# FEMALE JUDGES' CONSIDERATIONS IN DECIDING APPLICATIONS FOR POLYGAMY:

## A Legal Hermeneutics Analysis of Decision Number 631/Pdt.G/2024/PA.YK




Acc untuk
daftar Munaqasyah
31/2026

By:
Fikar Maulana
**Student ID.: 22421084**

**THESIS**

Submitted to the Ahwal Al-Syakhshiyah Study Program
Faculty of Islamic Studies, Islamic University of Indonesia
To Fulfill One of the Requirements for
Earning a Bachelor of Laws Degree

**YOGYAKARTA**
**2026**

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Oleh:

**Fikar Maulana**

Student ID.: 22421084


Supervisor:
Prof. Dr. Drs. Yusdani, M.Ag

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**2026**

# STATEMENT LETTER

## STATEMENT LETTER

The undersigned:

| | |
|---|---|
| Name | : Fikar Maulana |
| Place and Date of Birth | : Ciamis, 02 Mei 2003 |
| Student ID | 22421084 |
| Study Program | : Ahwal Al-Syakhshiyah Internasional Program |
| Thesis Title | : FEMALE JUDGES' CONSIDERATIONS IN DECIDING APPLICATIONS FOR POLYGAMY: A LEGAL HERMENEUTICS ANALYSIS OF DECISION NUMBER 631/PDT.G/2024/PA.YK |

I hereby declare that this thesis is, in its entirety, the result of my own research and work, except for those sections where sources are cited. Should it be proven at a later date that this thesis is the result of plagiarism, I am prepared to have my degree revoked and to face sanctions in accordance with applicable regulations.

Yogyakarta, 29 July 2026




Fikar Maulana

# THESIS EXAMINATION COMMITTEE PAGE

FAKULTAS
ILMU AGAMA ISLAM
Gedung K.H. Wahid Hasyim
Kampus Terpadu Universitas Islam Indonesia
Jl. Kaliurang km 14,5 Yogyakarta 55584
T. (0274) 898444 ext. 4511
F. (0274) 898463
E. fiai@uii.ac.id
W. fiai.uii.ac.id

## PENGESAHAN

Tugas Akhir ini telah diujikan dalam Sidang Tugas Akhir Fakultas Ilmu Agama Islam Universitas Islam Indonesia Program Studi IP Hukum Keluarga (Ahwal Al-Syakhshiyah) yang dilaksanakan pada:

| | | |
|---|---|---|
| Hari | : | Rabu |
| Tanggal | : | 26 Agustus 2026 |
| Judul Tugas Akhir | : | Pertimbangan Hakim Perempuan dalam Memutus Perkara Permohonan Poligami: Analisis Hermeneutika Hukum terhadap Putusan Nomor 631/Pdt.G/2024/PA.Yk |
| Nama | : | FIKAR MAULANA |
| Nomor Mahasiswa | : | 22421084 |

Sehingga dapat diterima sebagai salah satu syarat untuk memperoleh gelar sarjana dari Program Studi IP Hukum Keluarga (Ahwal Al-Syakhshiyah) Fakultas Ilmu Agama Islam Universitas Islam Indonesia Yogyakarta.

**TIM PENGUJI**

**Ketua/Pembimbing**
Prof. Dr. Yusdani, M.Ag (.....)

**Penguji 1**
Dr. Maulidia Mulyani, S.H., M.H. (.....)

**Penguji 2**
Fuat Hasanudin, Lc., MA (.....)

Yogyakarta, 26 Agustus 2026
Fakultas Ilmu Agama Islam
Dekan,

Dr. Drs. Asmuni, MA

# OFFICIAL MEMORANDUM

**OFFICIAL MEMORANDUM**

Yogyakarta, 29 July 2026 M
15 Safar 1448 H

Subject : Thesis
To : The Honorable Head of the Ahwal Syakhshiyah Program, Faculty of Islamic Studies, Islamic University of Indonesia

Assalamu'alaikum Warahmatullahi Wabarakatuh

Based on the appointment by the Dean of the Faculty of Islamic Studies, Universitas Islam Indonesia, through letter number 348/Kaprodi/60/DAATI/FIAI/V/2026, on May 7, 2026 AD / Dzulqa'dah, 19, 1447 H, concerning our assignment as thesis supervisors for the following student:

| | | |
|---|---|---|
| Name | : | Fikar Maulana |
| Student ID | : | 22421084 |
| Study Program | : | Ahwal Syakhshiyah International Program |
| Faculty | : | Faculty of Islamic Studies |
| Academic Year | : | 2025/2026 |
| Title | : | Female Judges' Considerations In Deciding Applications For Polygamy: A Legal Hermeneutics Analysis Of Decision Number 631/Pdt.G/2024/PA.YK |

After we have carefully reviewed the thesis and made the necessary revisions, we hereby determine that the undergraduate thesis meets the requirements to be submitted for the *munaqashah* (thesis defense) at the Faculty of Islamic Studies, Universitas Islam Indonesia. Accordingly, we hope that the thesis may be scheduled for the *munaqashah* in the near future.

Wassalamu'alaikum Warahmatullahi Wabarakatuh

Supervisor

Prof. Dr. Drs. Yusdani, M.Ag



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# SUPERVISOR'S APPROVAL

**SUPERVISOR'S APPROVAL**

The undersigned, as the academic advisor, hereby certifies that:

| | |
|---|---|
| Thesis titled | : Female Judges' Considerations In Deciding Applications For Polygamy: A Legal Hermeneutics Analysis Of Decision Number 631/Pdt.G/2024/Pa.Yk |
| **Written by** | : Fikar Maulana |
| Student ID | : 22421084 |
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Approved to be examined by the Undergraduate Thesis Examination Committee of the Ahwal Syakhshiyah Study Program, Faculty of Islamic Studies, Universitas Islam Indonesia.

Yogyakarta, 29, July 2026
Supervisor,

Prof. Dr. Drs. Yusdani, M.Ag.



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***To my beloved family,***
***who have always supported their child's education.***

**MOTTO**

وَالرَّجُلُ رَاعٍ عَلَى أَهْلِهِ وَهُوَ مَسْئُولٌ ، وَالمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ زَوْجِهَا وَهِيَ مَسْئُولَةٌ

"A man is the head of his family, and he will be held accountable. A woman is the head of her husband's household, and she, too, will be held accountable."[1]

[1] جامع شروح السنة, "جامع السنة وشروحها - صحيح البخاري," جامع السنة وشروحها accessed July 16, 2026, https://hadithportal.com/index.php?show=hadith&h_id=4911&uid=0&sharh=31&book=33&bab_id=2715.

## ARABIC–LATIN TRANSLITERATION GUIDELINES

**JOINT DECREE**
**OF THE MINISTER OF RELIGIOUS AFFAIRS AND THE MINISTER OF EDUCATION AND CULTURE**
**OF THE REPUBLIC OF INDONESIA**
Number: 158 of 1987
Number: 0543b/U/1987

Transliteration is intended as the conversion of characters from one script into another. Arabic–Latin transliteration, as referred to here, is the rendering of Arabic letters into Latin letters along with their accompanying diacritical marks.

### A. Consonant

Arabic consonantal phonemes, which in the Arabic writing system are represented by letters. In this transliteration system, some of these phonemes are represented by letters, others by diacritical marks, and still others by a combination of letters and diacritical marks.

The following is a list of the relevant Arabic letters and their transliterations into Latin characters:

Table 1. 1 Consonant Transliteration Table

| Arabic Letters | Name | Latin Letters | Name |
|---|---|---|---|
| أ | Alif | Not denoted | Not denoted |
| ب | Ba | B | Be |
| ت | Ta | T | Te |
| ث | Ṡa | ṡ | es (with the dot above) |
| ج | Jim | J | Je |
| ح | Ḥa | ḥ | ha (with the dots below) |
| خ | Kha | Kh | ka dan ha |
| د | Dal | d | De |
| ذ | Żal | ż | Zet (with the dot above) |
| ر | Ra | r | er |
| ز | Zai | z | zet |

| | | | |
|---|---|---|---|
| س | Sin | s | es |
| ش | Syin | sy | es dan ye |
| ص | Ṣad | ṣ | es (with the dots below) |
| ض | Ḍad | ḍ | de (with the dots below) |
| ط | Ṭa | ṭ | te (with the dots below) |
| ظ | Ẓa | ẓ | zet (with the dots below) |
| ع | `ain | ` | inverted comma (above) |
| غ | Gain | g | ge |
| ف | Fa | f | ef |
| ق | Qaf | q | ki |
| ك | Kaf | k | ka |
| ل | Lam | l | el |
| م | Mim | m | em |
| ن | Nun | n | en |
| و | Wau | w | we |
| ه | Ha | h | ha |
| ء | Hamzah | ‘ | apostrof |
| ي | Ya | y | ye |

## B. Vocal

Arabic vowels, like those in the Indonesian language, consist of single vowels (monophthongs) and double vowels (diphthongs).

### 1. Single Vowels

Arabic single vowels, which are represented by diacritical marks (ḥarakāt), are transliterated as follows:

Table 1. 2 Single Vowel Transliteration Table

| Arabic Letters | Name | Latin Letters | Name |
|---|---|---|---|
| ـَ | Fathah | a | a |
| ـِ | Kasrah | i | i |
| ـُ | Dammah | u | u |

### 2. Double Vocal

Arabic diphthongs, which are represented by a combination of diacritical marks *(ḥarakāt)* and letters, are transliterated using the following combinations of letters:

Table 1. 3 Double Vowel Transliteration Table

| Arabic Letters | Name | Latin Letters | Name |
|---|---|---|---|
| ...َْي | Fathah and ya | ai | a and u |
| ...َْو | Fathah and wau | au | a and u |

Example:

§ كَتَبَ kataba

§ فَعَلَ fa`ala

§ سُئِلَ suila

§ كَيْفَ kaifa

§ حَوْلَ haula

**C. *Maddah***

Maddah, or long vowels, which are represented by a combination of diacritical marks *(ḥarakāt)* and letters, are transliterated using letters and diacritical signs as follows:

Table 1. 4 Maddah Transliteration Table

| Arabic Letters | Name | Latin Letters | Name |
|---|---|---|---|
| ...َا...ى | Fathah and alif atau ya | ā | a and garis di atas |
| ...ِى | Kasrah and ya | ī | i and garis di atas |
| ...ُو | Dammah and wau | ū | u and garis di atas |

Example:

§ قَالَ qāla

§ رَمَى ramā

§ قِيْلَ qīla

§ يُقُوْلُ yaqūlu

## D. Ta’ Marbutah

There are two transliterations for ta' marbutah, namely:

1. Ta’ marbutah live

   Living tā’ marbūṭah, or tā’ marbūṭah that carries the vowel signs fatḥah, kasrah, or ḍammah, is transliterated as “t”.

2. Silent Tā’ Marbūṭah

   Silent tā’ marbūṭah, or tā’ marbūṭah that carries the sukun diacritical mark, is transliterated as “h”.

3. Kalau pada kata terakhir dengan ta' marbutah diikuti oleh kata yang menggunakan kata sandang al serta bacaan kedua kata itu terpisah, maka ta' marbutah itu ditransliterasikan dengan "h".

Example:

§ رَوْضَةُ الأَطْفَال raudah al-atfāl/raudahtul atfāl

§ اَلْمَدِيْنَةُ الْمُنَوَّرَة al-madīnah al-munawwarah/al-madīnatul munawwarah

§ طَلْحَة talhah

## E. Syaddah (Tasydid)

Shaddah (or tashdīd), which in Arabic script is represented by a diacritical sign known as the shaddah or tashdīd mark, is transliterated by doubling the consonant, that is, by writing the same letter as the one to which the shaddah is applied.

Example:

§ نَزَّلَ nazzala

§ الْبِرُّ al-birr

**F. Definite Article**

In the Arabic writing system, the definite article is represented by the letters ال (al-). In this transliteration system, however, the definite article is classified into two types:

1. Definite article followed by sun letters (ḥurūf shamsiyyah)

   The definite article followed by sun letters is transliterated according to its pronunciation, in which the letter "l" is assimilated and replaced by the letter that immediately follows the definite article.

2. Definite article followed by moon letters (ḥurūf qamariyyah)

   The definite article followed by moon letters is transliterated in accordance with the rules previously outlined and according to its pronunciation.

Whether followed by sun letters or moon letters, the definite article is written separately from the word that follows and is connected without a hyphen.

Example:

§ الرَّجُلُ ar-rajulu

§ الْقَلَمُ al-qalamu

§ الشَّمْسُ asy-syamsu

§ الْجَلاَلُ al-jalālu

**G. Hamzah**

Hamzah is transliterated as an apostrophe (’). However, this applies only to hamzah occurring in the middle or at the end of a word. Hamzah at the beginning of a word is not transliterated, as it is represented by alif in Arabic script.

Example:

§ تُأْخُذ ta’khużu

§ شَيئ ٌ syai’un

§ النَّوْء ُ an-nau’u

§ إِن ّ inna

## H. Word Writing

Basically, every word whether a fā‘il (verb), ism (noun), or ḥarf (particle is written separately. Only certain words, which in Arabic script are conventionally connected to the following word due to the omission of letters or vowel marks, are also written connected to the word that follows in transliteration.

Example:

§ وَ إِنَّ اللهَ فَهُوَ خَيْرُ الرَّازِقِيْن Wa innallāha lahuwa khair ar-rāziqīn/

Wa innallāha lahuwa khairurrāziqīn

§ بِسْمِ اللهِ مَجْرَاهَا وَ مُرْسَاهَا Bismillāhi majrehā wa mursāhā

## I. Capital Letters

Although capital letters are not used in the Arabic writing system, they are employed in this transliteration system. The use of capital letters follows the rules of standard Indonesian orthography (EYD), including the capitalization of the initial letter of proper names and the beginning of sentences. If a proper name is preceded by a definite article, the capital letter is applied to the first letter of the proper name, not the initial letter of the definite article.

Example:

§ اَلْحَمْدُ للهِ رَبِّ الْعَالَمِيْن Alhamdu lillāhi rabbi al-`ālamīn/

Alhamdu lillāhi rabbil `ālamīn

§ الرَّحْمنِ الرَّحِيْم Ar-rahmānir rahīm/Ar-rahmān ar-rahīm

The use of an initial capital letter for “Allah” applies only when the Arabic script is complete. If the word is combined with another word, resulting in the omission of letters or vowel marks, the capital letter is not used.

Example:

§ اللهُ غَفُوْرٌ رَحِيْم  Allaāhu gafūrun rahīm

§ لِلّٰهِ الأُمُوْرُ جَمِيْعًا  Lillāhi al-amru jamī`an/Lillāhil-amru jamī`an

## J. Tajwed

For those who wish to achieve fluency in recitation, this transliteration guideline is an integral part of the Science of Tajwīd. Therefore, the formal implementation of this transliteration guideline should be accompanied by the Tajwīd guidelines.

