

The Concept of Justice As A Requirement For Polygamy According To The Imam Syafi'i Mazhab

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ABSTRACT

Nothing obligations in Islamic law that dictates his people polygamy, will but Islamic law does not forbid his people for polygamous husband can married one or more people However own condition that is Can fair to his wives. The term polygamy Already No stranger to heard ear, because Already Lots practice polygamy that happened, but that happened problem is No implementation of a sense of fairness in polygamy. A sense of fairness is prioritized in matters polygamous, because mistakes made at home ladder will can trigger dispute between One with others. Draft justice exists a number of opinion from among the ulama. Although there is differences in concepts fair in polygamy will but the ulama remained agreed that polygamous men only can maximum with four wives. This type of research uses library research or can be known as with study bibliography, that is with research various sources of books, Al-Qur'an, Hadith and several trusted journals. From this research, the author find answer about draft justice in polygamy according to Imam Shafi'i Madzhab, namely fair in giving livelihood, fair in giving place stay, and be fair in giving turn to wife.

Keywords: Polygamy, Justice, Imam Syafi'i, Sharia

INTRODUCTION

Constitution Article 1 No. 1 of 1974 concerning marriage discuss about sacred and bound relationship between men and women as partner husband wife for become happy family based on with divinity of the Almighty. (Wafa, 2018) In article 2 of the Compilation of Islamic Law (KHI) marriage is sacred relationship form contract or *miitsaaqan Ghaliizhan* that is for worship and practice God's command. (Amalia, 2016) Very strong contract It means that is with No easy disconnected something relationships that have been built based on Islamic law.

Definition of Imam Shafi'I to wedding that is A contract ownership and authority intercourse in enjoyment connection sexual (Al-Juzairi, 2021). Wahbah al- Zuhaily explain that wedding is the contract that delivers to meaning have intercourse. Based on second the definition that has been explained so objective

from wedding that is, so that it is halal intercourse so that get A descendants. (Muzammil, 2019).

In case descendants sometimes women are sued For fast get descendants. Even in girls up to 5 years or more build House ladder However Not yet get descendants, so the man is recommended for married another woman (polygamy) with hope can own descendants from woman second. Sometimes there are reasons for polygamy No only for obtain descendants, but also assume that Polygamy is also the sunnah of the Prophet Muhammad.

Speak problem Polygamy is discussed in Islamic law, the words polygamy or ta'addud az-zaujāt It means condition allowed polygamy If a man want to marry two, three, or four wives so must Can treat everything with the best justice (Sayyidah, 2021).

Verse that explains about obligation treat wife in a way fair that is found in surah An-Nisa verse 3, this verse explains that a husband who wants to do polygamy to his wife was given limitation four wives with condition husband the must Can fair towards his wives. This verse confirms that justice polygamy of course become the most important condition If want to do it.

Now this is polygamy No only become debate among legal scholars will but among the community also refused exists polygamy especially circles women who don't willing heart his partner divided. Those who are pro against polygamy think that polygamy It is the sunnah of Rasulullah because Rasulullah also did it polygamy. While they are the ones who are against it to polygamy assume it is form no fairness and discrimination race woman (Humairoh, 2020).

In this case there is Other verses are also explained about justice in polygamy carried out by one person husband namely in QS. An-Nisa verse 135. In this verse Allah swt . called on his people always applies fair to anyone and no one differentiate with other humans. Likewise somebody If will become witness that they must express his testimony with as fair as possible (Nasor, 2018).

Concept fairness in this case confirms that if husband intend For married several wives so must with condition Can fair in terms of love darling, division subsistence, share time night and fair in giving happiness and protection to child. In this case one man No can only tend to one from his wife just (Setiyanto, 2017).

Imam's School of Fiqh allow exists polygamy, however must own condition special that is fair to his wives (Zulkarnain, 2020). So it's appropriate with title, author intend want to know How concepts and laws fair polygamy according to Imam Shafi'i school of thought (Fathoni, 2023).

Qurrotul Ainiyah in her article entitled Polygamy in Indonesia from the Perspective of CEDAW and Madhab Shafi'I, explained that law polygamy according to Imam Shafi'i as found in the verses of the Qur'an that rule polygamy

can be changed in accordance with the condition (Ahdiyatul Hidayah, 2022). Different with opinion from CEDAW based on benefit, maqasid al-shari'ah, thinking society and wisdom so law Polygamy is considered haram li ghairihi. (Ainiyah, 2017).

