

## **THE PRACTICE OF POLYANDRY MARRIAGE IN WOLWAL VILLAGE IN THE PERSPECTIVE OF SOCIOLOGY OF ISLAMIC LAW**

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### **Abstract**

*This study aims to find out how polyandry marriages are practiced in Wolwal Village, Alor Barat Daya District, Alor Regency, East Nusa Tenggara Province. This type of research is a type of qualitative research using field research methods, so that researchers go directly to the community and obtain valid data. The procedure of this research is data collection, data reduction, data presentation and the stage of verification or drawing conclusions. Based on the data collected then analyzed using a sociological normative approach, namely by assessing the facts or realities that exist in society or the values that are held in society, whether marriage is in accordance with the rules of Islamic teachings or actually deviates. The instruments used were observation, interviews, and documentation related to polyandry marriages in Wolwal Village. Based on the research results obtained, the researchers concluded that there were polyandry marriages in Wolwal Village. This marriage was caused on the basis of ignorance about the marriage procedure recommended by Islamic law and also other factors that increased within the perpetrator of the marriage so that the marriage took place. Meanwhile, in a sociological review of Islamic law, there is a prohibition in polyandry marriages due to the fact that in this marriage there will be defects in family relations or in society in general and not knowing the biological children of the couple.*

**Keywords :** *Sociology of Islamic Law, Polyandry Marriage*

### **Abstrak**

*Penelitian ini bertujuan untuk mengetahui bagaimana praktek perkawinan poliandri di Desa Wolwal Kecamatan Alor Barat Daya Kabupaten Alor Provinsi Nusa Tenggara Timur. Jenis penelitian ini merupakan jenis penelitian kualitatif dengan menggunakan metode penelitian lapangan, sehingga peneliti terjun langsung ke masyarakat dan diperoleh data-data yang valid. Prosedur penelitian ini adalah pengumpulan data, reduksi data, penyajian data dan tahap verifikasi atau penarikan kesimpulan. Berdasarkan data yang terkumpul kemudian dianalisis dengan menggunakan pendekatan normatif sosiologi, adalah dengan menilai fakta atau realita yang ada di masyarakat atau nilai nilai yang menjadi pengangan dalam masyarakat, apakah perkawinan itu sesuai dengan aturan ajaran Islam yang atau justru menyewewengan. Instrumen yang digunakan yakni observasi, wawancara, dan juga dokumentasi terkait dengan perkawinan poliandri di Desa Wolwal. Berdasarkan hasil penelitian yang diperoleh peneliti mengambil kesimpulan bahwa terdapat perkawinan poliandri di Desa Wolwal. Perkawinan ini disebabkan atas dasar ketidak tahuan tentang prosedur perkawinan yang dianjurkan oleh syariat Islam dan juga faktor faktor lain yang mengingkat dalam diri pelaku perkawinan sehingga perkawinan*

*itu terjadi. Sedangkan dalam tinjauan sosiologi hukum Islam terdapat pelarangan dalam perkawinan poliandri tersebut disebabkan adanya perkawinan iniakanada kecacatan dalam hubungan kekeluargaan ataupun dalam masyarakat pada umumnya dan tidak mengetahui anak biologisnya dari pasangan tersebut.*

**Kata Kunci:** *Sosiologi Hukum Islam, Perkawinan poliandri*

## **A. Introduction**

Everything on this earth was created in pairs, there are humans consisting of male and female, there is earth and sky, there are old and young, there are poor and rich. This is proof of the majesty of God Almighty. Allah SWT created humans in pairs so that they could marry, one male and one female. Marriage is a sacred event that becomes the momentum of both parties who carry out the marriage. Marriage is not only a personal matter but a matter that includes the family and society. Therefore, the state needs to regulate marriage procedures based on the legal ideals of the Indonesian people.

Marriage is also a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family, an eternal household based on Belief in the One and Only God.<sup>1</sup> As stated in article 1 of the Marriage Law No. 1 of 1974. Marriage is also a way to make it lawful for a man and a woman to engage in sexual activity. According to the Syafiiyah group, marriage is a contract that contains legal provisions that allow husband and wife to have fun in accordance with Islamic requirements.

