

DELEGITIMIZATION OF RELIGIOUS MOTIVES IN POLYGAMY IN BANJAR SOCIETY

¹ Zainal Muttaqin, ² Masyithah Umar, ³ Mujiburohman, ⁴ Rusdiyah, ⁵ Sa'adah,
⁶ Nadiyah Khalid Seff

^{1,2,3,4,5,6} Faculty of Sharia, UIN Antasari, Indonesia

Email: zainalmuttaqin@uin-antasari.ac.id¹, masyithah.umar55@gmail.com²,
mujiburohman@uin-antasari.ac.id³, rusdiyah.faruk@gmail.com⁴, amisaadah.One@gmail.com⁵,
nadiyahseff1963@gmail.com⁶

Received 24-09-2023 | Revised 09-02-2024, 13-03-2024, 23-04-2024 | Accepted 17-05-2024

Abstrak: Secara faktual praktik poligami di masyarakat Banjar banyak dilakukan secara tidak tercatat dan melahirkan problem hukum, tidak hanya berupa tidak terpenuhinya hak keadilan, namun juga melahirkan kekerasan baik fisik, verbal maupun psikis dan sering kali agama menjadi 'tameng' berupa motif tidak sadar untuk menutupi motif praktis yang sesungguhnya. Tujuan dari penulisan ini adalah untuk memberikan deskripsi mengapa praktik poligami di masyarakat Banjar dengan adanya dualitas motif tersebut justru melahirkan problem dan mengapa agama selalu menjadi 'tameng'-nya. Penelitian ini dilakukan secara empirik dengan data yang diperoleh dari proses wawancara kepada para informan untuk kemudian dianalisis dengan pendekatan sosio legal. Berdasarkan hasil kajian diperoleh temuan bahwa praktik poligami dengan alasan agama sebagai motif tidak sadar berpotensi melahirkan perilaku poligami yang tidak berkeadilan, tindak kekerasan dan juga pengabaian terhadap perlindungan hak dan hukum. Interpretasi terhadap teks poligami yang tekstual dan parsial dengan ditopang oleh sistem sosial budaya yang patriarki menjadi dasar legitimasi terhadap perilaku tersebut, walaupun perilaku tersebut tidak sesuai dengan tujuan hakiki dan sebuah perkawinan termasuk poligami dan juga regulasi yang berlaku. Menjadikan agama sebagai motif tidak sadar merupakan suatu hal yang dianggap efektif untuk melegitimasi poligami, karena sesuai dengan karakter masyarakat Banjar yang religius dengan Islam menjadi identitas etnik, praktik poligami dipahami sebagai sebuah hal yang wajar dan legitimate. Kondisi ini sangat didukung dengan nalar tradisional yang banyak dianut oleh masyarakat Banjar, sehingga seringkali pemahaman seorang 'tuan guru' termasuk dalam poligami sebagai sebuah kebenaran yang diterima. Ini mengingat kedudukan para 'tuan guru' yang dianggap sosok otoritatif pada setiap segi kehidupan masyarakat Banjar.

Kata kunci: Poligami, Dualitas, Masyarakat Banjar, Tuan Guru.

Abstract: In fact, the practice of polygamy in the Banjar community is often carried out without being recorded and gives rise to legal problems, not only in the form of not fulfilling the right to justice but also gives rise to physical, verbal, and psychological violence. It is often that religion becomes a 'shield' in the form of unconscious motives to cover up the truly practical motives. The purpose of this writing is to describe why the practice of polygamy in Banjar society, with its duality of motives, actually creates problems and why religion is always a 'shield'. This research was conducted empirically with data obtained from the interview process with informants and then analyzed using a socio-legal approach. Based on the results of the study, it was found that the practice of polygamy for religious reasons as an unconscious motive has the potential to give rise to unfair polygamous behavior, acts of violence, and a disregard for the protection of rights and the law. The textual and partial interpretation of polygamy texts supported by a patriarchal socio-cultural system is the basis for legitimizing this behavior, even though this behavior is not by the essential goals of marriage including polygamy and the applicable regulations. Making religion an unconscious motive is something that is considered effective in legitimizing polygamy because, by the religious character of Banjarese society with Islam being an ethnic identity, the practice of polygamy is understood as a natural and legitimate thing. This condition is strongly supported by the traditionalist reasoning that many Banjar people adhere to so that often the understanding of a *tuan*



guru includes polygamy as an accepted truth. This is because of the position of the *tuan guru* who is considered as an authoritative figure in every aspect of Banjarese people's life.

Key words: Digital Society, Place of principles of law, Legal regulation, Principle of law, Public relations.

INTRODUCTION

Polygamy is a marital practice that has a long history in human life that is not only practiced by followers of certain religions, or the people of a particular region. However, unlike the practice of monogamous marriage, which is a marriage between one man and one woman, polygamous marriages involving one man and several women have given birth to endless controversial discourses and discussions, so that in the public sphere, the discussion of polygamy is always interesting to study with various perspectives used.¹

The Banjar community is one of the ethnic groups in Indonesia and is known for its religious character in social life. However, the Banjar community has always been identified as a polygamous community. Empirically, not all Banjar people are polygamous and many do not even agree with the practice. However, it must be acknowledged that the labeling of the Banjar community as polygamous stems from the reality of social interactions within the Banjar community, and there are even anecdotes that are often considered to reinforce this labeling as below:

*One wife just learning
Having two wives is a natural
Having three wives is educated
Having four wives is just called urang Banjar²*

*Bini saikung belajar
Bini dua wajar
Bini tiga kurang ajar
Bini empat banyar urang Banjar³*

According to Rustam Effendi, the anecdote above is not always understood in the context of labeling the Banjar community, but it is part of an oral tradition called '*mahalabiu*'⁴ that functions as an autocriticism of the behavior of some Banjar people who are polygamous, but are economically unable to be fair to their wives, even abandoning them,

¹ See Nurus Sa'adah, Vita Fitria, and Kurnia Widiastuti, "Poligami dalam Lintas Budaya dan Agama: Meta-Interpretation Approach," *Ay-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 49, no. 2 (2015): 480–82, <https://doi.org/10.14421/ajish.v49i2.151>; Haikal Fadhil Anam, "Poligami dalam Hermeneutika Feminis Amina Wadud," *Musawa Jurnal Studi Gender dan Islam* 19, no. 1 (January 2020): 44, <https://doi.org/10.14421/musawa.2020.191.43-56>; Dian Septiandani, Ani Triwati, and Efi Yulistyowati, "Kemashlahatan dalam Perkawinan Poligami dalam Kajian Hukum Islam dan Hukum Positif Indonesia," *Jurnal Ius Constituendum* 8, no. 3 (October 26, 2023): 468, <https://doi.org/10.26623/jic.v8i3.7236>.

² Abdul Helim, "Poligami Perspektif Ulama Banjar," *Islamica: Jurnal Studi Keislaman* 12, no. 1 (2017): 50, <https://doi.org/10.15642/islamica.2017.12.1>.

³ Rustam Effendi, "Cucupatan (Teka-Teki) Banjar: Analisis Struktur, Fungsi, dan Nilai Budaya," *Jurnal Masyarakat Indonesia* 36, no. 2 (2010): 234, <https://doi.org/10.14203/jmi.v36i2.652>.