# ABSTRAK

## PERTIMBANGAN HAKIM PEREMPUAN DALAM MEMUTUS PERKARA PERMOHONAN POLIGAMI: Analisis Hermeuneutika Hukum Terhadap Putusan Nomor 631/Pdt.G/2024/Pa.Yk

Fikar Maulana

*Permohonan izin poligami di Pengadilan Agama tidak hanya melibatkan penerapan norma hukum, tetapi juga pertimbangan terhadap berbagai aspek. Hal ini terlihat dalam Putusan Nomor 631/Pdt.G/2024/PA.YK yang mengabulkan permohonan izin poligami meskipun alasan alternatif sebagaimana diatur dalam peraturan perundang-undangan tidak terpenuhi. Penelitian ini bertujuan untuk menganalisis alasan tidak adanya dissenting opinion dari hakim perempuan dalam perkara tersebut serta mengkaji pertimbangan hakim perempuan dalam memutus permohonan poligami melalui pendekatan hermeneutika hukum. Penelitian menggunakan metode yuridis normatif dengan jenis pendekatan hermeneutika. Data diperoleh melalui studi dokumen putusan dan wawancara dengan satu orang hakim perempuan yang bertindak sebagai ketua majelis, wawancara dilaksanakan sebanyak dua kali yaitu pada tanggal 5 juni & 8 juli 2026. kemudian dianalisis secara deskriptif kualitatif menggunakan pendekatan hermeneutika hukum. Penelitian ini memperoleh hasil bahwa, pertama, faktor utama tidak adanya dissenting opinion dari hakim perempuan selaku Ketua Majelis dilatarbelakangi oleh adanya persetujuan dari istri pertama yang dituangkan dalam akta perdamaian dan kemudian dikuatkan melalui Penetapan Pengadilan Agama Yogyakarta Nomor 214/Pdt.G/2024/PA.YK. Persetujuan tersebut menjadi salah satu dasar tercapainya kesepakatan dalam musyawarah Majelis Hakim.. Kedua, pertimbangan hakim perempuan dalam Putusan Nomor 631/Pdt.G/2024/PA.YK dipengaruhi oleh faktor yuridis dan nonyuridis. Faktor yuridis meliputi ketentuan peraturan perundang-undangan, Kompilasi Hukum Islam, alat bukti persidangan, serta kaidah hukum yang menjadi dasar pertimbangan hakim. Sementara itu, faktor nonyuridis meliputi persetujuan istri pertama, kemampuan ekonomi pemohon, kepentingan anak, kondisi psikologis para pihak, serta pertimbangan kemaslahatan yang berorientasi pada pencegahan kemudaratan dan terwujudnya keadilan substantif.*



**Kata Kunci:** *Hakim Perempuan, Izin Poligami, Pertimbangan Hakim, Hermeneutika Hukum*

## ABSTRACT

### FEMALE JUDGES' CONSIDERATIONS IN DECIDING APPLICATIONS FOR POLYGAMY: A Legal Hermeneutics Analysis Of Decision Number 631/Pdt.G/2024/Pa.Yk

Fikar Maulana

*The application for polygamy permit in the Religious Court involves not only the application of legal norms but also the consideration of various aspects. This is evident in Decision Number 631/Pdt.G/2024/PA.YK which granted the application for polygamy permit even though alternative reasons as stipulated in the legislation were not met. This study aims to analyze the reasons for the absence of a dissenting opinion from a female judge in the case and examine the considerations of female judges in deciding on polygamy applications through a legal hermeneutics approach. This study employs a normative legal research method using a hermeneutic approach. The data were obtained through a review of judicial decisions and an interview with one female judge who served as the presiding judge of the panel. The interviews were conducted on two occasions, namely on June 5 and July 8, 2026. The data were subsequently analyzed using descriptive qualitative analysis through a legal hermeneutics approach. The study finds that, first, the primary factor underlying the absence of a dissenting opinion from the female judge serving as the presiding judge was the first wife's consent, which was set forth in a settlement agreement and subsequently affirmed through the Yogyakarta Religious Court Determination Number 214/Pdt.G/2024/PA.YK. Such consent constituted one of the bases for reaching a consensus during the deliberation of the panel of judges. Second, the considerations of the female judge in Decision Number 631/Pdt.G/2024/PA.YK were influenced by both juridical and non-juridical factors. The juridical factors included statutory provisions, the Compilation of Islamic Law, evidence presented during the proceedings, and legal principles underlying the judge's considerations. Meanwhile, the non-juridical factors included the first wife's consent, the applicant's financial capacity, the interests of the children, the psychological condition of the parties, and considerations of maslahah aimed at preventing harm and realizing substantive justice..*



**Keywords:** *Female Judge, Polygamy Permit, Judicial Reasoning, Legal Hermeneutics.*

# PREFACE

بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

إِنَّ الْحَمْدَ لِلَّهِ نَحْمَدُهُ وَنَسْتَعِيْنُهُ وَنَسْتَغْفِرُهُ، وَنَعُوْذُ بِاللهِ مِنْ شُرُوْرِ أَنْفُسِنَا وَمِنْ سَيِّئَاتِ أَعْمَالِنَا. مَنْ يَهْدِهِ اللهُ فَلَا مُضِلَّ لَهُ، وَمَنْ يُضْلِلْ فَلَا هَادِيَ لَهُ. وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللهُ وَحْدَهُ لَا شَرِيْكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُوْلُهُ. اَللَّهُمَّ صَلِّ وَسَلِّمْ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِيْنَ. أَمَّا بَعْدُ.

All praise and gratitude are due to Allah SWT for His abundant mercy, blessings, guidance, and grace, through which the author has been able to complete this undergraduate thesis. There is no power nor strength except by His will and assistance. May peace and blessings be upon Prophet Muhammad SAW, along with his family, companions, and all those who faithfully follow his teachings until the Day of Judgment. Alhamdulillah, by the permission and grace of Allah SWT, the author has successfully completed this undergraduate thesis entitled "Female Judges' Considerations In Deciding Applications For Polygamy: A Legal Hermeneutics Analysis Of Decision Number 631/Pdt.G/2024/Pa.YK." This thesis is submitted in partial fulfillment of the requirements for the degree of Bachelor of Laws (S.H.) in the Ahwal Syakhshiyyah (Islamic Family Law) Study Program, Faculty of Islamic Studies, Universitas Islam Indonesia.

Throughout the process of completing this thesis, the author has come to realize that its successful completion would not have been possible without the prayers, unwavering support, guidance, encouragement, and invaluable assistance of many individuals. Therefore, with profound gratitude and sincere appreciation, the author would like to express heartfelt thanks and deepest respect to the following:

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Yogyakarta,

The Author.

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# CHAPTER I

# INTRODUCTION

## A. Background of the Study

In Islamic teachings, marriage is regarded as one of the earliest divinely ordained institutions, predating the obligation of acts of worship such as prayer (*ṣalāh*), fasting (*ṣawm*), almsgiving (*zakāh*), and pilgrimage (*ḥajj*). Islamic tradition narrates that the first marriage was that of Prophet Adam (peace be upon him) and Eve (Ḥawwāʾ). At that time, the aforementioned acts of worship had not yet been prescribed, yet marriage had already been established by the will of Allah SWT and witnessed by the Angel Jibrīl (Gabriel). This narrative is frequently cited to demonstrate that marriage constitutes a *syarīʿah mutaqaddimah*, namely, a divine institution that preceded other religious obligations. Furthermore, marriage is also described as *syarīʿah mutaʾakhkhirah* (the final divine institution), based on the belief that in the Hereafter, obligations such as prayer, fasting, almsgiving, and pilgrimage will no longer apply, whereas the concept of marriage will continue to exist. Accordingly, marriage is regarded as a divine institution that transcends worldly life and extends into the Hereafter.[2]

Allah created all living beings in pairs male and female as a means of ensuring the continuation of human lineage. In this regard, marriage was

[2] Widiyanto, "Konsep Pernikahan Dalam Islam (Studi Fenomenologis Penundaan Pernikahan Di Masa Pandemi)," 104.

ordained as a legitimate institution through which human beings enter a new phase of life while preserving the continuity and sustainability of future generations.[3]

Marriage is one of the fundamental institutions prescribed in Islam and is explicitly regulated under Islamic law (*Syarīʿah*). It is recognized as the only lawful means through which sexual needs may be fulfilled. Beyond satisfying biological desires, marriage serves a broader purpose by preserving family unity and ensuring the continuity of human lineage, which constitutes one of the essential objectives (*maqāṣid*) of Islamic law, namely *ḥifẓ al-nasl* (the preservation of lineage).

From a legal perspective, marriage in Indonesia is governed by Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019. Under this legislation, marriage is defined as a physical and spiritual bond between a man and a woman as husband and wife, established with the objective of forming a happy and enduring family based on the belief in the One and Only God.[4] One of the fundamental principles underlying Indonesia's marriage law is the principle of monogamy, which provides that, as a general rule, a man may have only one wife, and a woman may have only one husband within a single marital union. This principle is expressly stipulated in Article 3 of Law Number

[3] Ali Sibra Malisi, "Pernikahan Dalam Islam," *Seikat: Jurnal Ilmu Sosial, Politik Dan Hukum* 1, No. 1 (2022): 22–28, Https://Doi.Org/10.55681/Seikat.V1i1.97.

[4] "UU No. 1 Tahun 1974," Database Peraturan | JDIH BPK, accessed June 26, 2026, http://peraturan.bpk.go.id/Details/47406/uu-no-1-tahun-1974.

1 of 1974 on Marriage.[5] Nevertheless, the application of the monogamy principle under Indonesia's legal system is not absolute. Indonesian positive law continues to recognize the possibility of polygamy; however, its practice is subject to stringent substantive requirements and procedural safeguards as prescribed by the Marriage Law.

In Indonesia, polygamy is governed by Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019. As a general principle, the law provides that a man may have only one wife and a woman may have only one husband within a single marital union. Nevertheless, the law permits a husband to marry more than one wife upon obtaining authorization from the court, provided that the parties concerned consent and all statutory requirements have been satisfied.[6]

Article 3 paragraph (1) of the Marriage Law stipulates that *"in principle, a man may have only one wife."* However, paragraph (2) provides that *"the court may grant permission to a husband to have more than one wife if such an arrangement is desired by the parties concerned."* Furthermore, the law specifies several grounds upon which a husband may petition for permission to practice polygamy, including where the wife is unable to perform

[5] Database Peratur. JDIH BPK, "UU No. 1 Tahun 1974."
[6] Database Peratur. JDIH BPK, "UU No. 1 Tahun 1974."

her marital obligations, suffers from a disability or an incurable illness, or is unable to bear children.[7]

The practice of polygamy in Indonesia reflects a complex interplay of both legal and non-legal considerations. When implemented in a manner that is inconsistent with the principle of monogamy, polygamy may give rise to various legal implications, including issues relating to the legal status of marriage, the fulfillment of the rights and obligations of spouses, the legal status of children, and the protection of women's rights within judicial proceedings.[8] Nevertheless, social realities indicate that the practice continues to exist and, in certain regions, has shown an increasing trend. To this day, polygamy remains a highly contested issue in Indonesian society. On the one hand, it is viewed as a potential solution to particular family-related problems on the other hand, the realization of justice within polygamous marriages often proves difficult to achieve. In many instances, polygamous marriages ultimately give rise to domestic conflicts that culminate in divorce.[9]

According to the 2025 National Statistics published by Statistics Indonesia (Badan Pusat Statistik BPS), there were 959 divorce cases attributed

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[7] Nur Afni Khafsoh Et Al., "Praktik Poligami Di Indonesia Dalam Perspektif M. Quraish Shihab, Hussein Muhammad, Dan Nasaruddin Umar (The Practice Of Polygamy In Indonesia Within The Perspectives Of M. Quraish Shihab, Hussein Muhammad, And Nasaruddin Umar)," *Jurnal Sosiologi Reflektif* 16, No. 2 (2022): 486–87, Https://Doi.Org/10.14421/Jsr.V16i2.2307.

[8] Adri Korinendi And Agus Bahri, *Asas Monogami Dalam Perkawinan Berdasarkan Hukum Islam Dan Hukum Positif*, 02 (2024): 158–59.

[9] Khafsoh Et Al., "Praktik Poligami Di Indonesia Dalam Perspektif M. Quraish Shihab, Hussein Muhammad, Dan Nasaruddin Umar (The Practice Of Polygamy In Indonesia Within The Perspectives Of M. Quraish Shihab, Hussein Muhammad, And Nasaruddin Umar)," 488.

to the practice of polygamy. This figure represents an increase from 849 cases recorded in 2024. Among all provinces, East Java reported the highest number of divorces resulting from polygamy, with a total of 264 cases. These statistics indicate an upward trend that warrants greater attention from both policymakers and legal practitioners.[10]

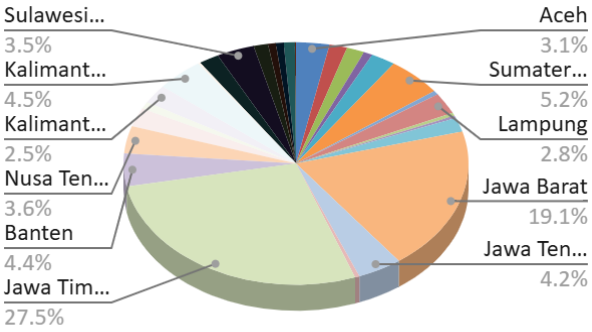



Figure 1. Divorce Cases Attributable to Polygamy

Although polygamy may serve as a solution to certain marital or family-related issues, its practice remains highly controversial and continues to generate diverse opinions, particularly among feminist scholars and activists. From a feminist perspective, polygamy is often regarded as a form of gender-based oppression against women that has been legitimized through religious interpretations and perpetuated by its acceptance within society.

[10] Badan Pusat Statistik Indonesia, "Jumlah Perceraian Menurut Provinsi<sup>1</sup> dan Faktor Penyebab Perceraian (perkara), 2025 - Tabel Statistik," accessed April 23, 2026, https://www.bps.go.id/id/statistics-table/3/YVdoU1IwVmlTM2h4YzFoV1psWkViRXhqTlZwRFVUMDkjMw==/jumlah-perceraian-menurut-provinsi-dan-faktor-penyebab-perceraian--perkara---2024.html?year=2024.

Although various arguments have been advanced to justify polygamy as part of Islamic law (*Syarīʿah*), grounded in the Qur'an and the Sunnah of the Prophet Muhammad, and as a solution to issues such as the perceived demographic imbalance between men and women, the prevention of prostitution, and other social concerns, these arguments are frequently invoked by proponents of polygamy. Common justifications include the desire to have children, the fulfillment of biological needs, and the prevention of extramarital affairs. Conversely, those who oppose polygamy argue that women in polygamous marriages often experience feelings of betrayal and emotional injustice, perceiving the practice as detrimental to marital harmony and the dignity of women.[11]

Within the Indonesian legal system, the court is the competent authority authorized to grant permission for a husband to enter into a polygamous marriage. This authority is expressly provided under Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, particularly Article 3 paragraph (2). In exercising this authority, judges occupy a central and strategic position in determining whether a petition for polygamy should be granted. In reaching their decisions, judges take into account both juridical and non-juridical considerations. Juridical considerations refer to the application and

[11] Ashwab Mahasin, "'Poligami' Bentuk Ketaatan Atau Keegoisan Antara Suami Dan Istri (Kajian Surat An-Nisa Ayat 3 Dan Undang-Undang Perkawinan)," *Khuluqiyya: Jurnal Kajian Hukum dan Studi Islam*, July 1, 2020, 80, https://doi.org/10.56593/khuluqiyya.v2i2.51.

interpretation of the prevailing legal framework, including statutory provisions and other relevant legal norms. Non-juridical considerations, on the other hand, encompass factors beyond the written law, such as sociological, philosophical, and humanitarian considerations, which assist judges in ensuring that their decisions achieve substantive justice while remaining responsive to the social realities of each case.[12]

In judicial proceedings, cases are generally adjudicated by a panel of judges, although certain matters may, under specific statutory provisions, be heard and decided by a single judge, such as non-contentious petitions, small claims cases, and juvenile cases. Nevertheless, the majority of civil and criminal cases in Indonesia are examined by a panel of judges. Such a panel typically consists of three judges: one Presiding Judge (*Chief Judge of the Panel*) and two Associate Judges (*Panel Members*), designated respectively as the First Associate Judge and the Second Associate Judge.[13]

Judicial decisions concerning petitions for polygamy cannot be separated from the moral and social responsibilities borne by judges. Such decisions have direct and far-reaching consequences for the stability of the family, the protection of women's rights, and the welfare and future of the

[12] Muhammad Yusril et al., "Pertimbangan Hakim Menolak Perkara Izin Poligami (Studi Putusan Di Pengadilan Agama Makassar Kelas IA Perkara Nomor 455/Pdt.G/2024/PA.Mks)," *Ukhuwah: Jurnal Ilmu Syariah* 1, no. 1 (2025): 11–22, https://doi.org/10.33096/60xdp392.

[13] MariNews, "Mekanisme Penanganan Perkara Oleh Majelis Hakim," Mekanisme Penanganan Perkara Oleh Majelis Hakim, accessed April 24, 2026, https://marinews.mahkamahagung.go.id/artikel/mekanisme-penanganan-perkara-oleh-majelis-hakim-0lM.

children involved. Consequently, judges occupy a pivotal position in polygamy cases, as they are required to strike an appropriate balance between the application of legal norms, the realities of society, and the pursuit of substantive justice for all parties concerned.

In Decision Number 631/Pdt.G/2024/PA.YK, the panel of judges, consisting of a female Presiding Judge and two male Associate Judges, granted the petitioner's application to enter into a polygamous marriage with a second wife. This decision is particularly noteworthy because the judgment contains no dissenting opinion, indicating that all members of the panel unanimously agreed to approve the petition. From a theoretical perspective, however, differences of opinion among judges are a common and legitimate feature of judicial deliberation, particularly when viewed through the lens of the judges' diverse backgrounds, experiences, and perspectives. In this regard, the presence of a female Presiding Judge gives rise to the expectation that a distinct perspective especially concerning issues of gender and the protection of women's rights might emerge in the adjudication of the petition. Nevertheless, the unanimous decision reached by the panel suggests that the female judge shared the same legal reasoning as her fellow judges, making this case particularly significant for examining how judicial interpretation was constructed and how consensus was achieved in the adjudication of the polygamy petition.

This perspective is grounded in the assumption that a judge's gender may influence the degree of sensitivity with which issues relating to women's position and legal protection are understood, particularly in polygamy cases that directly affect the rights and interests of wives. Nevertheless, within a judicial system that requires impartiality and objectivity, it is essential to examine whether such gender perspectives genuinely shape judicial reasoning or are instead constrained and ultimately subsumed within the prevailing normative legal framework. This issue becomes particularly significant in light of the unanimous decision rendered in Decision Number 631/Pdt.G/2024/PA.YK, where no dissenting opinion was expressed by the female Presiding Judge despite the gender-sensitive nature of the dispute.

These considerations motivated the researcher to undertake a more in-depth examination of the judicial reasoning underlying the decision, with particular emphasis on the reasoning of the female Presiding Judge. In adjudicating petitions for polygamy, both juridical and non-juridical considerations play a crucial role, as judicial decisions in such cases affect not only the petitioner but also have significant implications for the rights and interests of the wife and children. Accordingly, this study seeks to explore the judicial reasoning of the female judge in Decision Number 631/Pdt.G/2024/PA.YK through the lens of legal hermeneutics. By examining how legal norms are interpreted and applied alongside broader social and humanitarian considerations, this research aims to provide a comprehensive

understanding of the juridical and non-juridical factors that shaped the court's decision.