In general, marriage aims to form a happy and eternal family, it is necessary to regulate the rights and obligations of a husband and a wife, that is, the husband must be able to fulfill his obligations as a husband towards his wife, and vice versa, a wife must be able to carry out the obligations of a wife and pay attention to her responsibilities. to the husband, there will be a peaceful, happy household, peace of mind so that the happiness of the husband and wife will be perfect.

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<sup>1</sup> Nur Djaman, *Fiqh Munakahat* (Semarang: Main Director of Semarang, 1993), hlm.3.

This is also in accordance with the Marriage Law No. 1 of 1974 article 30 which states that a husband and wife have a noble obligation to uphold the household which is the basic code of the structure of society.<sup>2</sup> Likewise, it is emphasized in the compilation of Islamic law article 77 paragraph 1 which states that a husband and wife have a noble obligation to uphold a sakinah household, mawaddah warahmah which is the basic code of the structure of society.<sup>3</sup>

However, in reality there are many irregularities in our society which result in a marriage becoming tenuous, problematic and even ending in divorce. This is sometimes indicated by several factors, be it economic, social, cultural and even polygamy (a man who has more than one wife). Even though we all know that the principle of marriage is monogamy, which means a man has one wife. But what is even more surprising is a wife who has more than one husband or what is known as polyandry.

According to Hamudan Abdul'ata, polyandry can occur due to several conditions in women including:

- a. Exaggerated sex ratio
- b. Have no sexual jealousy.
- c. Abundant wealth.
- d. Prevent the property from moving to other people.

Another form of polyandry is a woman who doesn't refuse to have sex with anyone for compensation or not. This form is still common today, which is called prostitution or prostitutes.<sup>4</sup>

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<sup>2</sup> Sabiq Sayyid, *Fiqih Sunnah* (Bandung: Al-Ma'arif, 1999), hlm. 51.

<sup>3</sup> Soeharto, "Instruksi Presiden: Kompilasi Hukum Islam" (1991), hlm.42.

<sup>4</sup> Rahmat Hakim, *Islamic Marriage Law* (Bandung: Faithful Library, 2000), hlm.41-42.

There are still cases of polyandry in Indonesia, such as in the East Nusa Tenggara region, to be precise in Wolwal Village, Alor Barat Daya District. This happens because it is indicated by the unfulfilled physical and spiritual livelihood. This kind of case will be examined by researchers to find some new insights and knowledge. Considering that polyandry marriages have such a significant impact on the offspring to be born by a wife with two husbands.

This research is a type of field research in which researchers will go directly to the field to collect data through interviews, observations and questions and answers to the parties concerned. This research is descriptive-analytical in nature, which means describing and then analyzing the problem in order to get a comprehensive answer related to the problem under study. With this the researchers will argue The Practice of Polyandry Marriage in Wolwal Village in the Perspective of Sociology of Islamic Law. The approach used by researchers is Empirical-Normative by examining phenomena that occur in the community to be proven valid.

## **B. RESULT AND DISCUSSION**

### **1. Polyandry Marriage in Wolwal Village**

The polyandry marriage that occurred in Wolwal Village, Alor Barat Daya District, Alor Regency was due to an agreement between husband and wife, in which the wife is a housewife and her first husband is a builder. Considering the condition of her husband who is no longer able to work and provide a living both physically and spiritually, which is due to his paralyzed physical condition. This is the main trigger for a wife to carry out her second marriage with a husband who comes from Wolwal Village, Alor Barat Daya District, Alor Regency, who works as a farmer.

Polyandry in this study is a marriage carried out by a man and a woman, but the woman in question is still married to another man and has not yet divorced.

Mrs. Saripa Rigai is a polyandry marriage practitioner in Wolwal Village, Alor Barat Daya District. This 46-year-old woman, born in 1975,

comes from Pintu Mas Village. She moved and settled in Maelaha Hamlet, Wolwal Village, Alor Barat Daya District, Alor Regency since she married Mr. Amir Jaha in 1988. Her daily work is as a housewife and also as the backbone to help her husband earn a living as a market seller.