⁴ Secara umum istilah tersebut sering dikaitkan dengan sebuah daerah yang terletak di Kabupaten Hulu Sungai Utara Kalimantan Selatan. Lebih jelas tentang istilah ini bisa dibaca di Rustam Effendi, "Mahalabiu: Media Kritik Sosial Masyarakat Banjar (Mahalabiu: the Media of Social Critics of Banjar Society)," *Jurnal Bahasa, Sastra dan Pembelajarannya* 7, No. 2 (January 26, 2018): 174, <https://doi.org/10.20527/jbsp.v7i2.4418>; Yuliati Puspita Sari, "Mahalabiu: Ketaksamaan Makna dalam Bahasa Banjar," *Salingka: Majalah Ilmiah Bahasa dan Sastra* 13, no. 2 (2016): 104.

or an autocriticism of the behavior of those who, because of sudden wealth from mining and oil palm plantations, remarry.⁵

The practice of polygamy is carried out with various motives, including biological motives, the desire to improve the family's economic level, the acquisition of offspring, religious motives, and so on.⁶ However, the reason for being allowed by religion often becomes a 'wrapper' for the main motive of polygamy, as found in the research conducted by Azhari Akmal Tarigan.⁷ In the theory of structuration developed by Antonie Giddens, such motives are called duality, which is a pattern of relationships between structures and agents in the realm of social relations that are not dichotomous but united and dialectical.⁸ In the context of polygamy, whatever the reason or motive that comes out of the mouth of the polygamist, according to Tarigan, the biological motive is always the main thing that drives a person to polygamy.⁹

In the context of polygamy in Banjar society, the religious motive often becomes a 'wrapper' for other motives. Religious reasons often become the basis for legalizing polygamy even though it does not refer to stricter regulations, so many cases of polygamy are not recorded and even give rise to legal problems, both in the form of physical and verbal violence, as well as in legal protection efforts, especially for women and children.¹⁰ The permissibility of polygamy in both Islamic law and applicable regulations is oriented towards the benefit of human life itself because the fulfillment of the requirement to be fair refers to this orientation.¹¹

However, the issue is why, as one of the marriage practices that is permitted in both religion and regulation, empirically in Banjar society, many legal problems are certainly not in line with the purpose of such permissibility, and why the religious motive is always used as a 'shield' to cover up the real motive of polygamy. These are the two questions that the author will answer in this description.¹²

There have been many writings on polygamy. In the author's search, there are at least a few specific writings that can be mentioned as a review, including the first, an article by Abdul Helim entitled Polygamy in the Perspective of Banjar Ulama.¹³ This paper describes the perceptions of several contemporary Banjar scholars about polygamy which are then

⁵ See Rustam Effendi, *Mahilung Bahasa, Sastra, dan Budaya Banjar* (Banjarmasin: Jurusan Pendidikan Bahasa dan Seni Fakultas Keguruan dan Ilmu Pendidikan Universitas Lambung Mangkurat, 2021), 142.

⁶ See Shofiyullah Muzzammil et al., "Motif, Konstruksi, dan Keadilan Semu dalam Praktik Poligami Kiai Pesantren di Madura," *Jurnal SMART (Studi Masyarakat, Religi, dan Tradisi)* 7, no. 01 (June 22, 2021): 132, <https://doi.org/10.18784/smart.v7i01.1207>.

⁷ See Azhari Akmal Tarigan, Nurhayati, and Watni Marpaung, "Taming Islam' Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices," *Journal of Indonesian Islam* 15, no. 01 (2021): 169–71, <https://doi.org/10.15642/JIIS.2021.15.1.149-170>.

⁸ See Klevis Kolasi, "Structuration Theory," in *The Palgrave Encyclopedia of Global Security Studies*, ed. Scott Romaniuk, Manish Thapa, and Péter Marton (Cham: Springer International Publishing, 2020), 2–3, https://doi.org/10.1007/978-3-319-74336-3_360-1; Karman, "Konsep Dualisme Versus Dualitas dalam Diskursus Epistemologi Ilmu Sosial," *Majalah Semi Ilmiah Populer Komunikasi Massa* 2, no. 1 (June 2021): 23–24, <https://doi.org/10.1016/j.transproceed.2011.09.063>.

⁹ For more details about the results of this research, you can read Tarigan, Nurhayati, and Marpaung, "Taming Islam' Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices," 159–61.

¹⁰ Akhmad Wafi dkk., "Reaktualisasi Persyaratan Perempuan Menjadi Saksi Perkara Perdata Dalam Fikih Klasik Dan Korelasinya Pada Hukum Modern," *JOURNAL OF ISLAMIC AND LAW STUDIES* 7, no. 2 (27 November 2023): 186, <https://doi.org/10.18592/jils.v7i2.11550>.

¹¹ For these conditions, you can read Septiandani, Triwati, and Yulistyowati, "Kemaslahatan dalam Perkawinan Poligami dalam Kajian Hukum Islam dan Hukum Positif Indonesia," 467.

¹² Nurnazli Nurnazli dkk., "The Contestation of Islamic Boarding School Women's View of Wives' Rights in Polygamy," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (22 Juni 2024): 16, <https://doi.org/10.30631/alrisalah.v24i1.1349>.

¹³ Abdul Helim, "Poligami Perspektif Ulama Banjar," *ISLAMICA: Jurnal Studi Keislaman* 12, no. 1 (4 September 2017): 50–70, <https://doi.org/10.15642/islamica.2018.12.2.176-205>.

analyzed with the ushul fiqh approach. Second, Wardatun Nadhiroh's Religious and Gender Issues in the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan.¹⁴ This paper describes the tradition of women in Banjar asking *tuan guru* to marry them and also how polygamy itself is perceived by those who practice the tradition. This paper is studied with a religious and gender approach. The above two articles are similar in terms of subject matter, but different in terms of object matter from this article.¹⁵ The two writings above do not at all discuss the duality motive contained in the polygamous behavior of the Banjar community. The writing related to the duality motive in polygamy was conducted by Azhar Akmal Tarigan, et al, entitled 'Taming Islam's Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices.'¹⁶ This paper describes how the motives of polygamists are generally based on duality. However, this article differs from this one in that it tries to elaborate that in the context of polygamy in Banjar society, religious motives often become a 'wrapper' related to the social and cultural conditions of Banjar society, which is known to be religious.

METHOD

This paper is an empirical-research that explores data from several informants in the field. Researchers conducted direct interviews with data sources, namely husbands and or wives who live in a polygamous marriage. In the interviews, researchers asked about the polygamous behavior that they did and experienced.

Because polygamous marital life is sensitive and more private, the researcher took a more persuasive approach so that they wanted to tell stories and did not feel interviewed. Therefore, the researcher completely left it to the informants to determine the time and place so that during the interview process they felt comfortable and calm in telling their stories.

The data that has been obtained is then processed by the objectives of this article and then analyzed with a socio-legal approach.

RESULTS AND DISCUSSIONS

The Problematic Duality of Motives for Polygamy

In much literature, especially literature related to sociology, it is mentioned that the term duality is found in the theory of structuration developed by Antonie Giddens. The term duality is different from the more familiar dualism. This second term is more dichotomous, in contrast to duality which views two entities that each stand-alone but cannot be separated because they are in one non-dichotomous structure. Social interaction will give birth to a system and conversely, a social system will form a social form.¹⁷ In this theory, the term system is also called structure, and social is an agent that has a dialectical

¹⁴ Wardatun Nadhiroh, "Religious and Gender Issues in the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan," *Al-Albab* 6, no. 2 (December 1, 2017): 263, <https://doi.org/10.24260/alalbab.v6i2.674>.

¹⁵ Zainuddin Zainuddin dan Zaki Ulya, "Recording Siri's Marriages In Obtaining Legal Certainty (Reflections on the rise of Siri marriages in Aceh)," *Syariah: Jurnal Hukum dan Pemikiran* 21, no. 1 (22 Maret 2021): 16, <https://doi.org/10.18592/sjhp.v1i1.3276>.

¹⁶ Azhari Akmal Tarigan, Nurhayati, dan Watni Marpaung, "Taming Islam's Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices," *Journal of Indonesian Islam* 15, no. 01 (2021): 149–70, <http://dx.doi.org/10.15642/JIIS.2021.15.1.149-170>.