## B. Research Questions

1. Why did the female judge refrain from expressing a dissenting opinion in adjudicating the polygamy petition in Decision Number 631/Pdt.G/2024/PA.YK?
2. How did the female judge formulate her judicial reasoning in considering the petition for polygamy, thereby leading to the court's decision in the Yogyakarta Religious Court?

## C. Research Objectives and Benefits

### 1. Research Objectives

a. Analyze the judicial reasoning of the female judge in adjudicating the polygamy petition in Decision Number 631/Pdt.G/2024/PA.YK

b. To identify the factors that influence female judges in rendering legal decisions on polygamy petitions at the Yogyakarta Religious Court.

### 2. Research Benefits

The benefits of this study are as follows:

#### a. Theoretical Benefits

1) To contribute to the development of legal scholarship, particularly in the field of Islamic Family Law, through an analysis of the considerations of female judges in adjudicating polygamy cases.

2) To provide a more comprehensive understanding of the thought processes and decision-making dynamics of judges in ruling on polygamy cases.
3) To examine judicial reasoning not only from a legal perspective but also from non-legal aspects that influence the decision-making process.
4) To enrich the body of academic literature on judicial reasoning from a multidisciplinary perspective, particularly through a legal hermeneutics approach.
5) To serve as a reference for future researchers whose research focuses on judicial reasoning, polygamy, or legal hermeneutics.

**b. Practical Benefits**

1) To provide legal practitioners and relevant parties with information to consider when drafting policies or resolving cases involving polygamy.
2) To help the public understand the legal and social implications arising from the practice of polygamy in Indonesia.

## D. Discussion Systematics

### 1. CHAPTER I INTRODUCTION

This chapter discusses the background of the research, which outlines the dynamics of polygamy permit applications in Indonesia, particularly regarding the role of female judges in adjudicating polygamy cases. This chapter also explains the rationale for selecting Decision No. 631/Pdt.G/2024/PA.YK as the subject of the study, the issues underlying the

research, the research questions, the research objectives, the benefits of the research, and the structure of the discussion as an overview of the thesis's organization.

2. **CHAPTER II: PRIOR RESEARCH, THEORETICAL FRAMEWORK, AND BASIC ASSUMPTIONS**

This chapter will present several literature reviews containing similar findings from previous studies. These reviews are intended to contextualize the current research in order to identify its novelty and avoid plagiarism. The author formulates a theoretical framework, namely the theory of hermeneutics of judicial decisions. This study is based on the fundamental assumption that female judges, with their gender perspectives and sensitivities, tend to comprehensively weigh various aspects when adjudicating cases involving polygamy.

3. **CHAPTER III RESEARCH METHODOLOGY**

This chapter explains the methods used in the research, including the type of empirical legal research employing a qualitative approach through the perspective of legal hermeneutics and a case study design. This chapter also describes the research location, research informants, the method used to select informants, data collection methods including document analysis, interviews, and literature review data validity testing methods, and the data analysis

methods used to interpret the reasoning of the female judge in Decision No. 631/Pdt.G/2024/PA.YK.

## 4. CHAPTER IV RESEARCH FINDINGS AND DISCUSSION

This chapter constitutes the core of the study and presents an in-depth analysis of Decision Number 631/Pdt.G/2024/PA.YK. It begins with an overview of the factual background of the case and the legal facts established during the court proceedings. The discussion then examines the ratio decidendi adopted by the panel of judges in granting the petition for polygamy, including the fulfillment of the cumulative requirements, the departure from the alternative statutory requirements, the application of Islamic legal maxims (*qawāʿid fiqhiyyah*) and the principle of *maṣlaḥah*, the absence of a dissenting opinion, and the legal status of the prospective second wife. The chapter further explores the judicial reasoning of the female judge, the juridical and non-juridical factors that influenced the decision-making process, and provides a comprehensive analysis of these considerations through the perspectives of legal hermeneutics and Maqāṣid Syarī'ah. This analysis seeks to explain how the judge interpreted and applied legal norms in order to achieve substantive justice.

## 5. CHAPTER V CONCLUSION

This chapter presents the conclusions and recommendations of the study. The conclusions provide answers to the research questions based on the findings, discussion, and analysis concerning the judicial reasoning of the

female judge in adjudicating the petition for polygamy in Decision Number 631/Pdt.G/2024/PA.YK. The recommendations offer suggestions for judicial institutions, judges, academics, and future researchers with the aim of advancing scholarly discourse on the judicial reasoning of female judges, the application of legal hermeneutics, and the adjudication of petitions for polygamy within the Indonesian Religious Courts.

# CHAPTER II

# PRIOR RESEARCH, THEORETICAL FRAMEWORK, AND BASIC ASSUMPTIONS

## A. Prior Research

1. The study entitled "Judicial Considerations in Rejecting Petitions for Polygamy (A Case Study of Decision Number 455/Pdt.G/2024/PA.Mks at the Makassar Religious Court Class IA)" by Muhammad Yusril, M. Akil, Andi Darmawangsa, and Maryati (2025) examines the judicial reasoning underlying the rejection of a petition for polygamy from the perspectives of Indonesian positive law and Islamic law. The findings reveal that the judges based their decision on both juridical and non-juridical considerations. In Decision Number 455/Pdt.G/2024/PA.Mks, the petition was declared inadmissible because the statutory alternative requirements for polygamy had not been satisfied, notwithstanding the fulfillment of the cumulative requirements prescribed by law. The study primarily focuses on the general legal grounds underlying judicial decisions in polygamy cases. By contrast, the present study adopts a different perspective by examining the judicial reasoning of a female judge in adjudicating a petition for polygamy through the lens of legal hermeneutics, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Rather than merely identifying the legal basis of the decision, this research seeks to

explore how the female judge interpreted legal norms and integrated juridical and non-juridical considerations in constructing the court's decision.[14]

2. The study entitled "The Basis of Judicial Considerations in Petitions for Polygamy (A Case Study of Decisions Number 0068/Pdt.G/2016/PA.YK and Number 50/Pdt.G/2013/PA.Tlm)" by Fikri Abdhing Swasana (2020) examines the legal reasoning adopted by judges in adjudicating petitions for polygamy based on the pregnancy of a prospective second wife. The study finds that the judges relied primarily on the provisions of Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (Kompilasi Hukum Islam). It concludes that the pregnancy of a prospective second wife does not constitute one of the statutory grounds for granting permission to practice polygamy under Article 57 of the Compilation of Islamic Law. Consequently, the petition was rejected for failing to comply with the requirements of Indonesian Islamic family law. In contrast, the present study does not examine the legal validity of the grounds for polygamy under Islamic law. Rather, it analyzes the judicial reasoning of a female judge in deciding a petition for polygamy through the perspective of legal hermeneutics, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this study emphasizes the process of

[14] Muhammad Yusril et al., "Pertimbangan Hakim Menolak Perkara Izin Poligami (Studi Putusan Di Pengadilan Agama Makassar Kelas IA Perkara Nomor 455/Pdt.G/2024/PA.Mks)," *Ukhuwah: Jurnal Ilmu Syariah* 1, no. 1 (2025): 11–22, https://doi.org/10.33096/60xdp392.

legal interpretation and the deliberative reasoning employed by the female judge in constructing the court's decision.[15]

3. The study entitled "Permission for Polygamy in the Decisions of the Sharia Court (A Case Study of Decision Number 272/Pdt.G/2023/MS.Bna)" by Raziatul Muna and Syamsul Bahri (2023) examines the judicial reasoning underlying the approval of a petition for polygamy based on statutory provisions and the principle of justice through a normative juridical approach. The findings indicate that the panel of judges' reliance on Article 4 paragraph (2) (c) of the Marriage Law as the legal basis for granting the petition was considered inappropriate and insufficient to reflect the principle of justice, given that the respondent remained capable of performing her marital obligations and had already borne four children during the marriage. Unlike that study, the present research employs an empirical legal method with a legal hermeneutics approach and focuses specifically on the judicial reasoning of a female judge in adjudicating a petition for polygamy, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Rather than merely assessing the conformity of the decision with statutory provisions, this study explores the process of legal interpretation undertaken by the female judge and examines

[15] Fikri Abdhing Swasana, "Dasar Pertimbangan Hakim Dalam Permohonan Izin Poligami (Studi Putusan Pengadilan Agama Yogyakarta Nomor 0068/Pdt.G/2016/Pa. Yk Dan Putusan Pengadilan Agama Tilamuta Nomor 50/Pdt.G/2013/Pa. Tlm)," *Brawijaya Law Student Journal*, November 19, 2020, Https://Hukum.Studentjournal.Ub.Ac.Id/Index.Php/Hukum/Article/View/3993.

how juridical and non-juridical considerations were integrated into the construction of the court's decision.[16]

4. The study conducted by Rachmat Hidayat, Muh. Saleh Ridwan, and Musyfikah Ilyas (2023/2024), entitled "Permission for Polygamy for Civil Servants (PNS) at the Makassar Religious Court from the Perspective of Islamic Law," examines petitions for polygamy involving Indonesian Civil Servants (Pegawai Negeri Sipil/PNS) within the framework of Islamic law. The findings indicate that the petition for polygamy was granted because the petitioner had satisfied the requirements stipulated under Government Regulation Number 45 of 1990 and had obtained the consent of the first wife. In addition to applying the relevant statutory provisions, the judges also relied on the principle of justice in Islamic law as a basis for their decision. In contrast, the present study does not focus on petitions for polygamy involving civil servants or on compliance with the specific administrative regulations governing PNS. Rather, it examines the judicial reasoning of a female judge in adjudicating a petition for polygamy through the perspective of legal hermeneutics, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this research emphasizes the process of legal interpretation and the deliberative reasoning

[16] Raziatul Muna, "Izin Poligami Dalam Penetapan Mahkamah Syar'iyah (Studi Kasus Penetapan Nomor 272/Pdt.g/2023/MS.Bna) Indonesia," *Jurnal Hukum Sasana* 10, no. 1 (2024): 147–61, https://doi.org/10.31599/sasana.v10i1.813.

employed by the female judge in constructing the court's decision, with special attention to the interaction between juridical and non-juridical considerations.[17]

5. The study conducted by Ruslan Arifin, Muhammad Kurniawan Budi Wibowo, and Aditya Fajri Kurnia Pradana (2024), entitled "An Analysis of Judicial Decisions on Petitions for Polygamy Based on Postpartum Depression and Anxiety Disorder (A Case Study of Decision Number 366/Pdt.G/2023/PA.Ska)," examines the judicial reasoning adopted by the Surakarta Religious Court in Decision Number 366/Pdt.G/2023/PA.Ska through a prescriptive normative legal research approach. The findings indicate that the judges based their decision on Article 4 paragraph (2) of the Marriage Law, treating it as the applicable alternative (facultative) requirement for granting a petition for polygamy, while also relying on the principle of maṣlaḥah (public interest) as a justification for approving the petition. In contrast, the present study employs an empirical legal research method within a qualitative framework and analyzes the judicial reasoning of a female judge through the perspective of legal hermeneutics, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this research extends beyond identifying the legal basis of the decision by exploring the process of legal interpretation and the deliberative reasoning of the female judge, thereby

[17] Rachmat Hidayat Et Al., "Izin Poligami Bagi Pegawai Negeri Sipil (Pns) Di Pengadilan Agama Makassar Dalam Perspektif Hukum Islam," *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 4, No. 2 (2023): 518–29, Https://Doi.Org/10.24252/Qadauna.V4i2.33098.

revealing how juridical and non-juridical considerations interacted in shaping the court's decision.[18]

6. The study entitled "Hypersexuality as a Basis for Granting Permission for Polygamy (A Case Study of Decision Number 1775/Pdt.G/2023/PA.Jr of the Jember Regency Religious Court)" by Hasbi Ash Shiddiqi and Faris El Amin (2024) examines the judicial reasoning underlying the approval of a petition for polygamy based on hypersexuality as a medical condition. The study finds that the court recognized hypersexuality as a legitimate medical ground for granting permission to practice polygamy by considering medical evidence, expert testimony, and the fulfillment of the legal requirement of fairness toward the existing wife or wives. Furthermore, the findings demonstrate the flexibility of Islamic law in responding to issues concerning sexual health. In contrast, the present study does not focus on medical conditions as the legal basis for granting permission for polygamy. Instead, it examines the judicial reasoning of a female judge in adjudicating a petition for polygamy through the perspective of legal hermeneutics, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this research emphasizes the process of legal interpretation and the deliberative reasoning employed by the

[18] Ruslan Arifin et al., "Analisis Putusan Hakim Tentang Izin Poligami Dengan Dalih Post-Partum Depression Dan Anxiety Disorder (Studi Putusan No. 366/Pdt.G/2023/PA.Ska)," *Jurnal Darussalam: Jurnal Pendidikan, Komunikasi Dan Pemikiran Hukum Islam* 16, no. 1 (2024): 98–116, https://doi.org/10.30739/darussalam.v16i1.3218.

female judge, while exploring how juridical and non-juridical considerations were integrated in the formulation of the court's decision.[19]

7. A study titled “Applications for Polygamy Permits at the Surabaya Religious Court (A Study of Judgment No. 1751/Pdt.G/2024/PA.Sby)” by Diniati Wafida Rohmah and Murni Murni (2024). This study examines the panel of judges’ reasoning in granting a request for permission to practice polygamy on the grounds that the wife suffers from diabetes and is therefore unable to fulfill her husband’s biological needs. This study employs a normative legal methodology with a statutory approach. The results of the study indicate that the panel of judges based its decision on legal and humanitarian considerations when ruling on applications for permission to practice polygamy.Unlike that study, this research does not focus on health reasons as the basis for polygamy petitions, but rather examines the considerations of female judges in ruling on polygamy cases through a legal hermeneutic analysis of Decision No. 631/Pdt.G/2024/PA.YK. This study emphasizes the process of legal interpretation and the dialectic of female judges’ considerations in forming their decisions.[20]

[19] Hasbi Ash Shiddiqi And Faris El Amin, “Hiper Sex Sebagai Dasar Pemberian Izin Poligami: Studi Putusan Pengadilan Agama Kabupaten Jember Nomor 1775/Pdt.G/2023/Pa Jr,” *Jurnal Indragiri Penelitian Multidisiplin* 4, No. 3 (2024): 112–18, Https://Doi.Org/10.58707/Jipm.V4i3.1097.

[20] Diniati Wafida Rohmah and Murni Murni, “Permohonan Izin Poligami Pada Pengadilan Agama Surabaya: (Studi Putusan Nomor 1751/Pdt.G/2024/PA.Sby),” *Federalisme: Jurnal Kajian Hukum Dan Ilmu Komunikasi* 1, no. 4 (2024): 83–90, https://doi.org/10.62383/federalisme.v1i4.247.

8. The study conducted by Harwis Alimuddin and Zulkarnain Abdurrahman (2023), entitled "The Position of the Wife's Consent in Polygamy: An Analysis of the Theory of Legal Change and Social Change," examines the position of a wife's consent in the practice of polygamy by employing the theory of legal change and social change. The findings indicate that, although a wife's consent was not a requirement for polygamy in the classical period, within the context of modern law it has become an important requirement as a consequence of changes in the social structure that recognize the wife as an equal partner in marriage. Unlike that study, the present research does not examine the development of the concept of a wife's consent from the perspective of legal change. Instead, it focuses on the judicial reasoning of a female judge in adjudicating a petition for polygamy through a legal hermeneutics analysis of Decision Number 631/Pdt.G/2024/PA.YK. This study emphasizes the process of legal interpretation and the dialectics of the female judge's reasoning in reaching the court's decision.[21]
9. The study conducted by Munila Rohmah and Farida Ulvi Na'imah, entitled "Unregistered Polygamy in Decision Number 1135/Pdt.G/2023/PA.GS of the Gresik Religious Court from the Perspective of K.H. Husein Muhammad," is a descriptive-analytical study employing a case approach to examine the judicial

[21] Harwis Alimuddin And Zulkarnain Abdurrahman, "Kedudukan Izin Istri Dalam Poligami: Analisis Teori Perubahan Hukum Dengan Perubahan Sosial," *Al-Syakhshiyyah Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 5, No. 1 (2023): 20–37, Https://Doi.Org/10.30863/As-Hki.V5i1.4003.

reasoning in Decision Number 1135/Pdt.G/2023/PA.GS concerning a petition for unregistered polygamy. The findings indicate that the panel of judges granted the petition for polygamy by prioritizing the petitioner's biological needs and the prevention of adultery, despite being considered to have set aside certain provisions of the Marriage Law and the Compilation of Islamic Law. Unlike that study, the present research employs an empirical legal research method with a qualitative approach and focuses on the judicial reasoning of a female judge in adjudicating a petition for polygamy through a legal hermeneutics analysis of Decision Number 631/Pdt.G/2024/PA.YK. This study emphasizes the process of legal interpretation and the dialectics of the female judge's reasoning in reaching the court's decision.[22]

10. The study entitled "An Analysis of the Process of Determining Polygamous Marriages at the Larantuka Religious Court, East Flores Regency," conducted by Citra Rahmatul Ummah, Siti Ramlah Usman, and Husni Kusuma Dinata (2024), examines the process of adjudicating polygamy cases and the various social factors influencing judicial reasoning, particularly within the context of a region where Muslims constitute a minority population. The findings indicate that the judges relied not only on normative legal provisions but also took into account the local social and economic conditions in deciding petitions for polygamy in order to preserve social stability and justice within the family. The