Saripa Rigai, who was a Muslim since birth, at the age of 13 after graduating from elementary school, she married Mr. Amir Jaha in 1988, who was a resident of the village of Talebuli immigrants. From the marriage of Mrs. Saripa Rigai and Mr. Amir Jaha, they were blessed with three children, each named Hafiah A Jaha, Amiruddin A Jaha and Fatima A Jaha. Seventeen years after her first marriage, in 2004 to be precise, Ms. Saripa remarried another man named Mr. Ismail Amutei, who was 33 years old, born in 1972, without prior divorce from her first husband. After this second marriage, Mrs. Saripa moved and settled at her second husband's residence in Kampung Pancoran Dusun B RT 4 RW 05. From her second marriage, she was blessed with one child who was named Hidayat I Amutei

According to a statement from one of the traditional leaders, Mr. Saleh Rigai, who was in Wolwal Village, said that:

*It is true that from a polyandry marriage in Wolwal Village, namely Mrs. Saripa Rigai and her two husbands, respectively named Mr. Amir Jaha and Mr. Ismail Amutei. The first marriage was held in Wolwal Village while the second marriage was held in 2004. In the first marriage it was legal both from religion and the state, while the second marriage was unregistered (or not registered at the KUA).<sup>5</sup>*

Mrs. Saripa's marriage to Mr. Amir Jaha has been around for 17 years, her first husband is still able to fulfill her responsibilities towards Mrs. Saripa and her three sons and daughters. However, as time went on, many disputes occurred in his household since Mr. Amir Jaha was no longer able to work due to paralysis which required Ms. Saripa to take on the task of being the breadwinner for her husband and children. From this

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<sup>5</sup> Saleh Rigai, "Wawancara," 21 Agustus 2022.

problem, Mrs. Saripa asked for a divorce from Mr. Amir Jaha, but at that time Mr. Amir Jaha refused the request made by his wife, Ms. Saripa Rigai on the grounds that her children still needed guidance even though they were growing up.

Without the consent of Mr. Amir Jaha, Mrs. Saripa secretly registered the divorce at the religious court in Alor Regency, located in the City of Kalabahi. After registering a divorce at the religious court in Alor Regency, located in the city of Kalabahi, only then did Ms. Saripa notify her husband, namely Mr. Amir Jaha that Ms. Saripa had already registered at the religious court, the divorce process had not yet taken place. Ms. Saripa had remarried to Mr. Ismail Amutei without knowing by Mr. Amir Jaha. This has become a topic of discussion among the community, especially in Wolwal Village, Alor Barat Daya District, Alor Regency, because at the time the marriage took place, Saripa had not been officially divorced from the Alor District Religious Court.

Mrs. Saripa's second marriage which was held was only attended by a few people including her partner's family. Even though Mrs. Saripa is still in the process of divorcing with Mr. Amir Jaha as her first husband, this did not prevent her second marriage, namely Mr. Ismail Amutei and Mrs. Saripa Rigai. The second marriage was Mr. Ismail Amutei and Mrs. Saripa Rigai under the hand, who married both of them not a modim from Wolwal Village, Alor Barat Daya sub-district, but from outside Wolwal Village, namely Mr. Sanusi Kinanggi, who was a modem from a neighboring village, because the village modem knew that Saripa's mother's status Rigai was still married to Amir Jaha as her first husband and at that time was not yet officially divorced.

## **2. Factors Causing Polyandry Marriage in Wolwal Village**

The cause of polyandry marriages in Wolwal Village is actually motivated by several problems, as explained by Mr. Mahmud Lobang as a religious figure in Wolwal Village.