¹⁷ Firmansyah, Ahmad Aziz Mashhadi, and Deden Fardan Hamdani, "The Duality of Islam and Arabic: Criticism of the Expression 'Take the Islam and Through the Arabic,'" *Transformation (Studi Islam)* 6, no. 1 (April 28, 2022): 71, <https://doi.org/10.23971/tf.v6i1.3881>.

relationship with both so that it is oriented towards social change, namely how structures are produced and reproduced by agents, namely humans who behave with what they expect, by utilizing existing structures in society.¹⁸

In social reality, polygamous marriage is a form of marriage that combines one husband with several women as wives simultaneously. The polygamous marriage system becomes a structure in people's lives because it is carried out repeatedly and creates social institutions such as values, norms, and sanctions as a means to facilitate the interests of individuals. Therefore, religion and the state are present to create a norm that regulates the practice of marriage which is agreed upon as a system or structure that applies such as the husband's obligation to be fair to his wives, the limitation of the number of wives and other conditions set by the state in a regulation. The existence of a system or structure aims to create order in polygamy and of course, this cannot be separated from the long history of polygamous marriage itself.¹⁹

According to Giddens, there are three motivations in the internal dimension of agents, namely unconscious motivation, practice consciousness, and discourse consciousness. Unconscious motivation is a desire that has the potential to direct an action but not the action itself. This unconsciousness is triggered by memories of the past that draw information about the past and what happened. This condition is exacerbated by the existence of perceptions formed from past information and understood through long-term processes.²⁰ Second, is practical awareness, which is a collection of practical knowledge that cannot always be mentioned in detail. In this case, we are always invited to find out about daily activities without having to question what has happened or is being done. Meanwhile, discourse awareness is our ability to reflect on mentioning, and explaining what is done.²¹

In the context of polygamy, the motivation of the perpetrators of marriage is often based on something noble, such as, because it is allowed by religion, to provide for widows, to raise the economic status of polygamous women, or for the sake of comfort because they feel they have a bad relationship with their first wife during marriage so they do not get psychological comfort or for other reasons regulated by applicable regulations. Such motives can be categorized as unconscious motivations because they are all part of the experiences that others have had in practicing polygamy.²² In social relations in society, this condition eventually becomes an institutional structure. But behind that, there is another element that becomes the motive for polygamy, namely the desire to realize biological desires. This motive can be categorized as an unstated motive of practical awareness that drives individuals to discover why they should remarry.²³

¹⁸ Karman, "Konsep Dualisme Versus Dualitas dalam Diskursus Epistemologi Ilmu Sosial," 24–26; Panji Suminar, "Relasi Agen dan Struktur: Ruang Negosiasi dalam Pengelolaan Sumber Daya Hutan di Kabupaten Lebong," *Jurnal Sosiologi Nusantara* 6, no. 1 (June 17, 2020): 57, <https://doi.org/10.33369/jsn.6.1.55-76>.

¹⁹ Nasaiy Aziz, Rispalman Rispalman, dan Tika Angraini, "Polygamy in the Perspective of Tafsir Al-Aḥkām and Islamic Law: An Examination of the Gayo Luwes Community in Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (19 Oktober 2023): 1682, <https://doi.org/10.22373/sjhk.v7i3.20021>.

²⁰ Muhibbuthabry Muhibbuthabry, "Poligami Dan Sanksinya Menurut Perundang-Undangan Negara-Negara Modern.," *AHKAM: Jurnal Ilmu Syariah* 16, no. 1 (28 Januari 2016), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/2891>.

²¹ See Paulus Eko Kristianto, "Integrasi Teori Strukturasi Anthony Giddens dan Kajian Feminis pada Kebijakan Sumber Daya Manusia di Tempat Kerja," *Dekonstruksi* 7, no. 01 (July 1, 2022): 8–10, <https://doi.org/10.54154/deconstruction.v7i01.106>; Suminar, "Agent and Structure Relations," 60.

²² Nur Kholis, Jumaiyah Jumaiyah, dan Wahidullah Wahidullah, "Poligami dan Ketidakadilan Gender dalam Undang-undang Perkawinan di Indonesia," *Al-Ahkam* 27, no. 2 (12 Oktober 2017): 195, <https://doi.org/10.21580/ahkam.2017.27.2.1971>.

²³ Tarigan, Nurhayati, and Marpaung, "Taming Islam's Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices," 159–61.

The refuge of a good motive from the real motive mentioned above in the practice of polygamy in Banjar society was recognized by several informants interviewed by the author, including a grandfather with the initials AK who once had three wives. When practicing polygamy, he argues that the motivation for polygamy is based on the opinion that religion permits it and that it was practiced by the Prophet, the Companions, and the *ulama* (master teachers).²⁴ Yet he admits that the polygamy he used to practice was based more on biological desire and encouraged him to remarry and thus have three wives. According to him, such a motive has implications for dishonest behavior towards the first wife and not even being fair to the wives.²⁵ Thus, the motive due to religious permissibility becomes an unconscious motivation, while the biological drive becomes a conscious motive that takes refuge in an unconscious motive.²⁶

HDM, an ASN head of the KUA, who had been polygamous in an unrecorded manner, expressed a similar sentiment. He revealed that he remarried a widow because he wanted to have a wife who understood religious knowledge, especially since his second wife was a descendant of one of the religious figures in his area and she was much younger than his first wife. According to him, the character that exists in the second wife is not found in the first wife who has a hard nature, including towards her husband. So, according to him, household life with the first wife is often characterized by quarrels. However, when the researcher asked about the beginning of polygamy, he said it started from 'playing around', but did not explain further the meaning of the sentence.²⁷ Instead, the author obtained an explanation of the sentence from HDM's colleagues who knew exactly how HDM behaved and the condition of his household. BSD, his colleague, told me that HDM tended to like women. This had been going on for a long time when he was still serving in East Kalimantan, although none of them had reached the stage of marriage. According to BSD, this behavior, as told to her by HDM's first wife, was one of the reasons for asking HDM to move to his home area in the hope that there would be a change in attitude and behavior because he would be with his extended family. However, this behavior was not the case even though HDM was a civil servant who often married off other people. Moreover, he even often sang with the singer at the wedding party.²⁸ HDM's behavior has already received reprimands from his immediate superiors and community leaders. Of all his female friends, it was with this last woman that HDM finally tied the knot, although it was not registered. Apart from working as a civil servant, HDM is also known in his area as a seller of male drugs whose customers come from among council members and officials, because of the relatively expensive price.²⁹ Thus, HDM's psychological motives related to his household conditions are unconscious motives that take refuge in practical conscious motives, namely biological motives.

In another case of polygamy by ANT, it was clearly stated that the motive was based on religion. According to him, it is allowed in Islam. The desire for polygamy began to emerge as he became more intensely involved with the *Habib* (descendants associated with the Prophet) who taught him that polygamy was permissible according to the norms

²⁴ Salman Abdul Muthalib, "Pengesahan Isbat Nikah Perkawinan Poligami: Kajian Putusan Nomor 130/Pdt.G/2020/Ms.Bna," *El-Ushrah: Jurnal Hukum Keluarga* 5, no. 2 (12 Mei 2023): 224, <https://doi.org/10.22373/ujhk.v5i2.16040>.

²⁵ Interview with AK on Thursday, 03 November 2022 at 19.00-20.15 WITA.

²⁶ Umi Supraptiningsih dan Khoiril Bariyyah, "Marriage Settlement among Minority Moslem by Datok Imam Masjid in South Thailand," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 14, no. 2 (10 Desember 2019): 221, <https://doi.org/10.19105/al-lhkam.v14i2.2631>.

²⁷ The interview with HDM was held on Friday 12 August 2022 at 14.00-16.30 WITA.

²⁸ Ashabul Fadhli dan Fathur Rahmi, "Ijtihad Hakim Pengadilan Agama pada Perkara Poligami," *JURIS (Jurnal Ilmiah Syariah)* 19, no. 2 (18 Desember 2020): 215, <https://doi.org/10.31958/juris.v19i2.2429>.