[22] Munila Rohmah and Farida Ulvi Na'imah, *Poligami Sirri Dalam Putusan Pengadilan Agama Gresik Nomor: 1135/Pdt.G/2023/PA.GS Perspektif KH. Husein Muhammad*, no. 6 (2025).

study focuses on the adjudication process and the factors influencing judicial reasoning. In contrast, the present study adopts a different focus by analyzing the judicial reasoning of a female judge in adjudicating a petition for polygamy through a legal hermeneutics approach to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this study not only identifies the factors influencing the court's decision but also examines the process of legal interpretation and the dialectics of the female judge's reasoning in constructing the judgment.[23]

11. The study conducted by Mustika Anggraeni Dwi Kurnia and Ahdiana Yuni Lestari (2023), entitled "Judicial Considerations in the Rejection of a Petition for Polygamy," examines the judicial reasoning underlying the rejection of a petition for permission to practice polygamy that was preceded by an unregistered marriage (*nikah siri*) at the Bantul Religious Court, as well as the legal consequences for the second wife, jointly acquired property, and the children. The findings indicate that the rejection of the petition was consistent with Articles 4 and 5 of the Marriage Law, Qur'an Surah An-Nisāʾ verse 3, classical fiqh literature, and Supreme Court Circular Letter (SEMA) Number 3 of 2018, as the petitioner failed to satisfy both the alternative and cumulative statutory requirements. Unlike that study, the present research does not focus

[23] "View of Analisis Proses Penetapan Perkawinan Poligami Pada Pengadilan Agama Larantuka, Kabupaten Flores Timur," accessed November 3, 2025, https://ejournal.appihi.or.id/index.php/Federalisme/article/view/216/403.

on the legal consequences of, or the rejection of, a petition for polygamy preceded by an unregistered marriage. Instead, it analyzes the judicial reasoning of a female judge in granting a petition for polygamy through a legal hermeneutics approach to Decision Number 631/Pdt.G/2024/PA.YK. Accordingly, this study emphasizes the process of legal interpretation and the dialectics of the female judge's reasoning in constructing the court's decision.[24]

12. The study entitled "Gender Justice in Polygamy According to M. Quraish Shihab and Its Relevance to the Concept of a *Sakinah, Mawaddah wa Raḥmah* Family," conducted by Suci Oktaria, Mohammad Yasir Fauzi, and Ahmad Fauzan (2024), examines the concept of gender justice in the practice of polygamy through the perspectives of Qur'anic exegesis and Islamic law. The findings emphasize that polygamy may only be justified when it does not result in injustice, whether psychological or social, toward the wife and children. These findings provide an important theoretical foundation concerning the principle of substantive justice in the practice of polygamy. However, the study remains at a conceptual level and does not examine how the principle of gender justice is implemented in judicial practice. In contrast, the present study seeks to elaborate further by examining how a female judge internalizes and interprets the values of gender justice in the process of judicial reasoning through a legal hermeneutics approach. Accordingly, this study aims to provide a more

[24] Mustika Anggraeni Dwi Kurnia and Ahdiana Yuni Lestari, *Pertimbangan Hakim Terkait Penolakan Permohonan Poligami*, 4, no. 1 (2022).

concrete understanding of how gender sensitivity contributes to shaping judicial decisions in petitions for polygamy, with particular reference to Decision Number 631/Pdt.G/2024/PA.YK.[25]

13. The article entitled "Analysis of Petitions for Permission to Practice Polygamy Based on the Wife's Incapacity" (2024), published in the Arraayah E-Journal, examines various petitions for polygamy based on economic grounds, particularly those related to the wife's incapacity. The findings indicate that the family's economic condition, including the husband's ability to provide financial support and its impact on the family's welfare, frequently constitutes an important consideration for the panel of judges in assessing the merits of a petition for polygamy. These findings demonstrate that economic considerations play a significant role in judicial reasoning. Nevertheless, the study primarily focuses on identifying economic factors as the basis of judicial consideration without examining in depth how such factors are interpreted in the judicial decision-making process. Therefore, the present study seeks to extend this line of inquiry by examining judicial reasoning, particularly that of a female judge, through the perspective of legal hermeneutics, in order to reveal how economic considerations are interpreted and integrated with psychological

[25] Suci Oktaria et al., "Keadilan Gender Dalam Poligami Menurut M. Quraish Shihab Dan Relavansinya Terhadap Keluarga Sakinah Mawaddah Wa Rahmah," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 4 (2025): 3543–53, https://doi.org/10.38035/jihhp.v5i4.4575.

and sociological dimensions in shaping judicial decisions on petitions for polygamy.[26]

14. The conference paper/research entitled "Women and the Granting of Permission to Practice Polygamy (A Study of Decision Number 1167/Pdt.G/2022/PA.Kra)" (2023) examines the fulfillment of women's rights in judicial reasoning concerning petitions for permission to practice polygamy. The findings indicate that the judges considered not only the normative legal aspects but also the condition of the wife, the prospects for the continuity of the marriage, and the implications for the protection of women's rights. These findings provide empirical evidence that gender considerations and the protection of women's rights form part of judicial reasoning. Nevertheless, the study focuses primarily on the analysis of the court's decision and does not examine in depth how such perspectives are formed in the judges' reasoning process. Therefore, the present study seeks to extend this line of inquiry by positioning the female judge as the primary subject of analysis and employing a legal hermeneutics approach to explore how gender considerations and the protection of women's rights are interpreted in the judicial reasoning underlying decisions on petitions for polygamy.[27]

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[26] Ramzi and Arif Husnul Khuluq, "Analisis Permohonan Izin Poligami Karena Istri Tidak Mampu Menjalankan Kewajibannya (Studi Putusan Pengadilan Agama No. 2471/Pdt.G/2023/PA.Kbm Prespektif Maqasid Al-Syari`ah)," *Rayah Al-Islam* 8, no. 4 (2024): 1644–57, https://doi.org/10.37274/rais.v8i4.1114.

[27] Marisa Kurnianingsih Et Al., *Women And The Granting Of Permission To Polygamy (Study Of Decision Number*, N.D.

Based on the analysis of the fourteen previous studies, the research that bears the closest resemblance to the present study is the article entitled "Women and the Granting of Permission to Practice Polygamy (A Study of Decision Number 1167/Pdt.G/2022/PA.Kra)" (2023). Both studies examine judicial reasoning in petitions for permission to practice polygamy by emphasizing the dimensions of gender and the protection of women's rights in judicial decisions. In addition, both studies analyze decisions of the Religious Courts concerning petitions for polygamy, thereby sharing a similar scope of inquiry. Nevertheless, a fundamental distinction exists between the two. In terms of the academic problem addressed, the previous study focuses on the fulfillment of women's rights in judicial decisions, whereas the present study examines how the judicial reasoning of a female judge is constructed through the process of legal interpretation.

From the perspective of the theoretical framework, the previous study employs the perspectives of women's rights protection and gender, whereas the present study adopts legal hermeneutics as its primary analytical framework to understand the construction of meaning underlying judicial reasoning. Methodologically, the previous study relies on content analysis of judicial decisions, while the present research employs an empirical legal research method through in-depth interviews with a female judge, complemented by an analysis of the relevant court decision. These methodological and theoretical differences also lead to different findings. The previous study emphasizes the

extent to which women's rights are protected in judicial decisions, whereas the present study explores how a female judge balances legal certainty, justice, expediency, and the values of *maṣlaḥah* in adjudicating a petition for permission to practice polygamy.

Conversely, the study with the lowest level of relevance to the present research is "Permission for Polygamy for Civil Servants (PNS) at the Makassar Religious Court from the Perspective of Islamic Law" by Rachmat Hidayat, Muh. Saleh Ridwan, and Musyfikah Ilyas (2023/2024). That study specifically examines petitions for permission to practice polygamy involving Indonesian Civil Servants (Pegawai Negeri Sipil/PNS) based on the provisions of Government Regulation Number 45 of 1990, thereby placing greater emphasis on the administrative and normative requirements applicable to civil servants. In terms of the academic problem addressed, the study focuses on the conformity of judicial decisions with civil service regulations and Islamic law, whereas the present study seeks to explain the process through which the judicial reasoning of a female judge is formed in adjudicating petitions for polygamy.

From the perspective of the theoretical framework, the previous study adopts a normative Islamic law perspective, whereas the present study employs legal hermeneutics to analyze the process through which judges interpret the facts established during the trial and the applicable legal norms. Methodologically, the previous study is normative in nature, while the present

research adopts an empirical legal approach through interviews and an analysis of the relevant court decision. These differences give rise to distinct findings. The previous study concludes that the fulfillment of the prescribed administrative requirements constituted the basis for granting the petition, whereas the present study demonstrates that the formation of the court's decision was influenced not only by juridical considerations but also by the female judge's interpretative process in assessing the maṣlaḥah (public interest) of the parties involved.

## B. Theoretical Framework

### 1. Hermeneutics of Judicial Decisions

#### a. Definition and Development of Hermeneutics

Etymologically, the terms "hermeneutic" and "hermeneutics" are derived from the English words *hermeneutic* and *hermeneutics*, respectively. The former functions as an adjective, referring to something that is interpretative in nature, whereas the latter is a noun denoting the discipline or theory of interpretation. Hermeneutics is concerned with understanding the meanings embedded in words, expressions, and texts, and has traditionally been associated with the interpretation of written works, particularly sacred scriptures. Historically, the term *hermeneutics* also originates from the Greek word *hermeneia*, which literally means "interpretation" or "explanation."[28]

[28] Jazim Hamidi, *Hermeneutika Hukum*, (Yogyakarta: UII Press Yogyakarta, 2005), 1.

In the classical period, the origins of hermeneutics can be traced back to Ancient Greece. The renowned philosopher Aristotle (384–322 BCE) addressed the subject in his work *Peri Hermeneias* (*De Interpretatione*). According to Aristotle, hermeneutics was initially concerned with the problem of language, as the processes of thinking, speaking, writing, understanding, and interpreting a text are inseparable from language as their primary medium. Over time, hermeneutics evolved into both a method and an art of interpreting ancient manuscripts and sacred scriptures, including the Torah, Psalms, the Gospel, and the Qur'an. In seeking to understand religious texts and divine revelation, scholars and exegetes (*mufassirūn*) have frequently employed hermeneutics as a method of interpretation to uncover the meanings embedded within those texts. The development of this interpretative method progressed significantly within the theological tradition, particularly in the Judeo-Christian context during the fourth and fifth centuries CE. Within the Jewish tradition, the interpretation of the Torah was undertaken by learned scholars devoted to the rigorous study and interpretation of religious law.[29]

**b. Hermeneutics in Judicial Decisions**

According to M. Natsir Asnawi, hermeneutics is the science or art of interpreting a statutory provision or legal text (*schriftverklaring*). Hermeneutics begins with a critical inquiry into a statute, legal document, or the reasoning

[29] Hamidi, *Hermeneutika Hukum*, 2.

articulated by judges in their decisions. Its objective is to uncover answers to the questions of what, when, and, most fundamentally, why. Black's Law Dictionary defines hermeneutics as *"the science or art of construction and interpretation. By the phrase 'legal hermeneutics' is understood the systematic body of rules which are recognized as applicable to the construction and interpretation of legal writings."* This definition indicates that hermeneutics extends beyond the mere interpretation of legal texts; it also encompasses the process of constructing and giving meaning to legal texts. Within the legal context, hermeneutics functions as a method of interpretation employed by judges as a framework for formulating and constructing legal texts or legal norms in relation to a concrete case (*in concreto*).[30]

Michael N. Foster defines hermeneutics as follows: *"...hermeneutics means the theory of interpretation, i.e., the theory of achieving an understanding of texts, utterances, and so on (it does not mean a certain twentieth-century philosophical movement)."* According to this definition, hermeneutics is concerned with developing a comprehensive understanding of a text, whether in the form of written language, spoken expressions, or other forms of communication. Within the field of law, this approach is likewise employed to assist legal scholars and practitioners, particularly judges, in

[30] M Natsir Asnawi, Hermeneutika Putusan Hakim, 1st ed., vol. 1, 1 (UII Press Yogyakarta, 2014).

interpreting and developing a comprehensive understanding of legal texts and the issues arising from their application.[31]

Legal texts must be explored and interpreted so that they can be appropriately applied to the cases or disputes before the court. The importance of developing a comprehensive understanding of legal texts requires judges to examine not only the written provisions of the law but also the values and beliefs that exist within society in interpreting those texts. In deciding a case, a judge takes into account a wide range of considerations, extending beyond the legal issues themselves to include the social values and beliefs that shape the broader legal context. In its simplest form, judicial decision-making involves balancing both the "text" and the "context" of the law.[32]

Hermeneutics plays a significant role in exploring the underlying reasoning behind a judicial decision. To achieve such an understanding, a purely positivist approach is insufficient; rather, it must be complemented by other interrelated perspectives that correspond to the context of the case under adjudication. Within this framework, hermeneutics may be regarded as a form of meta-analysis encompassing various approaches, including philosophical, juridical, sociological, transcendental, and psychological perspectives. Accordingly, the analysis of judicial decisions extends beyond their juridical

[31] M Natsir Asnawi, Hermeneutika Putusan Hakim, 1:2.
[32] M Natsir Asnawi, Hermeneutika Putusan Hakim, 1:2.

dimension to uncover the deeper substance and meaning embedded within the judgment.[33]

In rendering a decision, judges are not free to exercise unlimited discretion but are required to adhere to the legal principles that serve as the foundation for evaluating and deciding a case. These principles function as both normative and ethical guidelines, ensuring that judicial decisions not only provide legal certainty but also embody justice and utility for the parties involved. Consequently, judges are obliged to consider and apply these legal principles carefully and proportionately in every decision-making process. The following are the legal principles that guide judicial reasoning:

1) The Principle of Deliberation by the Panel. Article 14 of Law No. 48 of 2009 states, "Decisions are made based on a closed-door deliberation by the judges." A judge's decision must be based on the outcome of the panel's deliberation. The purpose is to reach a conclusion regarding the dispute under adjudication. During this deliberation, judges are permitted to submit a dissenting opinion as long as it is based on strong and rational arguments.
2) A judicial decision must be supported by adequate reasoning. Accordingly, every judgment should be founded upon comprehensive judicial reasoning (*ratio decidendi*). Such comprehensiveness requires

[33] M Natsir Asnawi, Hermeneutika Putusan Hakim, 1:2–3.

judges to consider all available evidence, the legal facts established during the proceedings, and broader perspectives, including philosophical, sociological, and even psychological considerations. A judgment that lacks sufficient reasoning is regarded as *onvoldoende gemotiveerd* (insufficiently reasoned) and may therefore be set aside or overturned by a higher court.

3) The Principle of Completeness of Judgment. A judicial decision must address all claims presented by the parties. Article 178 paragraph (2) of the *Herzien Inlandsch Reglement* (HIR) and Article 189 paragraph (2) of the *Rechtsreglement voor de Buitengewesten* (R.Bg.) require judges to adjudicate every aspect of the claim. Accordingly, a judge may not decide only part of the claim while disregarding the remainder, as every claim constitutes an integral part of the dispute submitted by the parties.
4) The Principle of *Ultra Petitum Partium*. The principle of *ultra petitum partium* prohibits judges from granting relief beyond what has been requested by the parties. A judge who awards more than what is sought is deemed to have exceeded the limits of judicial authority (*ultra vires* or *beyond the powers of his authority*), thereby violating the fundamental principle of the rule of law.
5) The Principle of Open Justice. This principle requires that judicial decisions be pronounced in hearings open to the public. Its purpose is to promote transparency and accountability in the administration of

justice, while also ensuring public access to judicial decisions and the court's final judgment.

6) The Principle of Written Judgments. Article 50 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power provides that *"every court decision shall be signed by the presiding judge, the judges who rendered the decision, and the court clerk who participated in the proceedings."* A court judgment constitutes an authentic legal instrument possessing evidentiary and binding force upon the parties to the dispute. Consequently, as an authentic instrument, every judgment must be rendered in writing and comply with the prescribed formal requirements and systematic structure established by law.[34]

Legal reasoning is at the heart of every judicial decision; it serves as the foundation or basis for a judge in adjudicating every case brought before them. In addition to containing logical grounds, legal reasoning also includes other considerations, such as the panel of judges' interpretation and legal construction of the dispute under consideration. The statement of legal reasoning covers several aspects, including:

1) Jurisdictional Considerations. A court's jurisdiction is divided into two categories. First, absolute jurisdiction refers to the court's authority over the subject matter of a case. A court may only adjudicate a case if it

[34] M Natsir Asnawi, *Hermeneutika Putusan Hakim*, 1st ed., 1 (UII Press Yogyakarta, 2014), 1:43–49.

possesses absolute jurisdiction; otherwise, the panel of judges must refrain from proceeding with the examination and declare that it lacks jurisdiction over the case (*a quo*). The absolute jurisdiction of the Religious Courts is governed by Articles 49 and 50 of Law Number 3 of 2006 concerning the Amendment to Law Number 7 of 1986 on the Religious Courts. Second, relative jurisdiction refers to the court's authority to hear a case based on its territorial jurisdiction, namely the domicile of the parties or the location of the disputed object. This issue is considered by the panel of judges only when the defendant raises an objection concerning relative jurisdiction in the statement of defense, as provided under Article 135 of the *Herzien Inlandsch Reglement* (HIR) and Article 161 of the *Rechtsreglement voor de Buitengewesten* (R.Bg.).