Natriani and Irfan Lewa (2022) in their article entitled The Concept of Fairness in Polygamy Muhammad Quraish Shihab and Amina Wadud's perspective, in conclusion write that draft justice taken on polygamy that is No fair about inner (love darling) but fair in material terms (Hidayah, 2023). He. Opinion that polygamy No recommendation but alternative to the problem family. Whereas draft fair according to Aminah Wadud namely treatment fair to child orphan must be carried out by the man in charge answer manage riches that is with marry him. But in this case Amina Wadud is not allow exists polygamy Because no there is recommendation polygamy in the Qur'an (Lewa, 2022).

RESEARCH METHODS

This research uses method is qualitative. The qualitative method is intended for this research to be of high quality and to be development knowledge to insight into the field education that will be examined. This type of research uses library research, namely with study studies document. Using the Koran, Sunnah, books and journals as primary and secondary data. Focus This research aims at the concept justice as condition polygamy according to Imam Shafi'i School (Hukum, 1997).

RESULTS AND DISCUSSION

Meaning justice

Fair in review language contain meaning of ' adl It means give something definite law and the word al-idl meaningful change something. According to Encyclopedia of Islamic Law meaning the same or not differentiate. So that fair Can said something that is the same with the same scales and not burdensome rate whatever It means No There is difference from facet side anywhere (Sayyidah, 2021).

Justice is something principles and rights that must be upheld. So in the Al-Qur'an it is explained about practice justice as form award towards people who have do fair that is with lift degrees them (Supangat, 2021). In the verses of the Koran say that fair is reflection from piety. As the word of Allah SWT which is explained in QS. Al -Maidah verse 8, about people who become enforcer justice and witnesses must fair then mention the person who can applies fair that's a pious person. People who can fair to himself and his family so be safe from God's law later day (Hidayah A. S., 2023).

In QS. An-Nisa verse 58 Allah says that people man If give trustworthy so

must truly convey it. No way exaggerate or reduce. Because people are hypocrites is one of them those who don't convey trustworthy with right (Terjemahnya, 2016).

Word in QS. An-Nahl: 90 confirmed that Allah swt ordered man For do justice. Good justice for the state, tribe, nation, religion and so on fair to his family. Meaning fair to Woman become highest position in the Shari'a Islamic law. This confirms that injustice that occurred to women during the jahiliyyah era is A form discrimination to woman. So Islam regulates very much towards his soul woman (Mardiyana, 2017).

Meaning Polygamy

Polygamy in the Big Indonesian Dictionary is system marriage that puts husband married with several wives with same time (Sofyan, 2016). Fuqaha scholars interpret polygamy with married the woman he likes either two people or more.

Fair and polygamous are two separate words. Because of the conditions If want to polygamous that is must Can fair, as stated in QS. An-Nisa verse 129; (Hidayatulloh, 2019).

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ ۗ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

From the verse above then that's what it means fair in polygamy that is that a husband must Can share the time towards wive, in case subsistence, distribution evening, give place stay and give it clothes. A husband If polygamy they must Can fair or not can only tend to one of them just do it so that give jealousy to other wives (Lestania, 2023).

Concerning to condition polygamy according to Mustafa Diibul Bigha, Musafa Al- Siba'I requires polygamy There are two, namely: capable give justice for all his wife and able give living to his wife and children. Different with madhhab from Imam Abu Hanifah and the Imam Syafi'I school of thought with No give condition whatever towards people who are polygamous. Both of them agreed that polygamy is permissible in a way absolute only must notice to turn and livelihood just (Putra, 2022).

In case Polygamy also needs to be considered that it is unlawful brings together two sisters who are sisters. This opinion also continues with no permissible or makruh the law mix. Woman with aunts, relatives, cousins, children stepson and mother step. If it happens matter thereby bringing two brothers together so law his marriage direct fasid or fasakh, this is because no something takes priority between both (Az-Zuhaili, 2011).

As stated in the hadith Ahmad's history with degrees it's valid explained

that the Prophet forbade it a man married Woman with mix aunt from the father's line, or with child Woman from his brother. No way mix aunt from the mother's or child's line his woman, neither can flirting with girls grandma grandma or vice versa.

