village, Pecangaan District, Jepara Regency)**

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### **Abstract**

*KHI has the wrong aim to maintain and improve the quality of polygamous marriages. This study aims to: (1) Find out what are the factors that cause polygamy in Troso Village. (2) Knowing the form of post-pandemic polygamous family life. (3) Review of polygamous life in the post-pandemic. The research uses a qualitative approach method, namely explaining the results of the research in logical sentences so that they can be understood, easy to understand and in accordance with the realities in the field. Source of data obtained through primary data and secondary data. Data collection techniques were in the form of observation, interviews and documentation, then data validity was tested, and the final stages of data analysis techniques were data reduction, data display and conclusions. The results showed that the causes of polygamy in Troso Village were because the wife could not have children, the wife could not have sons, the wife was sentenced to not being able to conceive, she could not carry out her obligations as a wife due to long distances (children did not want to be left behind and don't want to be invited). The post-pandemic form of polygamous life in polygamous families has seen many declines in terms of harmony or the economy because in the post-pandemic period there were many unemployed because the sales level of the Troso woven fabric industry could not be as stable as before the pandemic, some even went bankrupt until their assets were sold out to support their two families. In the Compilation of Islamic Law, polygamy is permitted according to religion and according to the state by fulfilling one of the conditions for obtaining permission from the religious court. In the post-pandemic period, many polygamous practices in society have caused widespread social problems.*

**Keywords:** Polygamous Marriage, KHI, Post Pandemic

### **INTRODUCTION**

Marriage in Islam in general is a marriage that is recommended and is sunnatullah in the Islamic religion by living as a couple, marriage is also an effort to maintain honor so as not to fall into a forbidden path. In Fiqh, marriage has two meanings, namely (1) according to language, it is a meeting or relationship, (2) according to law, it is a certain verbal contract or agreement made by a man to a woman. As a husband and wife build a life together (Peunoh, 1998: 104).



Marriage according to Article 2 of the Compilation of Islamic Law is: marriage with a very strong contract or *mitsaqan ghalidhan* to obey and fulfill the commands of Allah SWT is worship. The word *mitsaqan ghalidhan* comes from the words of Allah SWT: "And how will you take the dowry that you give to your wives, even though some of you have been together as husband and wife and they (your wives) need strong consent (*mitsaqan ghalidhan*) from you." The marriage bond is a *mitsaqan ghalidhan* and obeys the commands of Allah SWT with the aim of fostering and forming a spiritual and physical bond between a man and a woman as husband and wife in a happy and eternal domestic (family) life (Djamaan, 1998: 5).

The Qur'an advocates marriage, and marriage is used as a way to satisfy biological instincts. Islam encourages humans to marry those who are not married and requires them to take care of themselves for those who are not married, from the recommendation that marriage is full of conditions so that this goal is emphasized in verses of the Qur'an including:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَرْضَوْا ۚ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَعْتَمِرُونَ (الروم : 21)

"And among his signs (patience) is that he created mates for you from your own kind, so that you would be inclined and feel at ease with him, and he created among you feelings of love and affection. Indeed, in that there are indeed signs (of Allah's greatness) for a people who think" (Al Qur'an, 20016).

The verse above explains that marriage in Islam aims to fulfill a person's sexual needs in a halal manner and to form a lineage of mutual love (*mawaddah*) and love (*rahmah*) between a man and a woman. So the main purpose of marriage is to legalize the relationship between two different sexes, which was previously illegal in holding relationships, kissing, intimate relationships. After the *ijab qobul*, all these things become halal.



In Islam, the laws of marriage are the Koran, Assunnah, and Ijma. Some scholars are of the opinion that marriage law is mubah (permissible). A law can be sunnah, obligatory, makruh and haram depending on the purpose of the law, namely:

1. Marriage becomes sunnah when someone is considered capable in terms of physical growth and wants to get married and already has a stable income.
2. Marriage becomes mandatory when a person is considered to be physically mature and has a stable income and wants to get married, so there is a fear that if he does not get married immediately he will be caught in adultery.
3. Marriage becomes makruh when the person is physically healthy enough or old but not yet urgent. However, he still does not have a stable income and if he marries it will bring misery to his family (children and wife).
4. The law of marriage becomes haram when someone marries a woman to pursue her or for revenge (Mardani, 2011: 12).