2) Persona Standi in Judicio. Consideration of legal standing concerns whether the plaintiff possesses the legal authority and legal interest to bring the claim before the court. This consideration consists of three aspects. First, the plaintiff's legal standing *in person* is assessed based on the legal relationship between the plaintiff and the subject matter of the dispute. The court determines whether a direct legal relationship exists between the plaintiff, the defendant, and the disputed object. Second, the validity of the power of attorney submitted to the court is examined to ensure that it satisfies the prescribed formal requirements.

Third, the court must assess the formal qualifications of the attorney or legal representative receiving such authority.

3) Consideration of the Principal Claims. At this stage, the panel of judges identifies and summarizes the principal issues in dispute. The judges may distinguish between the plaintiff's allegations that are admitted by the defendant and those that are contested.
4) Consideration of the Disputed Issues Requiring Proof. After distinguishing between the allegations admitted and denied by the defendant, the panel of judges determines which disputed allegations remain to be proven during the trial.
5) Consideration of the Evidence. The panel of judges first assesses whether the evidence submitted satisfies the applicable formal requirements. The judges then evaluate the substance of the evidence and its relevance to the issues in dispute.
6) Consideration of the Facts Established at Trial. After evaluating all of the evidence, the panel of judges determines the facts established during the proceedings. These factual findings are reached by correlating the evidence presented with the arguments advanced by the parties.

Proses pengambilan putusan dilakukan setelah seluruh rangkaian pembuktian dinyatakan selesai, yang kemudian dilanjutkan dengan musyawarah majelis hakim. Pada tahap ini, para hakim tidak hanya membahas fakta-fakta yang terungkap di persidangan, tetapi juga menafsirkan serta

merumuskan makna dari keseluruhan perkara untuk mencapai suatu kesimpulan yang utuh. Dengan demikian, musyawarah majelis menjadi ruang penafsiran yang menunjukkan bahwa putusan hakim merupakan hasil dari proses interpretasi, bukan sekadar penerapan hukum secara mekanis. Dalam proses musyawarah tersebut, pada dasarnya majelis hakim akan melakukan dua hal utama, yaitu:

1) Menentukan pihak yang berhasil membuktikan dalil-dalilnya dan pihak yang tidak berhasil membuktikannya. Pada tahap ini, masing-masing anggota majelis hakim menyampaikan pendapatnya mengenai keseluruhan fakta yang terungkap selama persidangan setelah para pihak mengajukan alat bukti atas dalil yang mereka kemukakan.
2) Menentukan hak-hak serta hubungan hukum di antara para pihak. Berdasarkan fakta-fakta yang telah terungkap, hakim kemudian menarik kesimpulan mengenai siapa yang berhak atas apa (*who is entitled to what*), sekaligus menetapkan bagaimana hubungan hukum yang terbentuk di antara para pihak tersebut.

The decision-making process takes place after the entire evidentiary stage has been concluded and is followed by the deliberation of the panel of judges. At this stage, the judges do not merely discuss the facts established during the trial but also interpret and formulate the overall meaning of the case in order to reach a coherent and comprehensive conclusion. Accordingly, judicial deliberation constitutes a process of legal interpretation, demonstrating

that a judicial decision is the product of interpretative reasoning rather than the mechanical application of legal rules. During these deliberations, the panel of judges essentially undertakes two principal tasks, namely:

1) Methods of Interpretation. Legal interpretation is the judge's effort to determine the law by interpreting the texts of statutes and other legal sources both written and unwritten in order to apply them to specific legal events or facts. These methods of interpretation are divided into several forms:
    a) Substantive interpretation is the interpretation of the law by applying a statutory text to a case.
    b) Grammatical interpretation is the interpretation of a text or statutory provision according to everyday language.
    c) Systematic interpretation is the interpretation of a statutory text by relating its meaning and text to other laws.
    d) Historical interpretation is a judge's interpretation based on the background or history of a law's enactment.
    e) Teleological interpretation is the interpretation of laws by referring to the goals or expectations of society.
    f) Comparative interpretation is the interpretation of laws by comparing various existing legal systems.
    g) Restrictive interpretation is the interpretation of laws by limiting the meaning of the text.

h) Extensive interpretation is the interpretation of laws by expanding the meaning of the text.

i) A futuristic interpretation is an anticipatory interpretation of a law based on legislation that has not yet entered into force (ius constituendum, law in the making).[35]

2) Methods of Construction. These methods are divided into three types, namely:

a) Analogy (argumentum per analogiam), which is a method by which a judge discovers the law by comparing a case to another situation already addressed in legislation.

b) Argumentum a contrario is a method of legal reasoning used by judges, based on the premise that a provision in a law applies only to a specific situation, while the opposite applies to other situations. For example, a divorced woman is required to observe the iddah period, whereas no such obligation applies to men.

c) Legal concretization (reschtsvervijings) is a method of legal interpretation by judges in which a legal rule that is still general in nature is applied to specific legal events or facts (in concreto).[36]

[35] M Natsir Asnawi, *Hermeneutika Putusan Hakim*, 1:19–23.
[36] M Natsir Asnawi, *Hermeneutika Putusan Hakim*, 1:24–25.

## 2. The Perspective of Maqāṣid Syarī'ah

Terminologically, the term Maqāṣid Syarī'ah consists of two words: maqāṣid and syarīʿah. The word maqāṣid is the plural form of maqṣad, which means purpose, objective, or intended goal. Meanwhile, syarīʿah refers to the entirety of the legal rulings prescribed by Allah (SWT) for every mukallaf (a legally accountable Muslim), encompassing matters related to speech, actions, and beliefs. Accordingly, in its etymological sense, Maqāṣid Syarī'ah may be understood as the objectives or purposes intended to be achieved through the establishment of Islamic law.[37]

The central concept in the thought of Imam al-Shāṭibī is maṣlaḥah (public interest or welfare). Consequently, his legal theory, as articulated in *al-Muwāfaqāt*, is founded upon the principle that the primary objective of the syarīʿah is to realize human welfare. Unlike earlier scholars, who generally regarded maṣlaḥah merely as a method or consideration in deriving legal rulings, Imam al-Shāṭibī positioned it as the fundamental principle underlying his entire framework of uṣūl al-fiqh. According to him, maṣlaḥah is not merely a rational instrument employed in the process of istinbāṭ (legal reasoning), but also the ultimate objective (maqṣad) intended by Allah (SWT) in the enactment of every legal ruling.[38]

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[37] Muhammad Nur Khaliq and Aji Pangestu, *Teori Maqasid Syari'ah Klasik (Asy-Syatibi)*, 11, no. 1 (2025): 154.

[38] *Ibid*, 155.

Imam al-Shāṭibī further maintains that his conception of maṣlaḥah is grounded in qaṭʿī (definitive) evidence derived from both revealed texts and rational reasoning. In his view, rational evidence (dalīl ʿaqlī) cannot be separated from textual evidence (dalīl naqlī) in understanding the objectives of the Sharīʿah. Rather, these two forms of evidence complement one another in explaining the realization of maṣlaḥah, which constitutes the ultimate purpose of Islamic law. Based on this framework, Imam al-Shāṭibī classifies maṣlaḥah into three categories, namely:[39]

1) Dharuriyat, refers to needs that must be met, or what are known as basic needs. If these needs are not met, they threaten the safety of humanity both in this world and in the hereafter. Al-Syatibi identifies five things that fall into this category, namely religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), reason (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl).
2) Hajiyat, refers to secondary needs; while their unmet state does not threaten one's safety, it can cause hardship. Islamic law eliminates all such hardships. An example of Islamic law's consideration for these needs is the principle of *rukhshah* (dispensation), such as the provision allowing one to break the fast while traveling or when ill.

[39] Khaliq and Pangestu, *Teori Maqasid Syari'ah Klasik (Asy-Syatibi)*, 159–60.

3) Taḥsīniyyāt, refers to complementary or embellishing needs. The absence of these needs does not threaten the preservation of the five essential objectives of the Sharīʿah (al-kulliyyāt al-khams), nor does it cause significant hardship in human life. Rather, taḥsīniyyāt aims to enhance the quality of life by promoting moral values, ethical conduct, proper manners, and virtuous customs (makārim al-akhlāq), thereby enabling individuals to live with greater dignity and in harmony with the objectives of Islamic law.

According to Imam al-Shāṭibī, the three levels of Maqāṣid Syarī'ah are hierarchical and interdependent. *Ḍarūriyyāt* serves as the fundamental foundation for the fulfillment of both ḥājiyyāt and *taḥsīniyyāt.* If the essential needs classified under ḍarūriyyāt are not preserved, the realization of the other two levels will inevitably be affected. Conversely, the non-fulfillment of *ḥājiyyāt* or *taḥsīniyyāt* does not ordinarily jeopardize the existence of *ḍarūriyyāt*. However, if deficiencies at these two levels persist over time and become sufficiently serious, they may ultimately impair the preservation of the essential needs encompassed within ḍarūriyyāt.[40]

## C. Basic Assumptions

Based on the title " Female Judges' Considerations In Deciding Applications For Polygamy: A Legal Hermeneutics Analysis Of Decision

[40] Khaliq and Pangestu, *Teori Maqasid Syari'ah Klasik (Asy-Syatibi)*, 160.

Number 631/Pdt.G/2024/PA.YK," this study is founded on the assumption that female judges, by virtue of their personal experiences and sensitivity, possess a distinctive approach to interpreting and evaluating petitions for polygamy. Through the lens of legal hermeneutics, judicial reasoning is understood as the product of an interpretative process that is grounded not only in legal texts (juridical aspects) but is also influenced by non-juridical considerations.

Within this framework, the study assumes that the juridical considerations underlying judicial decisions on petitions for permission to practice polygamy are based on the provisions of Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, and the Compilation of Islamic Law (Kompilasi Hukum Islam). Judicial decisions are further informed by the assessment of evidence presented during the proceedings and by determining whether the applicable legal requirements have been satisfied. In addition, the study assumes that the judges' non-juridical considerations are shaped not only by normative legal principles but also by the factual circumstances of the parties, the principle of maṣlaḥah (public interest), the protection of the family, and the best interests of the child. Within the context of this research, female judges are assumed to engage in a process of legal interpretation that takes into account humanitarian considerations while maintaining the principles of objectivity, judicial independence, and professionalism in rendering their decisions.

# CHAPTER III

# RESEARCH METHODOLOGY

## A. Types of Research and Approaches

This study employs a legal hermeneutics approach within the framework of normative legal research, as it focuses on gaining an in-depth understanding of the reasoning of female judges in adjudicating polygamy cases through legal hermeneutics analysis, specifically in Judgment No. 631/Pdt.G/2024/PA.YK of the Yogyakarta Religious Court. The hermeneutic approach is categorized as a qualitative research method, emphasizing a descriptive orientation. Within the qualitative research paradigm, the phenomenological hermeneutic approach is regarded as appropriate for examining individuals' lived experiences and the ways in which participants interpret and make meaning of a particular phenomenon based on those experiences. Hermeneutics is understood not merely as the art and process of interpretation but also as an approach that facilitates deeper understanding, personal development, and social advancement. Consequently, hermeneutics serves as one of the important philosophical foundations of qualitative research by broadening understanding and enabling more comprehensive interpretations.[41]

[41] Leela Ramsook, *A Methodological Approach to Hermeneutic Phenomenology*, n.d., 14–15.

Normative juridical research is a type of legal research that focuses on the examination of legal issues within a particular legal system by emphasizing the applicable legal norms. It is conducted through the collection of legal materials, which are subsequently analyzed to examine positive law and the relevant legal norms governing a particular issue. The objective of normative juridical research is to explain the applicability of positive law while providing an analysis of the legal norms that regulate the issue under investigation. Accordingly, the use of the normative juridical research method is intended to provide solutions to legal issues or specific cases based on the prevailing statutory regulations and to produce legal arguments that may serve as the basis for judicial or legal decision-making.[42]

**B. Research Site or Location**

The research was conducted at the Sleman Religious Court Class IA as the primary source of data, particularly for interviews with the female judge who served as the research participant. This location was selected because the judge concerned had been transferred from the Yogyakarta Religious Court to the Sleman Religious Court Class IA. Meanwhile, the judicial decision that constitutes the object of this study was obtained from the Yogyakarta Religious Court. The research data consist of primary data, including interview results with the female judge and an official copy of the court decision, and secondary

[42] Muhammad Zainuddin And Aisyah Dinda Karina, *Penggunaan Metode Yuridis Normatif Dalam Membuktikan Kebenaran Pada Penelitian Hukum*, 2, No. 2 (2023): 119.

data, comprising statutory regulations, academic literature, journal articles, and previous studies related to polygamy and judicial reasoning.

## C. Research Informants

The informant in this study is the presiding judge in Decision No. 631/Pdt.G/2024/PA.YK, who currently serves as a judge at the Sleman Class IA Religious Court.

## D. Techniques for Selecting Informants

The informants in this study were selected using purposive sampling, whereby participants were chosen based on specific criteria relevant to the research objectives. The researcher initially reviewed judicial decisions on polygamy cases within the Religious Courts and subsequently selected a case in which the panel of judges was chaired by a female judge. This sampling technique was employed because the study specifically aims to examine in depth how female judges formulate their reasoning in adjudicating petitions for polygamy, particularly with regard to the process of legal interpretation, juridical and non-juridical considerations, and the interpretation of justice reflected in judicial decisions. Based on these criteria, Decision Number 631/Pdt.G/2024/PA.YK was selected, as the panel of judges was presided over by a female judge.

## E. Data Collection Techniques

In data collection, researchers use two methods, namely:

1. Interview

Interviews constitute one of the primary techniques for collecting research data. In general, an interview may be understood as a process of direct interaction or communication between the researcher, acting as the interviewer, and the participant, serving as the source of information. Through this technique, the researcher obtains the data and information required for the study by engaging in face-to-face questioning, either with the aid of an interview guide or through a more open-ended format. Accordingly, interviews serve as an essential means of exploring participants' information, perspectives, and experiences in greater depth.[43]

2. Document Review

This method involves the collection of data from documents, archives, and other written materials relevant to the subject of the research. Document review is employed to obtain information regarding the historical context, policies, events, and developments related to the research object. By examining these documents, the researcher is able to develop a deeper understanding of the phenomenon under investigation and strengthen the overall research analysis. In the present study, the document review primarily consists of an official copy of the court decision, which is examined to analyze the judges' reasoning, the application of legal hermeneutics, and the perspective of the female judge in adjudicating the case. In addition, relevant statutory

[43] Heni Julaika Putri and Sri Murhayati, *Metode Pengumpulan Data Kualitatif*, 9 (2025): 13079.

regulations, academic literature, journal articles, and previous studies are reviewed to provide the theoretical and conceptual foundation for analyzing the judicial reasoning of the female judge in Decision Number 631/Pdt.G/2024/PA.YK.

## F. Data Validity

This study employs triangulation as a technique to ensure the validity and trustworthiness of the research data by comparing and examining the consistency of information obtained from multiple data sources and data collection methods. Source triangulation is conducted by comparing data obtained from interviews with the female judge, the relevant court decision, and various academic literature and previous studies relevant to the research topic. Methodological triangulation, on the other hand, is implemented through the use of multiple data collection techniques, including interviews and document review. By applying these triangulation techniques, the researcher seeks to achieve a more objective and comprehensive understanding of the judicial reasoning of the female judges' considerations in deciding applications for polygamy decision number 631/PDT.G/2024/PA.YK at the yogyakarta religious court.[44]

[44] Dedi Susanto et al., "Teknik Pemeriksaan Keabsahan Data Dalam Penelitian Ilmiah," *Jurnal QOSIM Jurnal Pendidikan Sosial & Humaniora* 1, no. 1 (2023): 56, https://doi.org/10.61104/jq.v1i1.60.

## G. Data Analysis Techniques

Data analysis is the process of organizing, classifying, and systematically interpreting data obtained from interviews and documents in order to enhance the researcher's understanding of the subject under investigation and to present the findings in a manner that is meaningful and accessible to others. This process requires the careful presentation of data so that the meanings embedded within the data can be clearly identified and interpreted. The present study employs a legal hermeneutic approach to analyze and interpret the meaning underlying the text of the judicial decision as well as the context of the judges' reasoning. Through this approach, the researcher seeks to explore the relationship between the legal text, the interpretative process of the female judge, and the social values and principles of substantive justice that underpin the judicial decision.

# CHAPTER IV

# RESEARCH FINDINGS AND DISCUSSION

## A. Research Findings

### 1. The Facts of the Polygamy Case in Decision No. 631/Pdt.G/2024/PA.YK

Case Number 631/Pdt.G/2024/PA.YK concerns a petition for permission to practice polygamy submitted by the husband (Petitioner) against his wife (Respondent), which was registered with the Registrar's Office of the Yogyakarta Religious Court under Case Number 631/Pdt.G/2024/PA.YK on 10 December 2024. The petition was filed because the Petitioner had established a relationship with another woman who was a divorcee. Prior to filing the petition for permission to practice polygamy, the Petitioner had initiated ṭalāq divorce proceedings against the Respondent. However, the parties subsequently reached an amicable settlement and formalized their agreement in a Deed of Settlement (*Akta Perdamaian*) executed on 18 June 2024, which was ratified by the Yogyakarta Religious Court through Determination Number 214/Pdt.G/2024/PA.YK dated 24 June 2024. The Deed of Settlement contained the Respondent's consent to the Petitioner's intention to enter into a polygamous marriage.[45]

The petition states that the petitioner and the respondent were legally married on December 21, 2006, and have been blessed with two children.