*"Indeed, there are polyandry marriages that occur here, one of the causes of which is not knowing religious knowledge, lack of spiritual livelihood, free association, inadequate economic factors, so that Saripa takes shortcuts to remarry. And also one of the causes of her family not being concerned the circumstances of her life, that made Ibu Saripa think about it too, so that she would remarry.*

The above interview was also corroborated by a resident of Wolwal Village named Mrs. Hatija Lekay who is also a neighbor of the perpetrator of the polyandry marriage. Mrs. Hatija Lekay explained that:

*"The perpetrator told him that he wanted to remarry to be able to survive and be able to meet the needs of his children. This is because the economy and finances are inadequate"*<sup>6</sup>

The researcher also met directly with the perpetrator of polyandry, namely Mrs. Saripa Rigai at her residence in RT.03 RW.06 Wolwal Village and asked her reasons for having a polyandry marriage. Mrs. Saripa Rigai explained that:

*"My desire to remarry is my right to also choose a more decent life, so that I marry Mr. Ismail, maybe from this marriage he can provide for me and my children as a whole. For me it's not a problem if I have two husbands because I understand that even men can have more than one wife, why can't women? from there I thought that women can also have more than one husband so I remarried. I also can no longer survive with my first husband, because his inner sustenance is rarely given to me, the economy is getting weaker and the children are also given less attention. Maybe this marriage is one of the best ways to improve my life. "said Mrs. Saripa Rigai."*<sup>7</sup>

### **3. Sociological Review of Islamic Law on Polyandry Marriage in Wolwal Village**

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<sup>6</sup> Hatija Lekay, "Wawancara," 29 Agustus 2022.

<sup>7</sup> Rigai, "Wawancara," 29 Agustus 2022.

Marriage or commonly called marriage is a physical and spiritual bond between a husband and a wife to live together in the household and carry it out according to the provisions of Islamic law. Everyone who carries out a marriage always adds to achieving the goal of a safe, peaceful, peaceful and happy household with full of love and affection and mutual love between the two.<sup>8</sup> This new life as also mentioned in the marriage law in article 1 for living together with his partner. Everyone does not just live with him without being preceded by a process called the marriage contract.

The people of Wolwal Village, Alor Barat Daya District, Alor Regency are classified as people who have a fairly high level of concern for religion. This illustrates that their daily activities carry out religious activities, assemblies regularly and the application of their teachings in accordance with the guidance of the Koran and as-sunnah. Besides that, there is also concern for marriage activities both from outsiders and those around them.

In the implementation of polyandry marriages, it is only carried out with people around him and attended by one of the religious leaders or people with a higher degree in society to marry him off. According to them, this is the same as other types of marriage that are recognized by the State or civil registry. This marriage is not affected by society because the perpetrators of polyandry adhere to the prevailing social norms. The Wolwal Village community belongs to the consensus community model which is united by the existence of a common culture, rules, beliefs and expectations and an integrated community in a stable state and functions as an organizer of social integration. Society is a system that is built on the

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<sup>8</sup> Amir Sharifuddin, *Hukum Perkawinan Islam Di Indonesia, Antara Fiqih Munakahat Dan Undang-Undang Perkawinan* (Jakarta: Kencana Prenada Media, 2009), hlm.59.

basis of a set of general values that are internalized by its members in a process of socialization.<sup>9</sup>

Humans are social beings who should like humans to carry out activities related to society. However, if a human commits a flawed or fatal violation, it will have a negative impact on people's lives in general. In the life of society, it cannot only be seen from one aspect, but it is necessary to have a life that considers human life based on social, cultural or religious aspects.

Islamic law is very clear and detailed and has stipulated prohibitions on marriage as stated in KHI article 40 that:

*“It is forbidden to enter into a marriage between a man and a woman because in certain cases, such as the woman in question is still bound in one marriage, a woman is still in her iddah period with another man. A woman who is not Muslim.<sup>10</sup> As was done by one type of polyandry marriage in Wolwal Village.*

Polyandry is the marriage of a woman with more than one husband. From the viewpoint of this type of marriage, from an Islamic point of view, it is illegitimate based on the argument of the Qur'an An-Nisa verse 24

*Meaning: And it is also forbidden for you to marry married women, except for the slaves that you have, Allah has set the law as a decree for you. And what is lawful for you other than that is to find wives with your wealth to marry, not to commit adultery. So, for the wives you have mixed up between them, give them their dowries in full, something that has mutually agreed with each other, after determining the dowry. Indeed, Allah is All-Knowing, All-Wise.<sup>11</sup>*