²⁹ The interview with BSD was held on Friday 12 August 2022 at 17.00-18.00 WITA.

contained in Islam.³⁰ However, the motive itself can be said to be a subconscious motivation expressed by ANT, because the second wife he married was physically more attractive than the first wife, even though she was slightly younger than the first wife. Moreover, from an economic point of view, the second wife has an income by managing a Hajj and Umrah travel agency. Meanwhile, the first wife is just an ordinary housewife who expects income from her husband. From here, there is another tendency that becomes the motive for ANT's practical awareness of polygamy, namely biological and perhaps material issues. What is clear is that the motive because religion allows it is the motive for polygamy that ANT unconsciously uses as an argument for the validity of his polygamy.³¹

The practice of polygamy with practical awareness such as in the cases above often creates legal problems, especially for women. The legal problem that often occurs is the non-registration of the second marriage. Marriage registration according to the laws and regulations is an effort by the state to provide legal protection for every married couple. Marriage registration is a recognition and guarantee arising from the development of social, cultural, and human knowledge itself, including in polygamous marriages.³² Therefore, if the first marriage is registered, then the marriage with the second and subsequent wives should also be registered because polygamous marriage is part of the marriage itself. Equal treatment in terms of marriage registration and registration is an integral part of the concept of justice, which is the main requirement for the permissibility of polygamy, both in religious norms and applicable regulations.³³ In this case, registration is a form of justice in the aspect of recognition and legal guarantees given to the wife. Indirectly, it can be said that the non-implementation of marriage registration in the second and subsequent marriages is an act of *ẓalim* in marriage, which is not in line with the behavior of the Prophet who teaches recognition and guarantee of rights in marriage. Therefore, it is not wrong if marriage registration is categorized as part of the primary *maslahat* which absolutely must be realized³⁴

In addition to the legal problems of lack of recognition and legal guarantees in polygamous marriages, verbal, physical, and psychological violence is also common in the practice of polygamy in Banjar society. Such violence can happen to the first wife or the young wife. MSY, a housewife who has been married to her husband for more than twenty years, has experienced cases of physical, verbal, and psychological violence. Her husband not only remarried without her permission or knowledge but also committed violence such as hitting and swearing at her. In addition, the woman he married lived not far from her house so they are still neighbors. Since her husband remarried, he no longer provides for MSY. These incidents did not happen only once or twice but often. With all these incidents, MSY reached a point where she accepted everything that happened with resignation and

³⁰ The interview with ANT was held on Sunday 14 May 2023 from 10.00-12.00 WITA.

³¹ Iman Fadhilah Iman dkk., "Exploring the Monogamy Principle in the Samin Community's Customary Marriages in Kudus: Harmonisation of Tradition and State Law," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2023): 281, <https://doi.org/10.18326/ijtihad.v23i2.281-304>.

³² See Muhammad Aziz and Athoillah Islamy, "Memahami Pencatatan Perkawinan di Indonesia dalam Paradigma Hukum Islam Kontemporer," *Islamitsch Familierecht Journal* 3, no. 02 (November 14, 2022): 96, <https://doi.org/10.32923/ifj.v3i02.2776>; Husnul Khitam, "Pencatatan Perkawinan: Suatu Analisis Sejarah Sosial," *Islamitsch Familierecht Journal* 3, no. 02 (November 14, 2022): 175, <https://doi.org/10.32923/ifj.v3i02.2757>; Nofialdi Nofialdi et al., "The Ambiguity of Using the Statement of Absolute Responsibility Based on Minister of Home Affairs Regulation Number 109 of 2019: Study in Dharmasraya Regency, West Sumatra Province, Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 23, no. 1 (June 29, 2023): 109, <https://doi.org/10.30631/alrisilah.v23i1.1358>.

³³ Anwar Sadat dan Ipanang Ipanang, "Dinamika Poligami Di Tengah Budaya Oligarkis-Patriarkis (Studi Pada Masyarakat Poliwali Mandar Dan Konawe Sulawesi)," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2 Juni 2020): 131, <https://doi.org/10.24090/mnh.v14i1.3657>.

³⁴ Fitria Romadloni, "Pencatatan Perkawinan dalam Perspektif Maqasid Syariah," *Opinia de Journal* 3, no. 4 (2023): 60, <https://doi.org/10.35888/opinia.v3i2.45>.

patience. According to her, all incidents that occurred were considered trials and were dealt with patiently, although there were many suggestions and efforts from outside parties to advocate for what she experienced, all were rejected.³⁵

The treatment that hurt a woman's feelings was also experienced by RDH, a young wife who was treated inappropriately by her husband. In general, in the practice of polygamous marriage, the position of the young wife will always be privileged by her husband. But according to RDH, it was the opposite. In addition to the unregistered marriage, her right to material and immaterial support was often not given. Her husband only comes one day a week or so for a short time. In terms of material support, RDH herself often gave money or bought clothes. One day, when RDH asked her husband what the purpose of marrying her was if the relationship was like that, he replied that he just wanted to prove to his friends that he was brave enough to be polygamous. According to RDH, this made her feel hurt, because she was only used as an object to prove her husband's status.³⁶

Incidents such as the above are only a few cases of problematic polygamy that occur in the community, especially the Banjar community. Similar cases with diverse backgrounds can occur. In this context, according to the author, the culture of Banjar society, which is known to be religious, is not directly proportional to its understanding of the religious context itself, including the permissibility of polygamy. The Banjar community's very traditionalist understanding of polygamy contributes greatly to the rise of violence in polygamous behavior. Religious texts that are understood textually and rigidly, often justify the practice of polygamy, so that women are often subordinated and only become objects in marital relationships. This understanding of the text is what is called an authoritarian religious understanding that creates injustice and often makes women, in general, the victims.³⁷

The authoritarianism mentioned above is illustrated by HDM's expression when asked about polygamy. He said that many people did not agree with him practicing polygamy, but according to him, what he did did not violate religious norms and there is not a single Quranic or hadith proposition that prohibits polygamy. Even when asked why he did not register his polygamous marriage, HDM firmly said that there is not a single argument that requires this, even many scholars do it without registering it. According to him, which law is higher, God's law or man-made law?³⁸ What HDM said was an irony, because his position as a civil servant in the KUA should be obliged to enforce the applicable rules, instead of contradicting religious norms that are understood textually. This also shows the coercion in understanding the arguments that justify the practice of polygamy. However, as someone who is religiously educated, she should understand that her interpretation of the arguments about polygamy does not necessarily contain absolute truth. Similarly, his claim that the result of his interpretation of the arguments is God's will, which cannot be compared with regulations as a man-made legal product is irrelevant.³⁹

A similar view was expressed by JHN, a cleric who often provides religious views to the community. He bluntly stated that the conditions set by the state do not exist in religious norms related to polygamy. Therefore, there is no need for permission and registration of polygamous marriages. It is religious law that must be implemented to

³⁵ The interview with MSY was held on Monday 06 March 2023 at 14.00-16.00 WITA.

³⁶ Interview with RDH on Friday 04 November 2022, 09.00-10.00 WITA.

³⁷ Muhammad Iqbal Juliansyahzen, "Otoritarianisme Pemahaman Keagamaan: Melacak Akar Kekerasan terhadap Perempuan dalam Rumah Tangga," *Yinyang: Jurnal Studi Islam Gender dan Anak* 16, no. 1 (June 17, 2021): 50, <https://doi.org/10.24090/yinyang.v16i1.3999>.

³⁸ The interview with HDM was held on Friday 12 August 2022 at 14.00-16.30 WITA

³⁹ Abdul Helim dkk., "Cumulative Versus Alternative Conditions: A Study of Polygyny Permits in Indonesia From the Perspective of the Legal Certainty Principle," *De Jure: Jurnal Hukum dan Syar'iah* 15, no. 1 (4 Juli 2023): 21, <https://doi.org/10.18860/j-fsh.v15i1.15384>.

practice polygamy, and there is no obligation to follow the applicable state regulations because God's law has a higher position than laws made by humans.⁴⁰ Although JHN is not a polygamist, his position as a preacher who often gives religious views to the public certainly influences others, especially those who do not have sufficient religious knowledge, so that they take these opinions as truth. This also shows how textual and partial his understanding of polygamy is. When the author asks if such an understanding is part of God's commandments, then what about God's commandments that require obedience to leaders, including obeying regulations made to bring good to the people? Which of God's laws should we follow in the context of polygamy? Those are questions that JHN has yet to answer.⁴¹

Religious authoritarianism that subordinates women cannot be separated from the collaboration of traditional understanding of religious texts with patriarchal social culture. However, the existence of a patriarchal culture in a society is also the result of social construction that is then legitimized by religious texts that are understood based on this cultural construction, thus forming a dominant pattern of relations between men and women for centuries.⁴² In this context, the Banjar community has a traditionalist religious understanding with a typology that is strongly influenced by two things. First, it is influenced by the strong localistic cultural heritage of the ancestors, although in practice there has been accommodation with Islamic values that came later. Secondly, the *ulama* are central figures that can influence the religious character of the Banjar community with their position not only as religious leaders but also as community leaders themselves.⁴³ Thus, the religious understanding of the Banjar community, especially about polygamy, is constructed by the existing culture of the community supported by the influence of the religious interpretations of the *ulama*, which are then transferred to the wider community so that it becomes a common pattern of understanding.⁴⁴

In the relationship between husband and wife in the household, Banjar society is known for its bilateral kinship system culture, which is demonstrated by the freedom of women to carry out economic activities just like men. Similarly, the practice of dividing inherited property between husband and wife is known as 'harta parpantangan' as a form of recognition of women's contribution to the acquisition of family assets.⁴⁵ In some cases, however, patriarchal nuances dominate the Banjar community's religious practices and are even deeply rooted in their social interactions, one example being the practice of polygamy.