Thus in Islam polygamy is permitted in Islam (in urgent circumstances, as long as it is fair), among others (Abdurrahman, 2006: 136):

1. Produces offspring for fertile men and barren women.
2. Avoid divorce even though the wife cannot fulfill her obligations as a wife.
3. Avoid adultery and other moral crises in husbands.
4. Saving women from a moral crisis because there are more women than men.

The Qur'an explains in Surah An Nisa verse 3 about polygamy: So marry with whomever you like among the women, two, three, or a quarter; and if you fear that you will not be just, then one or the woman your right hands possess. That is better. Do you not (depend on one another? 3

Surah An Nisa' verse 3, this is always used as an argument for polygamy. This verse was revealed about the actions of unjust guardians towards the orphans they looked after. As a result of defeat in the war, many Muslim soldiers died on the battlefield and this caused an increase in the number of widows and orphans in Muslim communities. The responsibility for caring for orphans is then delegated to their guardians (Khoiruddin, 2005: 80).



From a legal perspective in Islam, in principle polygamy is permitted as long as there are reasons, conditions and procedures determined by Islam, even though there are other parties who oppose this practice. However, in reality, polygamy has been passed down from generation to generation among Indonesian people. Most men don't understand the actual rules of polygamy. If you do this practice without seeing the negative effects that will appear in the future. According to the Compilation of Islamic Law, it is not much different from the Marriage Law on the issue of polygamy. Especially for those who are Muslim, the implementation of polygamy is regulated in the Compilation of Islamic Law Book I concerning Marriage Law Chapter IX Article 55-59 (Surjanti, 2014: 19).

Due to the Covid 19 pandemic , home ladder is at risk of loss work and financial insecurity in House . Valid for the new normal that is open up the economy full with rule new For support resilience House ladder. Head House ladder And member House ladder productive return can do his best work in outside House And capable drive the national economy as well as reduce risk shock House ladder. The post-pandemic era too need resilience Healthy form pattern life clean And Healthy through sport , pattern eat , and Sleep Which Enough. When face post- pandemic situation , health public will increase And quality life they increased , especially in region Troso village .

In the post-pandemic period, the practice of polygamy has become increasingly common among the people of Troso Village. The practice of polygamy in Troso Village has increased due to several factors, including the desire to have children, because they want to channel their desires, and even because of their ability to obtain wealth.

Some of the factors above are quite interesting about the practice of polygamy in Troso Village, namely that people from Troso weaving entrepreneurs or weaving bosses who practice polygamy will gradually decline or go bankrupt. This makes researchers interested in researching this problem in relation to the current era, namely the post-pandemic era, with the lives of polygamous people, especially in the economic sector, by reviewing the Compilation of Islamic Law.



## **Family Resilience in the New Normal Post Covid 19 Pandemic**

The new normal is a challenge for family resilience, on the one hand, families are strong in terms of fulfilling the family's economy. The impact of the Covid 19 pandemic is job loss and family financial insecurity. Families who had no savings at the start of the pandemic where restrictions on social and economic activities were imposed. What worries the Indonesian people is that they will not be able to fulfill their family's basic needs, namely food. But for those who have savings, in this era of restrictions they are not too worrying and have sufficient family resilience to withstand risks and shocks.

All communities in this condition have adapted to clean and healthy living and need to develop it with various sustainable programs and activities. To maintain sustainability, it is not enough to leave it to the community alone. There is also a need for a program to maintain the balance of biotic (living creatures) and abiotic (socio-economic life) which has now been jointly initiated, including social care relations. For example, education, social religion, economic infrastructure, health, and especially the government must prepare well for post-pandemic conditions in order to maintain the harmony of a healthy and productive life.

## **RESEARCH METHODS**

This research uses a type of field research , namely research carried out at the location of the event being studied (Sutrisno, 1995: 10). Research is carried out directly at the location of the symptoms to find facts that correspond to specific problems around the research location (Raco, 2010: 9).

This research uses a qualitative research approach. With the aim of explaining and resolving problems that occur by collecting comprehensive, concrete, measurable and clear data. The data obtained from qualitative research is in the form of interview notes with the parties concerned, namely people who practice polygamy in Troso Village, Pecangaan District, Jepara Regency, with research directly coming to the place



being researched to observe it, and being directly involved to find out clearly what they want. .