In hadith the Maliki and Shafi'I schools of thought opinion that can bringing two brothers together with note one of them has been divorced. (Aizid, 2018) With position you the woman was given triple divorce so that after the iddah so his brother is no longer halal except with new marriage contract (Az-Zuhaili, 2011).

Which social basis consider exists ability to practice polygamy based on the Qur'an and Hadith, namely:

1. If you know wife own dangerous disease like infectious disease or in other words the wife No can fulfil his obligations are due Sick like No Can walking, stroke etc. In this case it is possible for husband for remarried with hope Can help For fulfil obligation wife first and help needs husband along with his son (Muthmainnah, 2022).
2. If the wife first sentenced no can own heredity is due proven sterility with inspection medical so husband is allowed For second marriage time with hope get descendants from wife both (Suaidi, 2023).
3. If the wife forget memory. In this case it is possible wife No can fulfil his obligations are due the disturbance he experienced.
4. If the wife has aged or not able to fulfill it need husband with serve need House stairs and necessities biological husband (Muhammad Zainuddin Sunarto, 2021).
5. If the wife defiant will order from husband and not can be repaired its nature with fast so husband can For remarried a second time with more couples good.
6. If the wife go out from House husband and husband No ridho will his actions so husband entitled For remarried (Rahmat Fauzi, 2021).
7. This happened during the time of the Prophet fought and many men died in the war and left wife as well as his son. So it's allowed For married Widow with hope become solution best For looking after the women who live with her husband (Ashari, 2022).

Condition did it polygamy that is capable applies fair to his wife and children. What is meant by fairness that is in a way equally capable happy they from facet living born nor inner. As well as for continuity life his children. Although in QS. An Nisa verse 3 it is allowed For married Woman as much four people. However if you look at it from sentence paragraph the last one so clear that If capable behave fair new can For polygamous. If you want follow the sunnah of the Prophet with so must Can follow How method

Rasulullah behave fair towards his wives (Hafidzi, 2017).

The Concept of Fairness in Polygamy According to Imam Shafi'i

Provision polygamy Already arranged by Allah SWT based on law divine, which is universal and which is not can changed only with time Basically Islamic law allows it exists polygamy with condition ie must fair. In concept, fair polygamous refers to some. This time I obeyed understanding from Imam Shafi'i school of thought draft Fairness in polygamy is limited take turns night and give living. Compelling husband his wife must be Can give justice to his wife, husband No can only inclined to One party wife alone and the other wives are left alone with his jealousy. No husband get sin except he negligent to his wife (Rohman, 2021).

In the words of Imam Syafi'I confirm that forbidden a husband mix his wife with more from four wives, except the Messenger of Allah. Because he Already guaranteed special privileges from Allah SWT. Imam Syafi'i 's opinion is approved by other scholars except There is a number of groups of ulama and madzhab Shi'ites are of the opinion that a man can married Woman as much as possible. Opinion they are relied on by the Messenger of Allah. who married nine women (Sabiq, 1986).

Allah swt justify polygamy and maximization his wife only can four people and obliged him behave fair towards his wives. (Dewi Ulfa Lailatul Fitria, 2021)In case clothes clothing, place stay and everything related matters material, as well No differentiate between wife from group on with the group lower or wife who is of status or lineage tall with the usual one. If your husband is worried the No capable behave fair towards his wives so law Polygamy is possible said become haram. (Zulkarnain M. F.-M.-W., 2020)Hence the law polygamy said Can changed in accordance with condition from husband / man himself.

Legal basis fair in polygamy found in QS. An-Nisa verse 3 which means explain about a men are allowed married four of his wives like but with condition that man the it should capable behave fair. If so a man the Afraid No Can fair to his wife so should only married one woman who believes.

Opinion others also refer to the hadith of the Prophet Muhammad SAW.

حَدَّثَنَا إِسْمَاعِيلُ أَخْبَرَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ عَنْ سَالِمٍ عَنْ أَبِيهِ أَنَّ غَيْلَانَ بْنَ سَلَمَةَ التَّقْفِيَّ أَسْلَمَ وَتَحْتَهُ عَشْرُ نِسْوَةٍ فَقَالَ لَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اخْتَرْ مِنْهُنَّ أَرْبَعًا

In this hadith it is mentioned that the Prophet Muhammad saw. he Once rotating his wives in just one night (Muzammil, 2019).