⁴⁰ The interview with JHN was held on Wednesday 31 August 2022 from 10.00-12.00 WITA.

⁴¹ The interview with JHN was held on Wednesday 31 August 2022 from 10.00-12.00 WITA.

⁴² Franca Chitoh Attoh, "Gender, Religion and Patriarchy: A Sociological Analysis of Catholicism and Pentecostalism in Nigeria," *Advances in Social Sciences Research Journal* 4, no. 14 (July 25, 2017): 159, <https://doi.org/10.14738/assrj.414.3482>; Ina Yosia Wijaya and Lidya Putri Loviona, "Kapitalisme, Patriarki dan Globalisasi: Menuju Langgengnya Kekerasan Berbasis Gender Online," *Jurnal Wanita dan Keluarga* 2, no. 1 (July 26, 2021): 57, <https://doi.org/10.22146/jwk.2243>.

⁴³ Wardatun Nadhiroh, "Nalar Keberagamaan Masyarakat Banjar: Dari Mistis-Realis hingga Tradisionalis-Kritis," *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman* 18, no. 2 (December 28, 2019): 270, <https://doi.org/10.18592/al-banjari.v18i2.3003>.

⁴⁴ Khairul Hamim, "Comparison Between Double Movement Theory and Nazariyyat Al-Hudud Theory on Polygamy Laws," *El-Mashlahah* 12, no. 2 (31 Desember 2022): 190, <https://doi.org/10.23971/el-mashlahah.v12i2.4903>.

⁴⁵ See Al Amruzi M. Fahmi, Zainal Muttaqin, and Rusdiyah, "Discussing the Concept of Harta Perpantangan of Ijtihad Muhammad Arsyad Al-Banjari," in *Perspective and Paradigm of Sharian Reason Theory*, 1st ed. (Pekalongan: PT. Nasya Expanding Management, 2022), 46-47, https://books.google.co.id/books?id=pLyjEAAAQBAJ&pg=PA320&lpq=PA320&dq=Perspective+and+Paradigm+of+Sharia+Reason+Theory&source=bl&ots=b7yZTcLxNK&sig=ACfU3U0xD7jBT9Eb8YpILyTysbOqrnQ96Q&hl=en&sa=X&ved=2ahUKEwjUroqK5q-EAxWpR2wGHdfcBA4Q6AF6BAG_EAM#v=onepage&q=Perspective%20and%20Paradigm%20of%20Sharia%20Reason%20Theory&f=false.

This dominant patriarchal nuance in the practice of polygamy has led to acts of violence and subordination against women. Women often only become objects of sexuality in the pattern of biological relationships in family relationships. In the context of fiqh, this interpretation or reasoning can be found in the definition of marriage as generally found in classical literature, even though Imam Syafi'i - the founder of the Syafi'i school of thought which is widely followed by Indonesian Muslims, including the Banjar community - understands biological relations as a contract of worship, not a contractual *tamlik al-Intifa'* contract, but still, marriage is often understood in the context of biological relations like that.⁴⁶

This is different from the more modern understanding of marriage as contained in KHI, which is more oriented towards the essence of marriage itself as a form of obedience to the commandments of Islamic law. Legal experts do not define marriage as merely the legalization of sexual relations, but they agree that this relationship is only a small part of the meaning of the essence of marriage. It is because its true meaning is the establishment of a relationship between a man and a woman based on cooperation and help, a balance between rights and obligations that has an impact on the benefit.⁴⁷ Such an understanding of the meaning of marriage has not been fully internalized in the religious reasoning of the Banjar community. If such an understanding of the meaning of marriage becomes the basis for the practice of polygamy, then the main requirement for the permissibility of polygamy, namely the ability to be fair, must be implemented in practice. As a simple example, the Banjar community generally accepts the requirement for marriage registration of the first marriage, so that as an implementation of the concept of being able to be fair in polygamy, subsequent marriages should also be registered, and any prescribed procedures should be followed to obtain legal registration. This shows that the husband has taken the first step towards taking legal and moral responsibility for his polygamous marriage. This first step can also be an indicator that the husband can provide legal protection and equal rights to his wives in a polygamous life.

Narrow reasoning towards the meaning of marriage, by positioning women as marginalized parties, also has an impact on a wife's dependence on her husband, especially in the economic aspect. An understanding that positions the husband as the breadwinner, and the wife as the recipient of income, often makes the husband the holder of the family's economic capital. This unequal relationship often puts the wife in a weak position to simply accept her husband's problematic polygamous behavior. The case descriptions mentioned above demonstrate this perspective. This position of women is further reinforced by religious doctrine, which is often understood as a prohibition to take legal action against the husband's inappropriate behavior towards her, by resigning to fate and as a form of obedience to the husband. The MSY case described above provides an example of this perspective. In addition, the role of the *ulama* is central in shaping the religious reasoning of the Banjar community, including in understanding the arguments for polygamy. The textualist and traditionalist reasoning presented by the *ulama* is instrumental in constructing the Banjar community's understanding of what is permissible polygamy. The arguments presented by HDM and JHN regarding polygamy in Islam are clear examples of a simple and partial understanding of polygamy.

⁴⁶ Hari Widiyanto, "Hari Widiyanto, "Konsep Pernikahan dalam Islam (Studi Fenomenologis Penundaan Pernikahan di Masa Pandemi)," *Jurnal Islam Nusantara* 04, no. 01 (2020): 106, <https://doi.org/10.33852/jurnal.v4i1.213>.

⁴⁷ See Khairisudin Khairisudin, "Nikah Siri dalam Perspektif Kompilasi Hukum Islam dan Undang-Undang Perkawinan Indonesia," *Perspektif* 26, no. 1 (January 30, 2021): 49, <https://doi.org/10.30742/perspektif.v26i1.791>; Muhammad Abu Zahrah, *Al-Ahwal Al-Shakhsiyah*, 2nd ed. (Beirut: Dar Al-Fikr Al-Arabi, 1950), 17.

Thus, provided that the permissibility of polygamy is understood in the context of marginalization, stereotyping, and viewing women as objects of sexuality only, the potential for ignoring justice, protecting rights and the law, and violent behavior will always arise and become a problematic practice, regardless of the motive for the practice of polygamy. Therefore, by promoting a more egalitarian definition of marriage, based on a balanced relationship between men and women, the above-mentioned potentials in the practice of polygamy can be reduced. In the context of Banjar society, the central position of *ulama* in social interaction is a very important agent in reducing problematic polygamous behavior. In this case, the *ulama* becomes agents of change in social engineering and social control, in addition to the state apparatus itself.

Religion as a Shield for Polygamy Motives in Banjar Society

The Banjar people are known as an ethnic group that has a high expression of practicing Islam, so they are known to have a religious character. Culturally, however, this practice is influenced by pre-Islamic culture, giving birth to the character and characteristics of their religion, which is often referred to as 'Banjar Islam'.⁴⁸ This religiosity is often manifested in their daily activities, both in activities that fall under the category of worship and *muamalat*. However, it must be recognized that these expressions of religiosity are not always in line with the purpose of religion itself. Some behaviors deviate from religion, but religious symbols are often used as a 'shield' for these behaviors so some people consider that these behaviors are based on religious legitimacy.

In the context of polygamy in Banjar society, there are two trends in polygamous behavior: first, those who tend to practice polygamy based solely on a strong desire. Secondly, those who believe that the desire for polygamy must also be supported by something that can be in the form of using certain objects or reading either mantras or certain prayers taken from the Quran or *Shalawat*. Therefore, it is common for some polygamists in Banjar society to have objects or 'practices' such as '*tembang liring*', certain 'agate stones', or prayers and spells recited with certain rituals. Several informants that the author met recognized this reality, even providing examples of such objects and practices.⁴⁹ One very important thing about the use of these media is that Islamic symbols are very dominant both in the form of writing and in the form of reading. This seems to indicate that the use of these media is not something wrong and contrary to religion, especially when they believe that everything is essentially with the permission of Allah and His Messenger. This is concrete evidence that in the social and cultural context of Banjar society, religion is always used as a 'shield' against deviant desires and behaviors that, from the point of view of religious norms, need to be questioned.