[45] "Direktori Putusan," accessed June 8, 2026, https://putusan3.mahkamahagung.go.id/direktori/putusan/zaeffb224ab49af2a821313430333337.html.

During their marriage, the couple maintained a household in the city of Yogyakarta. The petitioner argues that there are no joint assets (gono-gini) between him and the respondent that remain subject to joint ownership.[46]

Furthermore, the petitioner expressed his desire to marry a woman who is a divorced widow. According to the petitioner, there are no legal impediments to his marriage to his prospective second wife, either under Islamic law or applicable statutes. The petitioner argues that the respondent has given consent to the plan for polygamy as set forth in the Settlement Agreement entered into by the parties in the previous case.[47]

To satisfy the legal requirements concerning financial capability and the ability to treat his wives fairly, the Petitioner asserted that he had a stable income as an employee of a state-owned enterprise (SOE), serving as a Senior Procurement Manager at Hang Nadim International Airport, Batam. With an average monthly income of approximately IDR 35,000,000, the Petitioner stated that he was financially capable of providing monthly maintenance of IDR 8,500,000 to the Respondent as his wife and IDR 9,000,000 for their two children. He further declared his commitment to treating both wives fairly in accordance with the applicable legal requirements.[48]

[46] "Direktori Putusan."
[47] "Direktori Putusan."
[48] "Direktori Putusan."

During the court proceedings, several legal facts emerged[49], including the following:

a. The fact that the petitioner and the respondent are a legally married couple who were married on December 21, 2006, and have been blessed with two (2) daughters.
b. The fact that the petitioner intends to remarry (in a polygamous marriage) a woman on the grounds that the two have maintained such a close relationship over a period of 5 (five) years.
c. The fact that the petitioner's prospective second wife is a divorced woman who has been legally divorced from her former husband for 7 (seven) years, as evidenced by Divorce Certificate No. 1963/AC/2021/PA.Smg, and has 3 (three) children who are currently in the care of their biological father.
d. The fact that the petitioner's prospective second wife is Muslim, is not currently engaged to another man, and that there is no proven blood relationship or foster sibling relationship between the petitioner and his prospective second wife that would prohibit the marriage.
e. The fact that, at the time the petition for a polygamy permit was filed, there were no joint assets between the petitioner and the respondent. This is because all assets consisting of three (3) vehicles (a Nissan

[49] "Direktori Putusan."

Grand Livina, a Honda HR-V, and a Toyota Fortuner) had been sold by the petitioner in stages between approximately 2018 and 2020.

f. The fact that the petitioner has a stable financial situation because he works as an employee of a state-owned enterprise in the position of Senior Procurement Manager at Hang Nadim International Airport in Batam. The petitioner's average monthly income is Rp35,000,000.00 (thirty-five million rupiah), as evidenced by an official income statement.

g. The fact that the petitioner submitted a written statement pledging to treat his wives and children fairly. The petitioner is also bound by the mediation agreement dated January 9, 2025, to provide mandatory monthly support to the respondent in the amount of Rp8,500,000.00 for spousal support and Rp9,000,000.00 for the support of the two children.

h. The fact that none of the alternative/optional requirements for polygamy have been met (the first wife is not infertile, is not disabled, and is capable of fulfilling her obligations). However, there is a compelling legal fact that the relationship between the Petitioner and his prospective second wife has already become so close that the marriage must be legally recognized to prevent greater harm in the form of adultery.

**2. The Legal Rationale (Ratio Decidendi) of the Panel of Judges in Granting the Polygamy Petition**

**a. Fulfillment of the Cumulative Requirements for Polygamous Marriage**

Permission to practice polygamy is governed by Law Number 1 of 1974 on Marriage, in conjunction with Article 58 paragraph (1) of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). One of the essential requirements is the fulfillment of the cumulative requirements stipulated in Article 5 paragraph (1). Cumulative requirements refer to a set of conditions that must all be satisfied simultaneously. Failure to fulfill even one of these conditions renders the legal act, petition, or proceeding invalid or incapable of being granted. Accordingly, a person seeking permission to practice polygamy under the aforementioned provisions must satisfy the following requirements[50]:

1) The consent of the wife(s)
2) The assurance that the husband is able to provide for the needs of his wife(s) and their children
3) The assurance that the husband will treat his wife(s) and their children fairly

In its legal reasoning, the panel of judges found that the Petitioner had satisfied the mandatory cumulative requirements prescribed under Article 5 paragraph (1) of Law Number 1 of 1974 on Marriage, in conjunction with Article 58 paragraph (1) of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). First, with respect to the consent of the first wife, the panel concluded that the Respondent had given her consent knowingly, voluntarily,

[50] "UU No. 1 Tahun 1974," Database Peraturan | JDIH BPK, accessed June 9, 2026, http://peraturan.bpk.go.id/Details/47406/uu-no-1-tahun-1974.

and without any coercion or undue influence from any party. Such consent was expressed not only orally during the court proceedings but was also formally documented in the Deed of Settlement (*Akta Perdamaian*), which had been legally ratified through Determination Number 214/Pdt.G/2024/PA.YK issued by the Yogyakarta Religious Court.[51]

Second, with respect to the requirement that the husband must be capable of providing financial support for his wives and children, Article 41(c) of Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 on Marriage provides that, "The husband's financial capability to provide for the livelihood of his wives and children shall be evidenced by a certificate of income signed by the treasurer of the institution where he is employed, an income tax certificate, or any other documentary evidence deemed acceptable by the Court.".[52]

The panel of judges considered the documentary evidence in the form of a copy of the Certificate of Income for the October 2024 period, issued on 25 October 2024 by the Hang Nadim International Airport Office, Batam. This evidence was further corroborated by the testimony of witnesses presented during the trial, who testified under oath that the Petitioner was permanently employed as a Senior Procurement Manager at Hang Nadim International Airport, Batam, with an average monthly income of IDR 35,000,000. Based on

[51] "Direktori Putusan."
[52] "Direktori Putusan."

the Petitioner's financial circumstances, the panel concluded that he possessed sufficient financial capacity to support both families, including fulfilling the maintenance obligations agreed upon during the mediation process, namely IDR 8,500,000 per month for the Respondent and IDR 9,000,000 per month for their two children.[53]

Third, regarding the requirement that the husband must guarantee that he will treat his wives and children fairly, Article 41(d) of Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 on Marriage provides that, *"Ada atau tidak adanya jaminan bahwa suami akan berlaku adil terhadap istri-istri dan anak-anak mereka dengan pernyataan atau janji dari suami yang dibuat dalam bentuk yang ditetapkan untuk itu"*.[54]

The panel of judges found that the Petitioner had demonstrated good faith through a copy of the Declaration of Fair Treatment, dated 7 February 2025, which had been executed and signed by the Petitioner and further supported by witness testimony. In addition, the prospective second wife expressly declared her willingness to enter into a polygamous marriage and confirmed that she would not claim any rights over the marital property jointly owned by the Petitioner and the Respondent. Having found that all three cumulative requirements had been fulfilled, the panel concluded that the

[53]"Direktori Putusan."
[54]"Direktori Putusan."

Petitioner had satisfied the statutory requirements for obtaining judicial permission to practice polygamy.[55]

**b. Waiver of Alternative Requirements for Polygamous Marriage**

Pursuant to Article 4 paragraph (2) of Law Number 1 of 1974 on Marriage, in conjunction with Article 41 of Government Regulation Number 9 of 1975 and Article 57 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), a petition for permission to practice polygamy may only be granted where the petitioner is able to establish at least one of the statutory grounds prescribed by those provisions. These grounds are alternative (facultative) in nature, meaning that the fulfillment of any one of them may constitute a sufficient basis for the court to consider granting permission for polygamy, subject to the facts and circumstances established during the proceedings. The alternative grounds for obtaining permission to practice polygamy are as follows [56]:

1) The wife is unable to perform her duties as a wife;
2) The wife suffers from a physical disability or an incurable illness; or
3) The wife is unable to bear children.

In its legal reasoning, the panel of judges emphasized that the Respondent did not satisfy any of the alternative grounds prescribed under

[55] "Direktori Putusan."

[56] "UU No. 1 Tahun 1974," Database Peraturan | JDIH BPK, accessed June 9, 2026, http://peraturan.bpk.go.id/Details/47406/uu-no-1-tahun-1974.

Article 4 paragraph (2) of Law Number 1 of 1974 on Marriage or Article 57 of the Compilation of Islamic Law. Based on the facts established during the trial, the Respondent was found to be in good health, fully capable of performing her duties as a wife, and had given birth to two children during the marriage. Accordingly, none of the statutory grounds that ordinarily justify a petition for permission to practice polygamy were fulfilled.[57]

Although the alternative grounds prescribed under Article 4 paragraph (2) of the Marriage Law were not fulfilled, the panel of judges held that the case presented special circumstances that warranted a more substantive assessment. The panel found that the relationship between the Petitioner and the prospective second wife had become sufficiently close that, if legal certainty through a lawful marriage were not granted promptly, it could give rise to greater harm (*mafsadah*). Furthermore, the petition for permission to practice polygamy was submitted as a follow-up to the Deed of Settlement (*Akta Perdamaian*), which had been ratified through Determination Number 214/Pdt.G/2024/PA.YK of the Yogyakarta Religious Court, dated 24 June 2024. The Deed of Settlement essentially recorded the Respondent's consent to the Petitioner's intention to enter into a polygamous marriage. Taking into account the first wife's consent and the objective of preventing greater harm, the panel of judges concluded that

[57]"Direktori Putusan."

the alternative statutory requirements could be set aside in order to achieve the greater public interest (*maṣlaḥah*).[58]

**c. The Application of Fiqh Principles and the Principle of Public Interest**

The most crucial consideration in this ruling lies in the theological and philosophical aspects of Islamic law. In its reasoning, the panel of judges cited the words of Allah SWT in the Qur'an, Surah An-Nisa, verse 3, as follows[59]:

وَاِنْ خِفْتُمْ اَلَّا تُقْسِطُوْا فِى الْيَتٰمٰى فَانْكِحُوْا مَا طَابَ لَكُمْ مِّنَ النِّسَآءِ مَثْنٰى وَثُلٰثَ وَرُبٰعَۚ فَاِنْ خِفْتُمْ اَلَّا تَعْدِلُوْا فَوَاحِدَةً اَوْ مَا مَلَكَتْ اَيْمَانُكُمْۗ ذٰلِكَ اَدْنٰٓى اَلَّا تَعُوْلُوْاۗ ﴿٣﴾

Meaning: "If you fear that you will not be able to treat orphaned women fairly (if you marry them), then marry (other) women whom you like: two, three, or four. However, if you fear that you will not be able to treat them fairly, then marry only one, or the female slaves you own. That is closer to avoiding injustice.".

Based on the above Qur'anic verse, the panel of judges held that Islam permits a man to practice polygamy, allowing him to have up to four wives simultaneously, provided that he is able to treat them fairly. The panel further considered the established fact that the Petitioner and the prospective second wife had maintained a close relationship for approximately five years.

[58] "Direktori Putusan."
[59] "Direktori Putusan."

According to the panel, refusing the petition for permission to practice polygamy could give rise to greater harm, including the possibility of zina (adultery) or an unregistered marriage (*nikah siri*) lacking legal recognition. Accordingly, the panel based its reasoning on the following Islamic legal maxim *(qāʿidah fiqhiyyah*)[60]:

دَفْعُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

"Preventing harm must take precedence over seeking benefit"

Based on this Islamic legal maxim (*qāʿidah fiqhiyyah*), the panel of judges held that granting the petition for permission to practice polygamy constituted the more appropriate course of action to prevent greater harm in the future. This conclusion was founded on the fact that the Petitioner had fulfilled the applicable legal requirements, including obtaining the Respondent's consent as the first wife to the proposed polygamous marriage. In the panel's view, granting permission for polygamy in the present case would serve as a lawful means of preventing conduct contrary to both the law and Islamic principles, particularly the commission of zina (adultery). Accordingly, the panel considered that granting the petition was more consistent with the

[60]"Direktori Putusan."

objectives of Islamic law (*Maqāṣid Syarī'ah*) in promoting public welfare (*maṣlaḥah*) and preventing greater harm (*mafsadah*) to the parties concerned.[61]

**d. Considerations Regarding the Legal Status of a Prospective Second Wife**

The panel of judges found that the Petitioner's prospective second wife was a Muslim, was not legally married to another man, and did not fall within any category of women prohibited from marrying *(maḥram)* the Petitioner under Islamic law. Furthermore, the prospective second wife had expressly declared her willingness to become the Petitioner's second wife, as evidenced by a copy of the Declaration of Consent to Enter a Polygamous Marriage, dated 10 November 2024. The panel also considered that she fully understood the legal and social consequences of entering into a polygamous marriage, including her status as the second wife and the legal position of the marital property previously acquired by the Petitioner and the Respondent during their existing marriage.[62]

**3. Considerations by Female Judges in Ruling on Polygamy Cases in the Absence of Dissenting Opinions**

Based on the interview with the female judge, who also served as the presiding judge in Case Number 631/Pdt.G/2024/PA.YK, it was revealed that the judicial reasoning underlying the decision to grant the petition for

[61]"Direktori Putusan," accessed September 29, 2025, https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pa-yogyakarta/kategori/izin-poligami-1.html.

[62]"Direktori Putusan."

permission to practice polygamy involved a complex and nuanced deliberative process. The case initially arose from the husband's petition for ṭalāq divorce filed before the Yogyakarta Religious Court. Prior to the substantive examination of the case, the parties were required to undergo mediation proceedings. Through this process, they reached a partially successful mediation agreement, whereby the first wife chose to consent to her husband's proposed polygamous marriage as an alternative means of preserving the marriage and avoiding divorce. This agreement was subsequently formalized in a Deed of Settlement (*Akta Perdamaian*), which was ratified by the Yogyakarta Religious Court through Determination Number 214/Pdt.G/2024/PA.YK, dated 24 June 2024.

According to the interviewee, the first wife's decision to accept polygamy represented a difficult choice with significant personal consequences. Although the Petitioner possessed sufficient financial resources to support more than one family, the issue of justice remained the most problematic aspect of polygamous marriage. The interviewee emphasized that justice should not be measured solely by the husband's financial ability to provide maintenance but must also encompass the equitable distribution of affection, attention, and treatment among all wives. Consequently, financial

capability alone cannot be regarded as conclusive evidence that the principle of justice in polygamy can be fully realized in practice.[63]

During the decision-making process, the consent of the first wife constituted one of the most decisive considerations for the panel of judges. Such consent was evidenced by a written declaration expressing her willingness to enter into a polygamous marriage. According to the interviewee, before rendering its decision, the panel provided the parties with advice and explanations concerning the potential legal and social consequences of polygamy. Nevertheless, the first wife reaffirmed her willingness to be part of a polygamous marriage and expressed a clear preference for that option over the dissolution of the marriage through divorce. This position ultimately became a significant factor in shaping the judges' judicial conviction.[64]

According to the interviewee, during the panel's deliberations it was acknowledged that, when assessed against Article 4 of Law Number 1 of 1974 on Marriage, the alternative statutory grounds for granting permission to practice polygamy were, in principle, not satisfied in this case. The first wife was proven to be in good health, capable of performing her duties as a wife, and had borne children during the marriage. Accordingly, none of the alternative grounds prescribed by law namely the wife's inability to perform her

[63] Wawancara dengan Hakim Perempuan di Pengadilan Agama Sleman Kelas 1A, tanggal 5 Juni 2026.

[64] Wawancara dengan Hakim Perempuan, (June 5, 2026).

marital obligations, the existence of a physical disability or incurable illness, or the inability to bear children were fulfilled. Nevertheless, the panel of judges did not confine its assessment to the fulfillment of these formal statutory requirements. Instead, it also considered broader interests, including preserving the continuity of the marriage, preventing divorce, and safeguarding the welfare of the children by ensuring that they continued to receive financial support and parental care from both parents.[65] During the second interview, the interviewee further explained that the principal reason for setting aside the alternative statutory requirements was the Respondent's express lack of objection to the proposed polygamous marriage. Her consent was evidenced by her declaration of willingness to be part of a polygamous marriage, as formally recorded in the Deed of Settlement (*Akta Perdamaian*), which was ratified through Determination Number 214/Pdt.G/2024/PA.YK issued by the Yogyakarta Religious Court on 24 June 2024.[66]

The interview findings also revealed the dilemma experienced by the Presiding Judge in adjudicating this case. The interviewee acknowledged that, as a woman, she empathized with the position of the first wife, who was required to accept the reality of a polygamous marriage. From an emotional perspective, she naturally understood the suffering that a woman might experience when her husband takes another wife. However, in her capacity as

[65] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[66] Wawancara dengan Hakim Perempuan melalui chat WhatsApp, tanggal 8 Juli 2026.

a judge, she was required to set aside subjective considerations and base her decision solely on the legal facts established during the proceedings. In this context, the consent of the first wife became the most decisive factor. The interviewee further stated that had the first wife expressly refused or objected to the proposed polygamous marriage, the petition would most likely not have been granted.[67] This circumstance constituted the principal reason why there was no dissenting opinion from the female judge, who also served as the Presiding Judge, in deciding the case.