Descriptive qualitative research was chosen by the researcher in carrying out this research. Descriptive qualitative research is data that has been collected in the form of sentences and not in the form of numbers obtained through interviews, observation and documentation. In this research, an empirical juridical approach is applied, which is a technique for analyzing problems that have been formulated, carried out using a combination of primary and secondary legal materials.

## **RESEARCH RESULTS AND DISCUSSION**

### **Driving Factors for the Troso Village Community to Practice Polygamy**

The reasons behind the practice of polygamy in society are:

- The reason why the wife was unable to get pregnant again after having two female offspring was proven after a medical examination and that the father wanted male offspring (Ar, 2022).
- The wife suffers from a disease that is difficult to cure or a terminal illness that makes her unable to fulfill her obligations as a wife (Basit, 2022).
- The reason the wife cannot get pregnant and this is proven after a doctor's examination, as well as the reason for practicing polygamy is that polygamy is the Sunnah of the Prophet and is based on the ability to obtain wealth (Nawawi, 2022).

The positive law that applies in Indonesia states that a husband who is polygamous must first ask permission from the court. The court will give permission to a man to marry more than one wife if there are certain reasons or causes and several cumulative conditions that must be met, namely: to obtain the approval of his wife or wives, it is certain that the husband can guarantee the life of his wife and children, can act fairly towards his wife and children.



## **The Reality of Post-Pandemic Polygamous Life in Troso Village, Pecangaan District, Jepara Regency**

Family life in the post-covid-19 pandemic era in increasing family harmony is emphasizing the fulfillment of tasks and must accept each other and fill in the gaps between partners. Islam allows polygamy in emergency situations, this is limited by standards, namely the ability to provide for one another, being fair to one's wives and getting along well.

The research results show that there are forms of polygamous marriage which are carried out in a series, and some are official according to religion and state. In Islamic Marriage Law regarding the meaning of unregistered marriage: a. Siri marriage is a marriage that is carried out in accordance with the correct conditions according to Islamic law but is not in accordance with the pillars of marriage. b. A private marriage is a marriage that is carried out in accordance with the pillars and conditions of marriage, but through a process that is not correct according to marriage law.

The Covid-19 pandemic that hit Indonesia last year affected various sectors of life. The most influential sectors are health, economy and education, with varying degrees of severity in each region. One of them is in Troso Village, Pecangaan District, Jepara Regency, which had an economic impact due to Covid-19, many residents who were weaving employees were laid off due to the reduction in the woven fabric sales sector, as did the boss who owns the Troso weaving production. Especially among bosses who practice polygamy with decreasing business, they have to support two families so that they can always be a harmonious and sufficient family.

## **Compilation Review of Islamic Law on Post-Pandemic Polygamous Life in Troso Village**

Islam has fully and completely regulated polygamy, but in reality people who practice polygamy do not comply with the teachings of the Islamic religion or the rules





of Islamic law. Most people do polygamy because they follow their desires, especially in Indonesia. To create public benefit, it is necessary to implement clear and firm boundaries, so that a husband who wants to practice polygamy is not only based on lust, but also fulfills the husband's responsibility to create a family that is in accordance with Islamic law, namely a family that is *sakinah, mawaddah, warahma*. .

The article regulating polygamy is regulated in chapter IX KHI, the conditions stipulated are not only essential requirements but also formal requirements. Article 55, which is the main opinion regarding polygamy with a husband, regulates the implementation of rights.

Article 55:

- 1) Having more than one wife at once, limited to four wives.
- 2) The main condition for having more than one wife is that a man must treat his wife and children fairly.
- 3) If the main requirement is in paragraph 2, the husband cannot have more than one wife.

Article 55 paragraph 1 explains that a husband who wishes to practice polygamy is limited to four wives, and the husband must be able to act fairly by fulfilling all rights and responsibilities to his wives and children. However, when a husband is unable to fulfill the requirements in article 55 paragraph 2, a husband is not allowed to practice polygamy.

Article 56:

- 1) A husband who wishes to marry more than one wife must ask permission from the Religious Court.
- 2) Submission of a permit application as intended in paragraph (1) above must be carried out according to the procedures stipulated in Chapter VIII of Government Decree Number 9 of 1975.





- 3) Marriages with second, third and fourth wives without the approval of the Religious Court have no legal force.

Article 56 is a formal requirement for polygamy that a husband must go through if he wants to have polygamy. This decision was made to protect polygamists, because Indonesia is a country of law, so everything that concerns society must be known by the relevant state authorities, such as polygamy, namely the Religious Courts.