Related to this, the '*basurung*' tradition also always uses religion as its motivation. Wardhatun Nadiroh in her writing explains that the tradition is an anomaly from the practice of polygamy in general, which usually comes from the husband. In this tradition, the initiative comes from the woman or her parents who are willing to become young wives. This tradition usually occurs among scholars or what is often referred to as *tuan guru*. As for the women or their parents who are '*basurung*', it generally comes from the *tuan guru* community itself, and very few occur outside the community. Not all *tuan guru* accept this tradition and prefer to stick to monogamous marriage, but many *tuan guru* do and this

⁴⁸ Muhammad Wahdini, Ariyadi Ariyadi, and Muhammad Torieq Abdillah, "Pandemi Covid-19 dan Ekspresi Beragama: Studi Pelaksanaan Majelis Taklim di Kota Banjarmasin," *The Sociology of Islam* 5, no. 1 (June 30, 2022): 42, <https://doi.org/10.15642/jsi.2022.5.1.36-53>.

⁴⁹ Beberapa informan yang memberikan informasi ini adalah MNL yang diwawancarai pada hari Jum'at 26 November 2022 pukul 20.30-22.00 WITA, NM pada hari Sabtu, 10 November 2022 Pukul 10.00-12.00 WITA, dan BDS pada hari Minggu, 27 November 2022 pukul 15.00-17.00 WITA.

phenomenon has become common knowledge among the Banjar community.⁵⁰ Various motives are put forward by the perpetrators of this tradition. These include having offspring who can continue the *tuan guru*' mission being fascinated by the charisma of the *tuan guru*, or even because the *tuan guru* is considered capable of guiding them on the path of religion and the hereafter.⁵¹

Religiously oriented motives always appear in this tradition. However, if linked to the position of the *ulama* in the social strata of Banjar society, the real motive may be to raise the social status of women in the eyes of the community. In general, as mentioned above, the *tuan guru* in Banjar society belongs to an elite category that has a special position and is even referred to not only by ordinary people, but also by other elite groups in society, such as officials, wealthy businessmen (*urang sugih*), or descendants of Banjar aristocrats (*tutus*). This means that the *tuan guru* has a high position compared to other layers of society. With this position, all honor, social recognition, and so on are not only attached to the individual *tuan guru*, but also to his wife and family. Therefore, there is an expression that Banjar women often use when asked about the prospect of marrying a *tuan guru*, '*s kada bakun beisi laki tuan guru, alim, sugih, dunia akhirat insya Allah tejamin tu pang*' (who does not want to marry a husband who is a *tuan guru*, who has extensive religious knowledge, is rich so that life in this world and the hereafter is guaranteed).⁵²

In general, this tradition does not cause many legal problems or rights protection issues that can significantly disrupt the stability of domestic life, because the marriage is carried out with the wife's permission, and some even involve the first wife finding her husband another wife. Similarly, there are not many people in the community who oppose this practice, because in general, the community considers that a *tuan guru* who knows religious knowledge is considered capable of implementing the concept of justice, which is the main requirement for the permissibility of polygamy in Islam. However, if we look at the instincts of women, who generally do not want to share their affection with other women, then the *tuan guru*' first wife also had this trait. As for what forces her to submit to the reality that occurs, it is more because of the strong religious teachings instilled in her, such as having to submit and obey her husband, being prohibited from rejecting her husband's wishes, or the like. Thus, the attitude of acceptance is interpreted as a form of obedience to the husband and a way to heaven. There is an expression that is often heard in social interactions in Banjar society '*misal bini bakun mangawin akan lakinya, lalu inya pasti masuk surga*' (If a wife gives permission and marries her husband to another woman, then it is a way to enter heaven).

On the one hand, the social and cultural life of a religious society is a positive thing, provided that it is built on the values and morals that religion teaches correctly. The order of community life will run well and harmoniously. However, it cannot be denied that such socio-cultural conditions are also vulnerable to deviations, in the understanding of religious teachings, especially the understanding produced by people who are considered authoritative by the community. Partial, non-holistic, and contextual understanding of polygamy texts will be used as a tool to legitimize behavior, so that for some people, what is conveyed repeatedly and continuously is considered a truth. According to Peter L. Berger, as quoted by Titus Hjelm, religion is seen as a symbolic universe, namely a collection of traditions that integrate most of reality and present institutional order to individuals as a symbolic totality. In this case, religion becomes a medium to legitimize the

⁵⁰ See Wardatun Nadhiroh, "Religious and Gender Issues in the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan," *Al-Albab* 6, no. 2 (December 1, 2017): 270–71, <https://doi.org/10.24260/alalbab.v6i2.674>.

⁵¹ see Nadhiroh, 270–73.

⁵² Nadhiroh, 272.

order of reality that humans live by referring to realities that are outside the daily experiences they face.⁵³

In Berger's perspective, religion is seen as a reality that contains faith values that are vulnerable to being influenced by worldly elements. Therefore, religion is often used as legitimacy to justify deviant actions which then become a habit in the social reality of society.⁵⁴ religion as a symbolic universal has noble values, norms, and morality which are then interpreted by individual adherents and expressed in their objective social reality, thus becoming an institutionalized reality that is then absorbed by each individual as a subjective reality over time. Therefore, polygamy as an objective social and religious reality in social reality is created by humans themselves. This is what is meant by the theory of Social Reality Reconstruction as humans create society. and humans are products of society.

Considering the above, the social and cultural conditions of the religious Banjar community make it appropriate to use religion as an excuse for polygamy, as religion legitimizes the rejection of polygamy. Such a society with strong religious values will easily accept polygamy as part of religious teachings, supported by religious texts that are interpreted and transmitted traditionalistically by those who are considered authoritative in the community. With this character of society, the rejection of the permissibility of polygamy is often considered inappropriate, regardless of whether polygamous marriages can bring good or vice versa. Similarly, a paradigm towards polygamy that is formed from textual and non-holistic interpretations over a long period and becomes a habitualization in society will be considered a truth that is difficult to accept a new paradigm that is more egalitarian and comprehensive in viewing polygamy.

The above description gives birth to a legal implication. No matter how good the regulations governing polygamy are made, if there is no reconstruction of the traditional paradigm of society in viewing polygamy law, which prioritizes textual interpretation, the practice of polygamy will also give birth to many legal problems. These problems include the neglect of rights and unequal legal protection among wives. Violent behavior, whether verbal, psychological, or physical, in a society that prioritizes religious doctrine over-regulation will always occur. In this context, there needs to be intense internalization so that religious law and state law are not confronted (*vis a vis*) with each other, but work together as a legal product that equally realizes the good for everyone.

CONCLUSION

The religious motives or reasons that always come out of the mouths of polygamists in Banjar society, can be categorized as unconscious motives that are used to protect other motives, which are practical in practicing polygamy. Based on the description above, two conclusions can be formulated, namely first, the practice of polygamy for religious reasons as an unconscious motive has the potential to lead to unfair polygamous behavior, acts of violence, and neglect of rights and legal protection. Textual and partial interpretations of polygamous texts supported by a patriarchal socio-cultural system become the basis for legitimizing such behavior, even though such behavior is not by the essential purpose of marriage including polygamy and the applicable regulations. Conversely, if religious motives become practical awareness in polygamy, then the tendency of negative behavior

⁵³ Titus Hjelm, "Peter L. Berger and the Sociology of Religion," *Journal of Classical Sociology* 18, no. 3 (August 2018): 2–3, <https://doi.org/10.1177/1468795X18761217>; Titus Hjelm, "Rethinking the Theoretical Basis of Peter L. Berger's Sociology of Religion: Social Construction, Power, and Discourse," *Critical Research on Religion* 7, no. 3 (December 2019): 226, <https://doi.org/10.1177/2050303219874392>.

⁵⁴ Ferry Adhi Dharma, "Konstruksi Realitas Sosial: Pemikiran Peter L. Berger Tentang Kenyataan Sosial," *Kanal: Jurnal Ilmu Komunikasi* 7, no. 1 (September 1, 2018): 1, <https://doi.org/10.21070/kanal.v6i2.101>.

that arises will be minimized, especially if the permissibility of polygamy in Islam is understood holistically and contextually as an inseparable part of the essential purpose of marriage itself.