To ensure that the Respondent's consent had been given freely and without coercion, the interviewee explained that the panel of judges conducted a direct verification with the first wife. The judges asked her to confirm whether the written declaration of consent had been signed voluntarily, with full awareness, and without any form of pressure or coercion. The first wife affirmed that her decision was made of her own free will and had not been influenced by any external pressure. This confirmation became one of the key factors reinforcing the judges' conviction, as the individual most directly affected by the proposed polygamous marriage had expressly consented to it and declared her willingness to accept all legal and personal consequences that might arise in the future.[68]

[67] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[68] Wawancara dengan Hakim Perempuan, (June 5, 2026).

In addition to examining the position of the first wife, the interviewee explained that the panel of judges also heard testimony from the family of the prospective second wife, namely her mother and cousin, who appeared as witnesses during the proceedings. The purpose of this examination extended beyond establishing the relevant legal facts; it also provided an opportunity for the panel to advise the prospective second wife's family. The judges questioned why the family had consented to the marriage of a relatively young woman to a man who was already married. According to the witnesses, the relationship between the Petitioner and the prospective second wife had existed for a considerable period and had developed into a close and committed relationship. Consequently, the family believed that marriage represented the most appropriate course of action to prevent conduct that might contravene both religious and social norms.[69]

Although the petition was ultimately granted, the Presiding Judge continued to express a critical perspective on the practice of polygamy. The interviewee emphasized that, notwithstanding the Petitioner's written declaration undertaking to treat his wives fairly, achieving perfect justice within a polygamous marriage is, in reality, extremely difficult. For this reason, throughout the proceedings, the panel of judges and particularly the Presiding Judge repeatedly reminded the Petitioner not to neglect the rights of the first

[69] Wawancara dengan Hakim Perempuan, (June 5, 2026).

wife following the addition of a second wife. The Petitioner was further advised to discharge his responsibilities in a proportionate manner, refrain from discriminatory treatment, and preserve harmonious relationships among all members of the family. Accordingly, the decision to grant permission for polygamy in this case was not based solely on the fulfillment of the applicable statutory and procedural requirements. Rather, it reflected a holistic judicial assessment that balanced legal considerations with humanitarian concerns, the protection of women's rights, the welfare of the children, and the objective of preserving family unity.[70]

**4. Determining Factors in the Decision-Making of Female Judges**

**a. Legal Factors**

In deciding the petition for permission to practice polygamy in Case Number 631/Pdt.G/2024/PA.YK, the Court first based its reasoning on juridical considerations derived from the applicable statutory provisions and the evidence presented by the parties during the proceedings. These considerations constituted the primary legal foundation for determining whether the statutory requirements for polygamy, as prescribed under Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), had been fulfilled.

[70] Wawancara dengan Hakim Perempuan, (June 5, 2026).

Based on the official copy of the judgment, the Court found that the Petitioner had successfully established his identity and legal standing through documentary evidence, including his Identity Card (P.1), the identity documents of the prospective second wife (P.2), and the Marriage Certificate evidencing the lawful marriage between the Petitioner and the Respondent (P.3). These documents demonstrated that the Petitioner was the lawful husband of the Respondent and therefore possessed the necessary legal standing to file a petition for permission to practice polygamy before the Yogyakarta Religious Court. Furthermore, the legal status of the prospective second wife as a divorced woman was established through Divorce Certificate Number 1963/AC/2021/PA.Smg (P.4), confirming that no legal impediment existed to the proposed marriage.[71]

The Court attached particular importance to the consent of the first wife, which constitutes one of the essential requirements for granting permission to practice polygamy. Such consent was evidenced by Determination Number 214/Pdt.G/2024/PA.YK of the Yogyakarta Religious Court (P.5) and the Deed of Settlement (*Akta Perdamaian*) dated 18 June 2024 (P.6), both of which expressly recorded the Respondent's agreement to the Petitioner's proposed polygamous marriage. Based on the evidence examined during the proceedings, the Court was satisfied that the Respondent's consent had been given

[71] "Direktori Putusan."

voluntarily, knowingly, and without any form of coercion. This finding was further corroborated by the interview with the female judge who served as the Presiding Judge, who explained that the first wife's consent constituted one of the most decisive factors in the adjudication of the case.[72] According to the interviewee, had the Respondent expressly objected to the proposed polygamous marriage, the panel of judges would most likely have declined to grant the Petitioner's application.[73]

In addition to the consent of the first wife, the Petitioner's financial capacity constituted another significant juridical consideration taken into account by the Court. This requirement was established through the Certificate of Income (P.8), which demonstrated that the Petitioner was employed as a Senior Procurement Manager at Hang Nadim International Airport, Batam, with an average monthly income of IDR 35,000,000. On the basis of this evidence, the Court concluded that the Petitioner possessed sufficient financial resources to provide for the maintenance and welfare of his wife and children. This assessment was further reinforced by the mediation agreement, which required the Petitioner to pay monthly maintenance of IDR 8,500,000 to the Respondent and IDR 9,000,000 for their two children.[74] During the interview,

[72] "Direktori Putusan."
[73] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[74] "Direktori Putusan."

the female judge also confirmed that, from a financial perspective, the Petitioner was considered capable of supporting two families simultaneously.[75]

Another juridical factor emphasized by the Court was the Petitioner's undertaking to treat his wives fairly. This commitment was evidenced by the Declaration of Fair Treatment (P.7) signed by the Petitioner. Although the Court acknowledged that fairness in a polygamous marriage cannot be measured with absolute certainty in practice, the declaration was regarded as evidence of the Petitioner's genuine intention to fulfill his legal obligations toward both wives. Furthermore, the prospective second wife had executed both a Declaration of Consent to Enter a Polygamous Marriage (P.9) and a Declaration Waiving Any Claim to the Existing Marital Property (P.10). These documents constituted important considerations for the Court, as they demonstrated that the prospective second wife fully understood the legal consequences of entering into a polygamous marriage and agreed not to assert any claim over the marital property previously acquired by the Petitioner and the Respondent, thereby reducing the likelihood of future disputes concerning marital assets.[76]

To further substantiate the Petitioner's claims, the interview with the Presiding Judge revealed that two witnesses were called during the proceedings, namely the prospective second wife's mother and cousin. Both witnesses

[75] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[76] "Direktori Putusan."

testified that the relationship between the Petitioner and the prospective second wife had existed for a considerable period and was well known to her family. Their testimonies were found to be consistent with the documentary evidence submitted before the Court, thereby further strengthening the judges' conviction regarding the factual circumstances underlying the petition for permission to practice polygamy.[77]

Nevertheless, the evidence presented during the proceedings established that the alternative statutory requirements prescribed under Article 4 paragraph (2) of the Marriage Law and Article 57 of the Compilation of Islamic Law were, in principle, not satisfied. The Respondent was proven to be in good health, fully capable of performing her duties as a wife, and had borne children during the marriage. This fact was likewise acknowledged by the interviewee during the interview. Notwithstanding the absence of the alternative statutory grounds, the panel of judges concluded that the fulfillment of the cumulative requirements namely the first wife's consent, the Petitioner's financial capability, and his undertaking to treat both wives fairly constituted a sufficiently strong juridical basis to justify further consideration of the petition.[78]

**b. Non-legal factors**

[77] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[78] Wawancara dengan Hakim Perempuan, (June 5, 2026).

In Case No. 631/Pdt.G/2024/PA.YK, the judge's reasoning was not only based on the applicable legal provisions, but also took into account various non-legal factors that emerged from the facts of the trial. Based on an analysis of the copy of the judgement and the results of an interview with the Chair of the Panel, there were several factors relating to the public interest that formed the basis for interpreting and applying the law in the case.

First, the first wife's willingness to enter into a polygamous marriage. This factor constituted the central consideration in the present case. Based on the interview findings, the interviewee acknowledged that, from an emotional perspective, she could naturally empathize with the position of the first wife, who was required to accept the presence of a second wife within her marriage. The interviewee further stated that, if the case had been assessed solely through the lens of personal feelings and empathy as a fellow woman, there would have been a tendency to refuse the petition for permission to practice polygamy. Nevertheless, the Court did not base its decision solely on emotional considerations. Instead, the judges sought to ensure that the Respondent's consent had genuinely arisen from her own free will and informed decision. Accordingly, the Court conducted a direct examination of the Respondent to verify her willingness to enter into a polygamous marriage. From this examination, the judges became satisfied that the Respondent had given her consent knowingly, voluntarily, and without any form of coercion. This finding

ultimately became one of the principal considerations supporting the Court's decision to grant the Petitioner's application.[79]

Second, the Petitioner's financial capacity. In the present case, the Petitioner's financial condition was considered sufficiently stable to ensure the welfare of all members of the family for whom he would be responsible. According to the interviewee, although justice in a polygamous marriage cannot be measured with absolute certainty, the Petitioner's financial capability could be established objectively through the income documentation submitted during the proceedings. The Petitioner's monthly income of approximately IDR 35,000,000 was regarded as sufficient to provide financial support for the Respondent, their two children, and the prospective second wife.[80]

Third, social considerations. These were reflected in the Deed of Settlement (*Akta Perdamaian*) reached through the mediation process, which regulated not only matters relating to financial maintenance but also the future relationship between the first wife, the prospective second wife, and the respective families of the parties. Under the terms of the settlement, the Petitioner undertook to continue honoring the Respondent as his first wife, to provide appropriate care and attention to their children, and to maintain harmonious communication and family relationships. The parties also agreed that the prospective second wife and her family would not intentionally

[79] Wawancara dengan Hakim Perempuan, (June 5, 2026).
[80] Wawancara dengan Hakim Perempuan, (June 5, 2026).

interfere with the Respondent's personal and family life, and vice versa. These arrangements demonstrate a deliberate effort to minimize the potential social conflicts that might arise from the implementation of a polygamous marriage.[81]

The settlement agreement also recognized the special status of the first wife within the family structure. This was reflected in the provision that, during extended family gatherings involving the Petitioner, the Respondent and their children would continue to be introduced and acknowledged as the Petitioner's accompanying family members. Furthermore, for administrative purposes, only the Respondent and her children would remain registered as the Petitioner's dependents with his employer, while the prospective second wife would not be enrolled as a beneficiary of the company's employment benefits. These provisions indicate a deliberate effort to preserve and protect the legal rights and social status of the first wife, which had already been established throughout the duration of the marriage.[82]

## B. Discussion

### 1. A Hermeneutic Analysis of Law

From the perspective of legal hermeneutics, a judicial decision is not understood as the mechanical application of legal rules but rather as the product of an interpretative process arising from the dialogue between the legal text, the

[81] "Direktori Putusan."
[82] "Direktori Putusan."

facts established during the proceedings, the judge's experience, and the social realities surrounding the dispute. This approach is consistent with Michael N. Foster's definition that *"hermeneutics means the theory of interpretation, i.e., the theory of achieving and understanding of text, utterances, and so on."* Accordingly, legal texts must be in terpreted so that they can be applied appropriately to the particular dispute before the court. According to Satjipto Rahardjo, when the process of legal adjudication relies solely on the text of the law, the resulting decisions tend to be rigid and regimented. Such a formalistic approach to law may give rise to various significant problems, particularly in relation to the pursuit of justice.[83] Legal hermeneutics therefore maintains that judges should not confine themselves to a purely textual reading of statutory provisions but should instead seek the legal meaning that is most relevant to the concrete circumstances of the parties. This interpretative approach is clearly reflected in Judgment Number 631/Pdt.G/2024/PA.YK, which was examined and decided by a panel of judges chaired by a female presiding judge.

From a normative perspective, had the Court adhered strictly to a rigid legal positivist (textualist) approach, the petition in Case Number 631/Pdt.G/2024/PA.YK should have been dismissed because it failed to satisfy any of the alternative statutory grounds prescribed under Article 4 paragraph (2) of Law Number 1 of 1974 on Marriage and Article 57 of the Compilation

[83] Jajang Cardidi, "KAJIAN HERMENEUTIS TERHADAP MAKNA KEYAKINAN HAKIM DAN PERANANNYA UNTUK PUTUSAN (VONIS) PIDANA," *Part B* 1, no. 2 (2014): 15.

of Islamic Law. The evidence presented during the proceedings established that the Respondent (the first wife) was physically and mentally healthy, capable of fulfilling her marital obligations, and had given birth to two children during the marriage. Nevertheless, the panel of judges undertook an interpretative leap by adopting a broader contextual interpretation. Rather than limiting its analysis to the literal wording of the statutory provisions, the Court interpreted the applicable legal norms in light of the actual circumstances faced by the parties.

Based on the interview findings, the Court found that the parties had previously undergone mediation proceedings in the husband's ṭalāq divorce case, resulting in a Deed of Settlement (*Akta Perdamaian*) in which the first wife voluntarily agreed to the proposed polygamous marriage as a means of preserving the marital relationship. This interpretative process illustrates the interaction between the legal text and the factual context, as explained in the theory of legal hermeneutics. While the legal text establishes the statutory requirements governing polygamy, the contextual circumstances revealed during the proceedings demonstrated that the first wife consciously chose to accept polygamy rather than the dissolution of the marriage through divorce.

The hermeneutical reasoning adopted by the Court is also evident in the manner in which the judges interpreted the concept of justice. The Petitioner submitted a Declaration of Fair Treatment (P.7) and demonstrated substantial financial capacity through evidence showing that he was employed as a Senior Procurement Manager at a state-owned enterprise with a monthly income of

IDR 35,000,000 (P.8). According to the interview, the judges undertook a reconstruction of the legal meaning of fairness. They emphasized that fairness should not be reduced merely to the provision of adequate financial maintenance (quantitative justice), but must also encompass non-material dimensions of justice, including the equitable distribution of affection, attention, time, and emotional commitment (qualitative justice).[84]

This understanding demonstrates that the Court recognized the distinction between the normative conception of justice embodied in statutory law and the substantive justice experienced in everyday family life. Accordingly, despite the Petitioner's written declaration undertaking to treat both wives fairly, the judges continued to caution and advise him not to neglect the rights of the first wife following the introduction of a second wife into the marriage. These concerns were further addressed through the Deed of Settlement, which was specifically designed to safeguard the rights of the first wife and her children against any diminution resulting from the polygamous marriage. First, the agreement recognized an exclusive social entitlement, under which only the first wife (the Respondent) and her children would accompany the Petitioner during formal gatherings involving his extended family. Second, it established an exclusive administrative entitlement, whereby the prospective second wife undertook not to claim any portion of the existing marital property

[84] Wawancara dengan Hakim Perempuan, (June 5, 2026).

and agreed not to be registered as a beneficiary of the Petitioner's employment-related benefits, thereby ensuring that such employment protections remained exclusively available to the first wife and their children.

Based on the foregoing analysis, it can be concluded that the reasoning adopted by the female judge in Judgment Number 631/Pdt.G/2024/PA.YK reflects a legal hermeneutical approach that is responsive to contemporary social realities. Rather than remaining confined within the rigid framework of legal positivism, which views judges merely as the mouthpiece of the law (*la bouche de la loi*), the panel assumed the role of interpreters committed to achieving substantive justice. This interpretative approach demonstrates that judicial reasoning is profoundly influenced by the manner in which judges internalize the principles of public welfare (*maṣlaḥah*), the protection of women's rights, the safeguarding of children's interests, and the broader objective of preserving family unity while preventing the social and legal consequences of divorce.

**2. Analysis from the Perspective of *Maqāṣid Syarī'ah***

Based on Imam al-Shāṭibī's framework of *Maqāṣid Syarī'ah*, Judgment Number 631/Pdt.G/2024/PA.YK cannot be understood merely as the application of the normative provisions contained in Law Number 1 of 1974 on Marriage and Article 57 of the Compilation of Islamic Law. Rather, it represents the panel of judges' effort to reconcile the tension between compliance with formal procedural requirements and the substantive objectives

of the Sharīʿah in promoting maṣlaḥah (public welfare) and preventing mafsadah (harm). From the perspective of *Maqāṣid Syarī'ah*, the fulfillment of the cumulative statutory requirements in this case reflects an attempt to realize the objectives of the Sharīʿah, particularly the preservation of lineage (*ḥifẓ al-nasl*). This is evidenced by the Respondent's written consent as embodied in the Deed of Settlement (*Akta Perdamaian*), the Petitioner's demonstrated financial capacity to fulfill his maintenance obligations, and his commitment to treat both wives fairly. These considerations illustrate the panel's effort to ensure the continued protection of family stability while safeguarding the rights and welfare of the children. Moreover, the interests of the children from the first marriage were expressly protected through the provision of continuous financial support and the preservation of their social status, as reflected in the agreement that the Respondent and her children would remain the Petitioner's officially registered dependents under his employer's benefit scheme.

From the perspective of *Maqāṣid Syarī'ah*, the principle of *ḥifẓ al-māl* (the preservation of property) is reflected in the Petitioner's monthly income of IDR 35,000,000, which was considered sufficient to secure the economic rights of both the first wife and the children following the proposed polygamous marriage. This protection was further reinforced by the prior settlement of the parties' jointly acquired property, thereby minimizing the risk of future property disputes (*mafsadah*) arising from the subsequent marriage. At the same time, the principle of *ḥifẓ al-nafs* (the preservation of life and personal welfare) was

manifested through the Petitioner's Declaration of Fair Treatment. Although the interviewee acknowledged that such a declaration may be largely formal in nature, it nevertheless functions as a minimum legal safeguard intended to protect the psychological stability, social standing, and emotional well-being of the wives and children against the potential adverse consequences of polygamy.