Based on the Koran QS. An-Nisa verse 3 and Hadith from the Prophet SAW. then Madzhab scholars Shafi'I agree that polygamous men only can with his four wives. So if want to remarried after polygamy four must be he divorce

one from all four (Warni, 2019).

In concept Madzhab Shafi'i explain condition fair If a man choose For polygamy, including: (Permana, 2023).

1. Fairness in Giving Living

Reasonable person is capable weigh case before happened. Same thing decide For get married please those who can Marry can think about How a living that will given. Sharia No allow married, be it one wife nor more from One with because If Not yet capable give living to his partner (Az-Zuhaili, 2011). Men who are ready Marry means Ready bring in materials and living must to his wife . As contained in the hadith of the Prophet SAW (Sukardi, 2019).

يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ

From hadith the above prophet confirmed that men who have ready and able For Marry so recommendation For Marry Already clear to them. However If a husband No capable provide his wife and wife demand living towards him. So it's mandatory for the man gave living towards him (Syafi'I, 2017).

Be fair in giving This income is also involved to clothing, clothing and shelter. A capable husband polygamy they should too capable give House for each of his wives. Apart from that, the husband is also obliged give clothes For his wife (Ramli, 2019).

Sheikh Muhammad bin Qasim Al- Ghazy explained that living food for one wife each day 2 mud with side dish dishes and equipment for cooking. Imam Shafi'I opinion big living to rich and poor men are different, for rich man then size his livelihood as big as 2 mud and for poor man as big as one half mud (Hajar, 2023).

Yusuf Qardhawi opinion that Sharia ' no give limitation to livelihood, only just in accordance with the rate. For rate living must different from time to time so that must adapt with the condition. So no There is dirham limit for size living to wife. (Fuaddi, 2019) This is appropriate with Al- Qur'anic law in QS. At -Thalak : 7

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ ۚ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَّا آتَاهَا ۚ

سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

This verse explains that let a husband who has wife and him gave him living. Because of the sustenance that Allah gives to every the creature is His gift and Allah did not will burdensome his servant exceed ability.

From various the opinion above can be concluded that If a wife has fulfil rights and obligations as wife, then husband must give rights wife, one

of them that is living. rate mandatory living for wife no The same from time to time, one husband must give living to his wife in accordance with wives ' needs.

2. Fair Over Housing

Obligation husband that is with give place decent stay for wives and not gather they are in one place stay. Scholars agree oblige husband give wife living place decent stay, except for nusyuz wife (Ramadhan, 2023).

Allah SWT says in QS. At- Talak : 6

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمَلٍ
فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَمْرُهُمْ بَيْنَكُمْ بِمَعْرُوفٍ
وَإِنْ تَعَاَسَرْتُمْ فَسَتُضَعَّ لَهُ أُخْرَىٰ

This verse explains that husband who has wives and those who are polygamous to his wife let they give his wives place decent stay as well as gave him living. If his wife pregnant until give birth to let husband give his son the provide and provide rewards to his wife Because has give birth to descendants to him.

Ibn Hazm argued that a husband must give living to wife although wife the applies nusyuz or not, rich or poor, girl or widow, while wife the legitimate for him after contract so must the law husband give place stay to wife (Armansyah, 2018). In the book of Fathul Mu'in essay Sheikh Zainuddin Al- Malibari opinion that husband must give living place stay to wife and provide a sense of comfort towards him while husband traveling. Although House is in form rent or contract and if wife used to get a servant, then husband must give it waiter (Al-Malibariy, 1980).

The house provided husband For wife and honey No can in just one home . If husband gather the wives under one roof then the law is haram. This is because characteristic original from a woman for sure have jealousy. By separating it House between wife is expected No will There is future conflict happened. However, if wife agreed and pleased will stay One House with other wives then law gather they become okay (Dina, 2020). In this case it is taken conclusion that is with give comfortable home For all wife and provide a sense of security and comfort towards him is something obligation for a husband. Give place stay different towards wives with aim not to happen strife and jealousy.