Secondly, making religion an unconscious motive is considered effective in legitimizing polygamy. With the religious character of Banjar society with Islam as its ethnic identity, the practice of polygamy is understood as natural and legitimate. This condition is strongly supported by the traditionalist reasoning adopted by many Banjar people so that often the internalized understanding of polygamy by *tuan guru* is considered an accepted truth. This is due to the position of the *tuan guru* who is considered an authoritative figure in every aspect of Banjar society.

REFERENCE

- Anam, Haikal Fadhil. "Poligami dalam Hermeneutika Feminis Amina Wadud." *Musāwa Jurnal Studi Gender dan Islam* 19, no. 1 (Januari 2020): 43–56. <https://doi.org/10.14421/musawa.2020.191.43-56>.
- Attoh, Franca Chitoh. "Gender, Religion And Patriarchy: A Sociological Analysis Of Catholicism And Pentecostalism In Nigeria." *Advances in Social Sciences Research Journal* 4, no. 14 (25 Juli 2017). <https://doi.org/10.14738/assrj.414.3482>.
- Aziz, Muhammad, dan Athoillah Islamy. "Memahami Pencatatan Perkawinan di Indonesia dalam Paradigma Hukum Islam Kontemporer." *Islamitsch Familierecht Journal* 3, no. 02 (14 November 2022): 94–113. <https://doi.org/10.32923/ifj.v3i02.2776>.
- Aziz, Nasaiy, Rispalman Rispalman, dan Tika Anggraini. "Polygamy in the Perspective of Tafsir Al-Aḥkām and Islamic Law: An Examination of the Gayo Luwes Community in Aceh, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (19 Oktober 2023): 1682–1707. <https://doi.org/10.22373/sjhk.v7i3.20021>.
- Dharma, Ferry Adhi. "Konstruksi Realitas Sosial: Pemikiran Peter L. Berger Tentang Kenyataan Sosial." *Kanal: Jurnal Ilmu Komunikasi* 7, no. 1 (1 September 2018): 1–9. <https://doi.org/10.21070/kanal.v6i2.101>.
- Effendi, Rustam. "Cucupatian (Teka-Teki) Banjar: Analisis Struktur, Fungsi, Dan Nilai Budaya." *Jurnal Masyarakat Indonesia* 36, no. 2 (2010): 209–43. <https://doi.org/10.14203/jmi.v36i2.652>.
- . "Mahalabiu: Media Kritik Sosial Masyarakat Banjar (Mahalabiu: The Media Of Social Critics Of Banjar Society)." *Jurnal Bahasa, Sastra Dan Pembelajarannya* 7, no. 2 (26 Januari 2018): 173. <https://doi.org/10.20527/jbsp.v7i2.4418>.
- . *Mabilung Bahasa, Sastra, dan Budaya Banjar*. Banjarmasin: Jurusan Pendidikan Bahasa dan Seni Fakultas Keguruan dan Ilmu Pendidikan Universitas Lambung Mangkurat, 2021.
- Fadhli, Ashabul, dan Fathur Rahmi. "Ijtihad Hakim Pengadilan Agama pada Perkara Poligami." *JURIS (Jurnal Ilmiah Syariah)* 19, no. 2 (18 Desember 2020): 215–29. <https://doi.org/10.31958/juris.v19i2.2429>.
- Firmansyah, Ahmad Aziz Masyhadi, dan Deden Fardan Hamdani. "The Duality of Islam and Arabic: Criticism of The Expression 'Take The Islam and Through The Arabic.'" *Transformatif (Studi Islam)* 6, no. 1 (28 April 2022): 65–76. <https://doi.org/10.23971/tf.v6i1.3881>.
- Hamim, Khairul. "Comparison Between Double Movement Theory and Nazariyyat Al-Hudud Theory on Polygamy Laws." *El-Mashlahah* 12, no. 2 (31 Desember 2022): 190–209. <https://doi.org/10.23971/el-mashlahah.v12i2.4903>.
- Helim, Abdul. "Poligami Perspektif Ulama Banjar." *ISLAMICA: Jurnal Studi Keislaman* 12, no. 1 (2017): 50–79. <https://doi.org/10.15642/islamica.2017.12.1>.

- . “Poligami Perspektif Ulama Banjar.” *ISLAMICA: Jurnal Studi Keislaman* 12, no. 1 (4 September 2017): 50–70. <https://doi.org/10.15642/islamica.2018.12.2.176-205>.
- Helim, Abdul, Aris Sunandar Suradilaga, Wafid Syuja’ Vennovary Benevolent, dan Rabiatul Adawiyah. “Cumulative Versus Alternative Conditions: A Study of Polygyny Permits in Indonesia From the Perspective of the Legal Certainty Principle.” *De Jure: Jurnal Hukum dan Syar’iah* 15, no. 1 (4 Juli 2023): 21–38. <https://doi.org/10.18860/j-fsh.v15i1.15384>.
- Hjelm, Titus. “Peter L. Berger and the Sociology of Religion.” *Journal of Classical Sociology* 18, no. 3 (Agustus 2018): 231–48. <https://doi.org/10.1177/1468795X18761217>.
- . “Rethinking the Theoretical Base of Peter L. Berger’s Sociology of Religion: Social Construction, Power, and Discourse.” *Critical Research on Religion* 7, no. 3 (Desember 2019): 223–36. <https://doi.org/10.1177/2050303219874392>.
- Iman, Iman Fadhilah, Tedi Kholiludin, Muhammad Lutfi Hakim, dan Ubbadul Adzkiya’. “Exploring the Monogamy Principle in the Samin Community’s Customary Marriages in Kudus: Harmonisation of Tradition and State Law.” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2023): 281–304. <https://doi.org/10.18326/ijtihad.v23i2.281-304>.
- Juliansyahzen, Muhammad Iqbal. “Otoritarianisme Pemahaman Keagamaan: Melacak Akar Kekerasan terhadap Perempuan dalam Rumah Tangga.” *Yinyang: Jurnal Studi Islam Gender dan Anak* 16, no. 1 (17 Juni 2021): 49–70. <https://doi.org/10.24090/yinyang.v16i1.3999>.
- Karman. “Konsep Dualisme Versus Dualitas dalam Diskursus Epistemologi Ilmu Sosial.” *Majalah Semi Ilmiah Populer Komunikasi Massa* 2, no. 1 (Juni 2021): 23–34. <https://doi.org/10.1016/j.transproceed.2011.09.063>.
- Kharisudin, Kharisudin. “Nikah Siri Dalam Perspektif Kompilasi Hukum Islam Dan Undang-Undang Perkawinan Indonesia.” *Perspektif* 26, no. 1 (30 Januari 2021): 48–56. <https://doi.org/10.30742/perspektif.v26i1.791>.
- Khitam, Husnul. “Pencatatan Perkawinan: Suatu Analisis Sejarah Sosial.” *Islamitsch Familierecht Journal* 3, no. 02 (14 November 2022): 170–78. <https://doi.org/10.32923/ifj.v3i02.2757>.
- Kholis, Nur, Jumaiyah Jumaiyah, dan Wahidullah Wahidullah. “Poligami dan Ketidakadilan Gender dalam Undang-undang Perkawinan di Indonesia.” *Al-Ahkam* 27, no. 2 (12 Oktober 2017): 195–212. <https://doi.org/10.21580/ahkam.2017.27.2.1971>.
- Kolasi, Klevis. “Structuration Theory.” Dalam *The Palgrave Encyclopedia of Global Security Studies*, disunting oleh Scott Romaniuk, Manish Thapa, dan Péter Marton, 1–4. Cham: Springer International Publishing, 2020. https://doi.org/10.1007/978-3-319-74336-3_360-1.
- Kristianto, Paulus Eko. “Integrasi Teori Strukturasi Anthony Giddens dan Kajian Feminis pada Kebijakan Sumber Daya Manusia di Tempat Kerja.” *Dekonstruksi* 7, no. 01 (1 Juli 2022): 136–59. <https://doi.org/10.54154/dekonstruksi.v7i01.106>.
- M. Fahmi, Al Amruzi, Zainal Muttaqin, dan Rusdiyah. “Discussing the Concept of Harta Perpantangan of Ijtihad Muhammad Arsyad Al-Banjari.” Dalam *Perspective and Paradigm of Sharian Reason Theory*, 1 ed., 1–319. Pekalongan: PT. Nasya Expanding Management, 2022. <https://books.google.co.id/books?id=pLyjEAAAQBAJ&pg=PA320&lpg=PA320&dq=Perspective+and+Paradigm+of+Sharia+Reason+Theory&source=bl&ots=b7yZTcLxNK&sig=ACfU3U0xD7jBT9Eb8YpILyTysbOqrmQ96Q&hl=en&sa=X&ved=2ahUKEwjUroqK5q->