From the perspective of Maqāṣid Syarī'ah, one of the most significant aspects of this judgment is the Court's decision to set aside the alternative statutory requirements. The panel of judges expressly acknowledged that none of the alternative grounds prescribed under Article 4 paragraph (2) of the Marriage Law and Article 57 of the Compilation of Islamic Law had been satisfied, yet the petition was nevertheless granted. Within the framework of *Maqāṣid Syarī'ah*, this approach can be explained through the hierarchy of *maṣlaḥah* formulated by Imam al-Shāṭibī, who classified public welfare into three levels of priority: *ḍarūriyyāt* (essential necessities), *ḥājiyyāt* (complementary needs), and *taḥsīniyyāt* (embellishments or refinements).[85]

Maslahah daruriyat (primary necessity) is always prioritized over formal considerations that are hajiyat (secondary necessity) in nature. Preventing zina (*hifz al-nasl* and *hifz al-'ird* in the sense of preserving the sanctity of lineage and honor) falls within the category of daruriyat, whereas the alternative requirements under Article 4 paragraph (2) essentially constitute

[85] Khaliq and Pangestu, *Teori Maqasid Syari'ah Klasik (Asy-Syatibi)*, 156.

a hajiyat instrument intended to restrict access to polygamy so that it is not misused. In its legal reasoning, the panel of judges considered that the relationship between the Applicant and the prospective second wife, which had lasted for five years, had the potential to give rise to greater harm if legal certainty were not provided, such as the occurrence of adultery or the practice of unregistered (*siri*) marriage. On this basis, the judges essentially applied the fiqh maxim دَفْعُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِح (*daf'u al-mafāsid muqaddam 'alā jalbi al-maṣāliḥ*), which means that preventing harm takes precedence over obtaining benefit. From the perspective of Maqāṣid al-Syarī'ah, this maxim represents the implementation of the concept of balancing maṣlaḥah and mafsadah, which places efforts to prevent harm (*dar' al-mafāsid*) as a higher priority than efforts to attain benefit (*jalb al-maṣāliḥ*) whenever the two come into conflict.

This approach is consistent with the method of maṣlaḥah mursalah and the principle الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَات (*al-darurat tubih al-mahzurat*), which means that a state of necessity permits that which was originally prohibited or restricted, whereby the formal requirements are set aside not because they are considered unimportant, but because there are concrete circumstances (the very close relationship that had already existed, and the written consent of the first wife that had been affirmed by a court order) that make the rejection of the application more likely to result in a mafsadah greater than the mafsadah that the alternative requirements themselves are intended to prevent.

# CHAPTER V

# CONCLUSION

## A. Conclusion

Based on the research findings obtained through the data collection process, the results of the discussion, and the analysis carried out using an empirical legal approach and a hermeneutic legal perspective, this study has successfully revealed various aspects relating to the considerations of female judges in adjudicating a case concerning a request for polygamy in Judgment No. 631/Pdt.G/2024/PA.YK. Based on these research findings, several conclusions can be drawn that reflect the main findings of the study as. Based on the results of this study, several conclusions can be drawn that reflect the main findings of the research, as follows:

1. The form of the female judge's legal reasoning in deciding the polygamy application in Decision Number 631/Pdt.G/2024/PA.YK is reflected in her effort to balance legal norms, the facts revealed during the trial, and the social realities of the parties. The primary factor underlying the absence of a dissenting opinion from the female judge, who also served as the Presiding Judge in the case, was the consent of the first wife. Such consent was evidenced by a deed of settlement, which was subsequently affirmed through the Yogyakarta Religious Court Determination Number 214/Pdt.G/2024/PA.YK dated 24 June 2024. Although the alternative requirements for polygamy as stipulated in Article 4 of Law Number 1 of 1974 concerning Marriage were not

fulfilled, the judge did not merely adopt a textual approach but also considered the first wife's consent, which had been given voluntarily and without coercion, as the principal factor in forming the judge's conviction. From a hermeneutic perspective, the panel of judges made an interpretative leap. The judges adopted a broader contextual interpretation by taking into account the actual circumstances faced by the parties.

2. The factors influencing the female judge in considering the polygamy application in Decision Number 631/Pdt.G/2024/PA.YK consist of juridical and non-juridical factors that complement one another in forming the judge's conviction. From the juridical perspective, the judge's legal reasoning was based on the fulfillment of valid evidence, particularly the Applicant's legal standing, the first wife's consent, the Applicant's financial capability, the guarantee of equal treatment, the willingness of the prospective second wife, and the mutually corroborative testimony of the witnesses. Although the alternative requirements for polygamy as stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage were not fulfilled, the judge considered that the fulfillment of the cumulative requirements nevertheless provided a sufficient legal basis for granting the application. Meanwhile, from the non-juridical perspective, the judge's legal reasoning was influenced by the conviction that the first wife's consent had been given voluntarily and without coercion, the Applicant's financial ability to ensure the welfare of both families, and the existence of family arrangements established through the mediation

agreement, which provided protection for the rights, position, and status of the first wife. Accordingly, the decision rendered represents a synthesis of normative legal considerations and considerations of maṣlaḥah (public benefit), aimed at achieving legal certainty, justice, and expediency.

**B. Recommendations**

1. Judges are expected to continue to prioritise a balance between legal certainty, justice and the public interest when ruling on applications for permission to practise polygamy. Furthermore, the consent of the first wife must be carefully verified to ensure that it is given knowingly, voluntarily and without coercion, so that women's rights remain protected.
2. Future research is expected to broaden the scope of the study by comparing rulings on polygamy across various Religious Courts or by applying different theoretical perspectives, such as feminist theory, progressive law, or justice theory, thereby providing a more comprehensive understanding of judges' considerations in polygamy cases.

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# APPENDIX

Appendix 1. Interview Questions

## A. First Interview

1. How do you interpret the concept of justice in polygamy cases?
2. Are there any particular social conditions that influenced the way you understood this case?
3. How do you perceive the position of the wife in the polygamy case that you handled?
4. In your opinion, what indicators demonstrate that the wife's rights remained protected in this case?
5. How did the panel of judges ensure that the wife's consent was given voluntarily and without any coercion?
6. Was the best interest of the children also taken into consideration in this case?
7. Which legal factor was the most decisive in shaping your judicial conviction in this case?
8. How significant was the role of documentary and testimonial evidence in the decision-making process?
9. Did the social circumstances of the parties' family influence the panel's legal reasoning?
10. In your view, how does public perception of polygamy influence judicial practice in the Religious Courts?
11. How did you assess the Applicant's financial capability in this case?

12. What indicators were used to determine whether the husband was capable of fulfilling the rights and needs of all members of the family?
13. How important was the Applicant's financial capability in determining whether the polygamy application should be granted or rejected?

**B. Second Interview**

1. Why were the alternative conditions regarding polygamy set aside?
2. Were there any differences of opinion during the deliberation process?
3. Did you personally have a dissenting opinion during the deliberation process?
4. What was the main factor considered in granting the decision?

Appendix 2. Interview Transcript

**Interview Results**

- This case began with a petition for divorce filed by the Petitioner in the Yogyakarta Religious Court.
- During the proceedings, mediation was conducted first. The mediation was partially successful. The first wife ultimately chose to allow her husband to practice polygamy rather than proceed with a divorce.
- The mediation resulted in a settlement agreement, which was subsequently ratified by the Yogyakarta Religious Court.
- According to the source, it was a difficult decision. Although the husband earned a sufficient income, it was difficult to assess whether he was being fair, since fairness isn't measured solely in material terms.
- Why did the panel of judges ultimately rule in her favor? Because there was a written statement expressing her willingness to be in a polygamous marriage. Even though she had been warned that polygamy is very difficult and not as idyllic as one might imagine.
- During the court hearing, it was determined that not all of the requirements of Article 4 regarding polygamy had been met, as the wife was proven to be in good health, capable of bearing children, and fulfilling her responsibilities as a wife. However, in an effort to preserve the family unit, the wife chose to accept polygamy rather than divorce. This decision was also based on the

consideration that the children's needs would be provided for by the husband, as promised.

- According to the interviewee, if the decision were based solely on emotions, it would be understandable not to grant the husband's application for polygamy, because as a fellow woman, one would naturally feel the emotional pain of becoming a co-wife. However, the situation is different when the first wife has willingly accepted and consented to the polygamous marriage. In fact, the primary determining factor lies in the decision of the first wife. If she had objected, the judge and the other members of the judicial panel would most likely have rejected the application at that very moment. Therefore, the panel of judges reconfirmed whether, at the time she signed the statement expressing her willingness to be in a polygamous marriage, she had done so consciously or under coercion, and her response was that she had acted with full awareness. Under these circumstances, it would have been quite difficult for the judge and the panel of judges to reject the application when the first wife had already given her consent and declared her readiness to accept all the risks that might arise.
- The judge also confirmed the facts with the witnesses, namely the mother and the cousin of the prospective second wife. This opportunity was also used to advise the family of the prospective second wife. A question was raised as to why the witnesses had permitted the prospective second wife to enter into a polygamous marriage, considering that she was still relatively young and still

had the possibility of marrying someone who was not already married, whether a widower or a single man. The answer was that the prospective second wife and the Applicant had already established a very close relationship, and if the situation were left unresolved, it was feared that undesirable circumstances might occur.

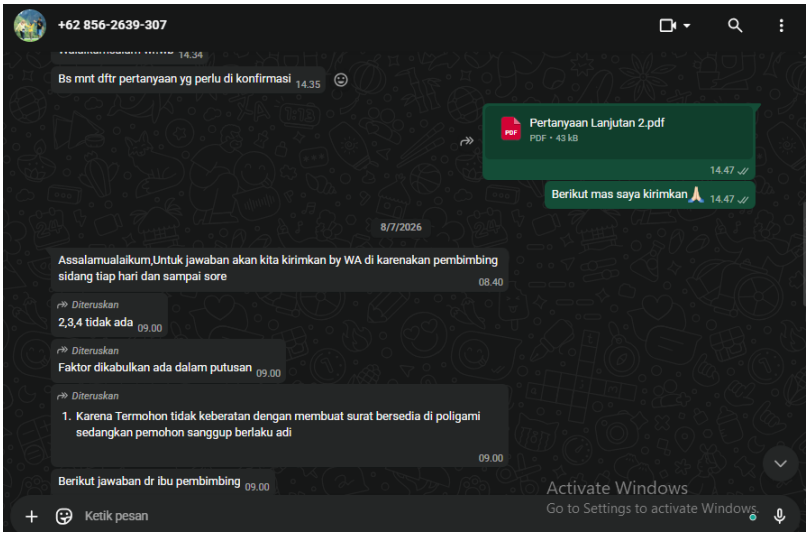
- The source explained that even though the first wife had given her permission and there was a written commitment from the husband to treat both wives fairly, However, according to the source himself, that fairness would not be complete or perfect. Therefore, the judge continued to remind the husband not to neglect his second wife just because she is younger, not to be selfish, and that the wives should also remind one another to get along and take turns fairly.

Appendix 3. Interview Documentation





First Interview with Dra. Mar'fuah, M.H. (Female Judge and Chair of the Case Panel),
at the Sleman Class 1A Religious Court, June 5, 2026.




Second Interview with Dra. Mar'fuah, M.H. (Female Judge & Chair of the Case Panel),
via WhatsApp, July 8, 2026

# CURRICULUM VITAE

**FIKAR MAULANA**
22421084@students.uii.ac.id | + (62) 82262497110 | Linkedin

## PROFILE

An active student of the Islamic Law Program with a successful track record in leading student development and achievement enhancement programs funded by the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek). Proficient in legal review, legal drafting (including MoUs and organizational bylaws/*AD-ART*), institutional administration, and organizational management.

## EDUCATION

**Universitas Islam Indonesia (UII)**
Yogyakarta, Indonesia

- Bachelor of Islamic Law; GPA: 3.96/4.00.
  **Sep 2022 - 2026**
- **Relevant Courses:** Introduction to Legal Studies, Legal Drafting, Notarial Law, Constitutional Law, Procedural Law, Advocacy, Civil Law, Islamic Civil Law, Sharia Law of Obligations.

## PROFESSIONAL EXPERIENCES

**Head |** Student Achievement and Mobility Center, UII
**Jan - Present 2025**

Student Achievement and Mobility Center is a university-based unit focused on student development and achievement enhancement through national programs initiated by Kemendikbudristek.

- Designed Standard Operating Procedures (SOP) for internal student coaching at UII for national programs under Kemendikbudristek, including PPK Ormawa, P2MW, ONMIPA, KBMK, and LIDM, improving funding success rate from 37.5% to 50%.
- Reviewed 10+ community empowerment proposal ideas; supported 5 proposals in securing national funding by ensuring compliance in administrative and substantive aspects.
- Successfully drafted 10 Cooperation Agreements *(PKS)* with village governments in the field of rural development within two weeks.
- Developed a university-level proposal selection recap system using Excel; produced 5 analytical recap reports to support future program evaluations.

## ORGANIZATIONS & ACTIVITIES

**Team Leader, PPK Ormawa Laboratorium Mahasiswa UII –** Kemendikbudris **Jul - Dec 2024**

PPK Ormawa is a national program initiated by Kemendikbudristek aimed at strengthening the capacity and impact of student organizations through community empowerment projects.

- Developed a six-month village empowerment program proposal and successfully secured IDR 35,000,000 in funding for implementation.
- Coordinated over 35 program beneficiaries focused on improving the quality of human resources, resulting in an 80% increase in the capacity of rural women based on pre- and post-assessment evaluations.
- Drafted 5+ Memorandums of Understanding (MoUs) and established 3 formal partnerships with village government, sub-district authorities, and the Sleman Regency Office of Agriculture, Food, and Fisheries.
- Prepared key implementation documents for the program team, including integrity pacts, commitment letters, and the official organizational structure to ensure accountability and compliance.

**Vice Coordinator, Community Development Division** | Laboratorium Mahasiswa UII

**Jan - Dec 2024**

**Laboratorium Mahasiswa** is a university-level student organization engaged in research and community service initiatives.

- Served as part of the legal review team for the organization's statutes and bylaws *(AD/ART)*, collaborating with a team of 5 to assess and improve regulatory effectiveness.
- Designed 5 community empowerment programs aimed at enhancing human resource capacity in communities surrounding the campus, successfully establishing new partnerships with 2 villages, 2 social communities, and 1 school.
- Coordinated 20+ division members in executing work programs, structured under 5 designated program leads to ensure effective task distribution and accountability.

**Public Relation** | Sedekah Sekitar UII **Nov 2023 - Dec 2024**

Sedekah Sekitar UII is a community-based organization focused on social and community welfare initiatives within the university’s surrounding area.

- Managed Memorandums of Understanding (MoUs) to establish community partnerships with sponsors, outlining the scope of rights and obligations between the community and sponsoring parties.
- Initiated a sponsor database by collecting 20+ entries to serve as a partnership reference for the community, utilizing Microsoft Excel for data organization and management.

**Secretary** | Pekan Ta'aruf Santri **Aug - Sep 2024**

Pekan Ta'aruf Santri is a ceremonial event held to welcome new *mahasantri* (Islamic boarding university students) for the upcoming academic year.

- Handled all secretarial administrative tasks, drafted 50+ official letters, and prepared 10+ Minutes of Meeting to support organizational operations and documentation.
- Developed daily and weekly activity matrices as technical guidelines for all divisions.
- Compiled a participant booklet containing technical event information, speaker profiles, schedules, and general regulations.

**Project Activities**

[Research Paper]

**Dec 2023**

- Wrote a scientific paper titled *"*Sustainable Investment Opportunities: Public Fuel Station (SPBU) Business as a Solution for Enhancing the Productivity of Waqf Land."

[Creative Idea]

**Apr 2025**

- Submitted a creative idea for the *Program Kreatifitas Mahasiswa* (PKM) titled "NEUROLEX: Optimizing the Intellectual Condition of Juvenile Inmates at LPKA Class II Yogyakarta through Rational Emotive Behavior Therapy Using the Mindful-Quest Interactive Game Board."

## ACHIEVEMENTS

**[National]**

- Full Scholarship Awardee of *Santri Berprestasi* Program, Universitas Islam Indonesia, for both academic and non-academic achievements.
  **2022 - Present**
- Awardee of the *PPK Ormawa* Program, organized by Kemendikbudristek. **Jul - Dec 2024**

- Fully Funded Volunteer for the *Kolaboratrip Merdeka Berbagi* community outreach program in Kebumen.
  **Aug 2023**
- 2nd Place Winner, Arabic Speech Competition on Technology Usage in the 4.0 Era.
  **Oct 2022**

**[Local university)**

- Best Scientific Paper Group in the Social Sciences and Humanities Category, Labma Intensive Discussion.
  **Dec 2023**

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## ADDITIONAL

**Certification:**

- Paralegal and Mediation Training organized by the Islamic Law Department, FIAI UII, in collaboration with the Regional Executive Board *(DPC)* of PERADI Wonosari. **Jul 2025**

**Tools:** Microsoft Office (Word, Excel, PowerPoint) · Google Workspace (Docs, Sheets, Slides) · Canva (Design & Presentation).