Article 57:

The Religious Court gives permission to a husband to practice polygamy if:

- 1) If a woman cannot fulfill her duties, let her be a woman.
- 2) The wife has an incurable disability or disease.
- 3) The wife cannot produce children.

In the article above, the wife has real conditions, namely real conditions attached to the wife so that the husband has a logical reason to carry out polygamy.

Article 58:

- 1) Apart from the requirements stated in article 55 paragraph (2) which requires obtaining permission from the Religious Court, you must also fulfill the requirements specified in article 5 of Law no. 1 of 1974, namely:
  - a) There is consent from the wife.
  - b) There is certainty that the husband is able to guarantee the needs of his wives and children.
- 2) In the provisions of article 41 (b) State Regulation no. 9 of 1975, the wife's consent can be given in writing or verbally, but it is a written agreement that the consent is confirmed by the wife orally in the Religious Court at the time of the trial.
- 3) Consent according to paragraph (1) letter a is not required from the husband, if the wife or wives cannot be asked for consent and he cannot reach an agreement



or there is no information about his wife for more than 2 years or for other judicial reasons. A decision will be obtained.

The explanation of article 58 above is a formal lawsuit by a wife against her husband who wants to participate by involving the competent authority.

Article 59:

The wife does not want to grant permission and several wives hold permission for the reasons stated in article 55 paragraph (2) and 57, so the Religious Court can grant permission after examining and listening to the statement of the wife concerned. Religious Court, wife and husband to appeal or cancel the decision.

Article 59 explains the attitude of the Religious Courts in dealing with polygamous wives who maintain their opinions. However, in reality, practicing polygamy with permission has many problems. Judges often allow husbands to practice polygamy even though their wives do not give permission. Because the wife's permission is not mandatory. If they do not want to give permission but the judge is of the opinion that the wife cannot fulfill her obligations properly, then the judge has the right to give permission to the husband to carry out polygamy in his interests (Amin, 2004: 299).

An ideal household must be built on a religious basis, as well as a material basis. A religious spiritual foundation that aims to provide coolness, calm and happiness physically and mentally to start a *sakinah* family. Even though basic materials are a means of ensuring the maintenance of a happy family life, on this basis the husband can provide a living to meet the family's needs, especially in this post-pandemic era, where previously during the pandemic the economy declined drastically, in this post-pandemic era we must start building the family economy starting from the bottom.



## CONCLUSION

Polygamy that occurs in Troso Village, Pecangaan District, Jepara Regency is more influenced by biological factors, family conditions, economic conditions and the ability of men to engage in polygamy. Basically, polygamy is based on good intentions so that the polygamy carried out can benefit the wife and children. A husband who carries out polygamy without good intentions tends to be more selfish, which only serves to satisfy his lust and leads to arguments and regrets in the future. Especially in Troso Village, where the myth is that when people who own the Troso Weaving Industry business carry out polygamy, their business will go bankrupt.

Polygamous marriages that occur in Troso Village are carried out in a Siri manner and also officially in accordance with Religious and State Law. Even though polygamy in Indonesia is regulated in Marriage Law Number 1 of 1974 and the Compilation of Islamic Law. In this post-pandemic period, life in the Troso Village community has been impacted by various aspects including health, education and economic difficulties. This results in decreasing family harmony or lots of quarrels. Especially for polygamists in Troso Village, which has an impact on their wives and children.

Compilation Review of Islamic Law on Post-Pandemic Polygamous Life in Troso Village, Pecangaan District, Jepara Regency, including: The reality of polygamy in Troso Village, Pecangaan District, Jepara Regency is still not in accordance with State Law. In the country, this is implemented in the law and the preparation of the Compilation of Islamic Law as the basis for polygamy. The Compilation of Islamic Law in Book I stipulates Marriage Law in Chapter IX, Articles 55-59. The Religious Court decided to legalize polygamy because it is the only institution that has the authority to allow polygamy. Only four people are allowed to practice polygamy and must be treated fairly. Polygamy has been allowed since the beginning of Islam, polygamy is allowed because it is truly an emergency.



Islam does not encourage polygamy, let alone force it. Regarding polygamy, in Islamic teachings, polygamy is an emergency solution. Because polygamy in society has caused widespread social problems, especially in the post-pandemic era, there is a lot of domestic violence, violations of children's rights and neglect of wives and children, especially psychologically and financially.

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