According to Syaikh Taqiyuddi an-Nabhani, he said that polyandry marriages are marriages that are forbidden for all Muslim women around

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<sup>9</sup>Smart Legal, Teori-Teori Kemasyarakatan,”accessed September 5, 2022, <https://www.teori-teori-kemasyarakatan.com/teori-teori-kemasyarakatan/>

<sup>10</sup>Agus Hermanto, "Pasal Larangan Perkawinan,” accessed September 5, 2022, <https://sis-hukum.com/larangan-perkawinan/>

<sup>11</sup> RI Ministry of Religion, *Quran and Translation* (Bandung: PT Syamil Cipta, 2005), hlm.82.

the world because this type of marriage results in a fatal degree of Muslim women who are considered dishonorable women.<sup>12</sup>

In accordance with the conditions of the Wolwal Village community, this polyandry marriage when viewed from Sociology, this will affect social relations that are less effective between polyandry marriage partners and the local community and also the Wolwal Village community itself will also suffer shame and be ostracized by the community even as the talk of the community, this has become a consideration by community leaders and traditional leaders to make a provision that should be followed by the local community.

Islamic law is clear that in Islam there is a stipulation of a prohibition against marriage. In order to be able to analyze with a sociological analysis of Islamic law, it is necessary to have reasons regarding the prohibition of polyandry marriages in Wolwal Village because polyandry marriages have the same preoccupation with polygamy.

Polyandry marriages cause weak offspring due to marriages which are prohibited in Islamic law. Of course, the people of Wolwal Village still believe that the culture or habits of their ancestors were commonplace, especially polyandry marriages. While the reality is that the people of Wolwal Village still practice marriage which is prohibited in Islamic law itself even though Islamic law prohibits it.

In accordance with the social conditions of the Wolwal Village community, the prohibition of polyandry marriages that occur when viewed from a sociological point of view, this will affect social interaction that is less effective between the offending couple and the Wolwal Village community and indirectly the Wolwal Village community as if they have

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<sup>12</sup>Almaida Sitompul, "Alasan Islam Melarang Poliandri," Accessed September 5., <https://www.inilah.com/inilah-alasan-islam-melarang-poliandri>.

to endure a feeling of embarrassment , ostracized in society and become the talk of the local community.

*Complying with the prohibition on polyadry marriages can indirectly be categorized as saddu al-Alzariat, because it aims to close something that is defective or damaged and fills up holes that can become a barrier to actions that are forbidden or permissible. Logically, when someone allows an action, then he should allow everything that will lead to that thing. Vice versa if someone prohibits an action then he should prohibit everything that can lead to that action. Because the prohibition of marriage that occurs prioritizes avoiding harm rather than benefit.<sup>13</sup>*

The remorse that is meant is to avoid bad things that happen in polyandry marriages such as defects in children, breaking of silaturrahmi ties, gossip from the community against perpetrators who violate because it will disrupt social life. While the benefits that will occur are avoiding bad things. Islam is a religion that pays attention to human relations. This is illustrated by the existence of various laws on human relations both concerning family and community relations. To strengthen relations between families, Islam prescribes friendship. In the view of the Qur'an, hospitality has a very high position. The Quran explains that hospitality is a form of worship of a servant to Allah SWT.

### **C. Conclusion**

The background of the polyandry marriage that occurred in Wolwal village was the condition that one of the actors was unable to carry out his obligations. Apart from that, the Wolwal community is still classified as a society that does not understand the verses of the Qur'an or the rules in Islamic law. Sociologically, the Islamic law of polyandry marriage in the Wolwal Village community is motivated by disharmony in the household as well as economic factors that make polyandry marriages happen. This type of marriage, if someone violates it, will cause defects in community relations, which is ineffective and even affects the psychology of children in the

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<sup>13</sup> Sidiq Sapiudin, *Ushul Fiqh* (jakarta: Kencana, 2011). hlm. 44.

community environment, the case in Wolwal Village in general, as illustrated in the verses of the Koran or the Compilation of Islamic Law above.

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