3. Fair in terms of distribution Turn

One form justice for husband towards wives that is with share turn to them. Husband obliged give wife place stay so husband is also obliged take turns his wife. If husband spend the night with someone wife so husband

must He also spent the night with his other wife . If the wife work during the day day so husband give it's his turn at night day and if wife working Evening day so husband must give it's his turn in the afternoon day. (Zulkarnain M. F., Adil Dalam Poligami Menurut Imam Madzhab (Metode Istinbath Hukum dan Argumentasinya Masing-Masing, 2020). Time to it 's the wives' turn that is One days and a maximum of three day.

As stated in the word of Allah in Surah Yunus verse 67:

هُوَ الَّذِي جَعَلَ لَكُمُ اللَّيْلَ لِتَسْكُنُوا فِيهِ وَالنَّهَارَ مُبْصِرًا إِنَّ فِي ذَلِكَ لَآيَاتٍ لِّقَوْمٍ يَسْمَعُونَ

In this verse Allah creates time day and night take turns so that the husband can give turn at night to the other wife. One husband if enter into the turn his wife, then it is haram enter to the house his other wife except in cases of emergency, for example his wife is seriously ill or in danger. But in this case it is also necessary willingness from other wives (Ghazaly, 2019).

As contained in the hadith of the Prophet SAW. which was narrated by Bukhari and Muslim, in the hadith it is mentioned that the Prophet SAW. Once together with his wife and took turns in one night.

In opinion from Imam Syafi'i explained that If a husband spend the night at home his wife and exaggerate time so that lasting longer than the agreed limit with his wives. So husband must make up to the other wife throughout husband 's time to his wife was on her shift (Ahmad, 2021).

According to al- minhaj and ashlu al- minhaj, if a husband come to other wife turn at noon day so No including violate rule size time principal because exists affairs. (Humaidi, 2021) About enter to the house wife who is not turn in the afternoon day with reason exists requirements, this includes with make love But No until Jimak. Including into the uncleanness that is with do Jimak itself, this is not it Meaning the meaning of it is haram but must make up the time For do sexual intercourse the in accordance with habit (Berpoligami, 2016).

Equalize all turn to the wife included in *istimta'* and punished with the sunnah, because No leaning heart to one wife just. Likewise sunnah with No unemployed his wife. Let a husband stay his wife and took turns Evening to him. It's legally obligatory husband equalize turn to the wife with equal division with count time and place. If you count three day time spend the night with my husband exaggerate it, if only husband die moment exaggerate it that time, then husband get the sin of disobedience and wrongdoing to other wives (Baihaqi, 2017).

Musfir Al- Jahrani say that a husband must rotating his wives despite the circumstances excuse like pain, obstruction, postpartum and so on. Because that's what he meant with spend the night together with him entertain and see the situation although without practice. Hasbi As-Shiddiqi

also said that must stay his wife and for problem Jimak is sunnah for equate it (Asy-Shidiqi, 1998).

What if husband married the wife is still a girl, then he entitled demanded that her husband overnight during seven day started from day First wedding including on the day afternoon. However if you marry is a widow, then he entitled mend overnight husband during three day with time afternoon. After that, share it distribution Evening with as fair as possible (Asy-Shidiqi, Hukum Hukum Fiqih Islam, 1998).

From various opinion above can be concluded that wife choose right on turn. Polygamous husband must the law do turn Evening towards wives. In case sexual intercourse husband not prosecuted for equalize to his wife only just If capable so the law sunnah. Especially for turn Evening after contract so For a wife who is still a girl is allowed demand her husband overnight seven day including with the afternoon and for wife Widow so from time after contract until the day to three.

CONCLUSION

Islamic law allows it exists polygamy, esp from Imam Shafi'i Madzhab punish able to do it polygamy with maximum four wives. The legal basis for this is permissible this thing ie Because exists Allah says in surah An-Nisa verse 3 which means "marry girls you like two, three and four. However If Afraid No applies fair so Enough marry One Woman just. This is clear say that Islam allows it his people man for polygamy with condition they must capable fair towards his wives.

According to Imam Shafi'i Madzhab draft fair in terms polygamy that is a man man must Can give living well it's a living must nor living inner and outer towards his wives a husband should too Can give house or place decent stay for his wife because it is illegal gathered two women in honey. Final that is husband must do turn for his wives and especially For wife new ones who are still girls they are given right seven day and for widowed wife they get three day, for day next then divide it with as fair as possible in accordance agreement.

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