- EAXWpR2wGHdfcBA4Q6AF6BAg_EAM#v=onepage&q=Perspective%20and%20Paradigm%20of%20Sharia%20Reason%20Theory&f=false.
- Muhibbuthabry, Muhibbuthabry. "Poligami Dan Sanksinya Menurut Perundang-Undangan Negara-Negara Modern." *AHKAM: Jurnal Ilmu Syariah* 16, no. 1 (28 Januari 2016). <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/2891>.
- Muthalib, Salman Abdul. "Pengesahan Isbat Nikah Perkawinan Poligami: Kajian Putusan Nomor 130/Pdt.G/2020/Ms.Bna." *El-Ushrah: Jurnal Hukum Keluarga* 5, no. 2 (12 Mei 2023): 224–38. <https://doi.org/10.22373/ujhk.v5i2.16040>.
- Muzzammil, Shofiyullah, Mohammad Affan, Muhammad Alwi Hs, dan Masturiyah Masturiyah. "Motif, Konstruksi, dan Keadilan Semu dalam Praktik Poligami Kiai Pesantren di Madura." *Jurnal SMART (Studi Masyarakat, Religi, dan Tradisi)* 7, no. 01 (22 Juni 2021): 129–42. <https://doi.org/10.18784/smart.v7i01.1207>.
- Nadhiroh, Wardatun. "Nalar Keberagamaan Masyarakat Banjar: Dari Mistis-Realis Hingga Tradisionalis-Kritis." *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman* 18, no. 2 (28 Desember 2019): 246. <https://doi.org/10.18592/al-banjari.v18i2.3003>.
- . "Religious and Gender Issues In the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan." *Al-Albab* 6, no. 2 (1 Desember 2017): 263. <https://doi.org/10.24260/alalbab.v6i2.674>.
- . "Religious and Gender Issues In the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan." *Al-Albab* 6, no. 2 (1 Desember 2017): 263. <https://doi.org/10.24260/alalbab.v6i2.674>.
- Nofialdi, Nofialdi, Elimartati Elimartati, Syukri Iska, Deri Rizal, Firdaus Firdaus, Kasmidin Kasmidin, dan Hamdani Hamdani. "The Ambiguity of Using the Statement of Absolute Responsibility Based on Minister of Home Affairs Regulation Number 109 of 2019: Study in Dharmasraya Regency, West Sumatra Province, Indonesia." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (29 Juni 2023): 108–20. <https://doi.org/10.30631/alrisalah.v23i1.1358>.
- Nurnazli, Nurnazli, Hashm Omer Ahmad, Linda Firdawaty, M. Yasin al Arif, dan Muhammad Akmansyah. "The Contestation of Islamic Boarding School Womens's View of Wifes' Rights in Polygamy." *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (22 Juni 2024): 16–35. <https://doi.org/10.30631/alrisalah.v24i1.1349>.
- Romadloni, Fitria. "Pencatatan Perkawinan Dalam Perspektif Maqasid Syariah." *Opinia de Journal* 3, no. 4 (2023): 48–62. <https://doi.org/10.35888/opinia.v3i2.45>.
- Sa'adah, Nurus, Vita Fitria, dan Kurnia Widiastuti. "Poligami dalam Lintas Budaya dan Agama: Meta-Interpretation Approach." *Ay-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 49, no. 2 (2015): 479–99. <https://doi.org/10.14421/ajish.v49i2.151>.
- Sadat, Anwar, dan Ipanang Ipanang. "Dinamika Poligami Di Tengah Budaya Oligarkis-Patriarkis (Studi Pada Masyarakat Poliwali Mandar Dan Konawe Sulawesi)." *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2 Juni 2020): 131–46. <https://doi.org/10.24090/mnh.v14i1.3657>.
- Sari, Yulianti Puspita. "Mahalabiu: Ketaksaan Makna Dalam Bahasa Banjar." *Salangka: Majalah Ilmiah Bahasa dan Sastra* 13, no. 2 (2016): 103–13.
- Septiandani, Dian, Ani Triwati, dan Efi Yulistyowati. "Kemaslahatan dalam Perkawinan Poligami Dalam Kajian Hukum Islam dan Hukum Positif Indonesia." *Jurnal Ius Constituendum* 8, no. 3 (26 Oktober 2023): 466. <https://doi.org/10.26623/jic.v8i3.7236>.
- Suminar, Panji. "Relasi Agen Dan Struktur: Ruang Negosiasi Dalam Pengelolaan Sumberdaya Hutan Di Kabupaten Lebong." *Jurnal Sosiologi Nusantara* 6, no. 1 (17 Juni 2020): 55–76. <https://doi.org/10.33369/jsn.6.1.55-76>.

- Supraptiningsih, Umi, dan Khoirul Bariyyah. "Marriage Settlement among Minority Moslem by Datok Imam Masjid in South Thailand." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 14, no. 2 (10 Desember 2019): 221–36. <https://doi.org/10.19105/al-lhkam.v14i2.2631>.
- Tarigan, Azhari Akmal, Nurhayati, dan Watni Marpaung. "Taming Islam' Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices." *Journal Of Indonesian Islam* 15, no. 01 (2021): 149–70. <https://doi.org/10.15642/JIIS.2021.15.1.149-170>.
- . "Taming Islam's Polygyny Law: Revealing Male Sexual Desire in Indonesia's Polygyny Practices." *Journal of Indonesian Islam* 15, no. 01 (2021): 149–70. <http://dx.doi.org/10.15642/JIIS.2021.15.1.149-170>.
- Wafi, Akhmad, Almejiem Aditya Wijaya, Muhammad Noor Ridani, Budi Rahmat Hakim, dan Muhammad Haris. "Reaktualisasi Persyaratan Perempuan Menjadi Saksi Perkara Perdata Dalam Fikih Klasik Dan Korelasinya Pada Hukum Modern." *Journal Of Islamic And Law Studies* 7, no. 2 (27 November 2023): 186–206. <https://doi.org/10.18592/jils.v7i2.11550>.
- Wahdini, Muhammad, Ariyadi Ariyadi, dan Muhammad Torieq Abdillah. "Pandemi Covid-19 dan Ekspresi Beragama: Studi Pelaksanaan Majelis Taklim di Kota Banjarmasin." *The Sociology of Islam* 5, no. 1 (30 Juni 2022): 36–53. <https://doi.org/10.15642/jsi.2022.5.1.36-53>.
- Widiyanto, Hari. "Konsep Pernikahan Dalam Islam (Studi Fenomenologis Penundaanpernikahan Di Masa Pandemi)." *Jurnal Islam Nusantara* 04, no. 01 (2020): 103–10. <https://doi.org/10.33852/jurnalin.v4i1.213>.
- Wijaya, Ina Yosia, dan Lidya Putri Loviona. "Kapitalisme, Patriarki dan Globalisasi: Menuju Langgengnya Kekerasan Berbasis Gender Online." *Jurnal Wanita dan Keluarga* 2, no. 1 (26 Juli 2021): 52–64. <https://doi.org/10.22146/jwk.2243>.
- Zahrah, Muhammad Abu. *Al-Ahwal Al-Syakhsiyah*. 2 ed. Beirut: Dar Al-Fikr Al-Arabi, 1950.
- Zainuddin, Zainuddin, dan Zaki Ulya. "Recording Siri's Marriages In Obtaining Legal Certainty (Reflections on the rise of Siri marriages in Aceh)." *Syariah: Jurnal Hukum dan Pemikiran* 21, no. 1 (22 Maret 2021): 1–16. <https://doi.org/10.18592/sjhp.v1i1.3276>.