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ANALYSIS OF MUHAMMAD SYAHRUR'S THOUGHTS ON THE CONCEPT OF JUSTICE IN POLYGAMY: A PERSPECTIVE OF CONTEMPORARY ISLAMIC LAW

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Abstract

Polygamy, the practice of marrying more than one partner simultaneously, has been a controversial topic in Islamic law and modern society. Although it is permitted in the Qur'an (QS. An-Nisa` 3) on the condition of justice, its practical implementation is often debated, especially in relation to the principles of justice established. In this context, Muhammad Syahrur provides an innovative view on polygamy. He uses a linguistic and contextual hermeneutic approach to interpret Qur'anic verses, arguing that justice in polygamy includes not only equal distribution of material goods but also emotional and psychological well-being. Syahrur argues that the application of polygamy must take into account the social context and changing times, emphasizing that monogamy may be more appropriate for achieving justice in modern societies. The critique of traditional interpretations and the emphasis on the unattainable principle of absolute justice are the main focus of his methodology. The analysis suggests that although polygamy is permitted, practical justice may be more easily achieved through monogamy in the contemporary context, in accordance with the principles of human rights and gender equality.

Keywords: Fair, Polygamy, M. Syahrur

INTRODUCTION

One of the issues that has long been debated among Islamic jurists is polygamy. Many people reject the legal permissibility of polygamy because it is considered unfair and discriminates against one party, especially women (Ahmad Khotim, 2020). In the Indonesian legal system, the issue of polygamy is regulated in the Compilation of Islamic Law, which contains various conditions that must be met by a husband when he wants to commit polygamy, namely in articles 55-59 (Setiono & Bahroni, 2018). From the stipulated conditions, it can be seen that practicing polygamy is not an easy thing because the conditions are very strict, however, the practice of polygamy in Indonesia is still rampant. From a terminological point of view, polygamy comes from the Greek language, where the word poly means many and gamien means marriage. Multiple marriages mean that a man is married to several women (polygamy) or a woman is married to more than one man (polyandry) (Ichsan, 2018). There is also a form of group marriage where multiple men and women are involved in a single marriage union.

In a general sense, the definition of polygamy is where a husband has more than one wife (Masri, 2019). In practice, usually a man marries a woman as in a monogamous marriage, then after a few years of marriage the man remarries his second wife without divorcing his first wife. Among the most popular Qur'anic verses discussing the case of polygamy is QS. Al- Nisa` verse 3:

"Maka kawinilah wanita-wanita (lain) yang kamu senangi: dua, tiga atau empat. Kemudian jika kamu takut tidak akan dapat berlaku adil, maka (kawinilah) seoransaja, atau budak-budak yang kamu miliki. Yang demikian itu adalah lebih dekat kepada tidak berbuat aniaya" (OS. Al- Nisa`: 3).

Surah An-Nisa` verse 3 was revealed after the battle of Uhud, where many Muslim fighters died, resulting in many wives becoming widows and children becoming orphans. From this problem, marriage was the only way to solve the problem. As a result, there were many polygamous marriages with the aim of protecting widows and orphans who were neglected (Latupono, 2020). Ithough when viewed from its asbabun nuzul the verse is quite clear, the law of polygamy is still being debated between those who support and those who oppose. Opinions on the law of polygamy can be broadly divided into three (3) groups, namely: First, those who allow polygamy absolutely (supported by the majority of classical scholars). Second, those who prohibit polygamy absolutely. Third, those who allow polygamy with conditions and under certain conditions (Fadli, 2017). Proponents of polygamy consider polygamy to be a sunnah, as affirmed in al-Qur'an Surah Al-Nisa verses 2-3. They also see from the historical fact that the Prophet Muhammad practiced polygamy, so for them polygamy is allowed (even recommended) as done by the Prophet.

Muhammad Syahrur understands the verse that Allah SWT not only allows polygamy, but Allah strongly recommends it, but with two conditions that must be met. First, that the second, third and fourth wives are widows who have orphans. Second, there must be a fear of not being able to be fair to the orphans (Muqsith et al., 2022). Conversely, if these conditions are not met then the polygamy order is canceled. The Prophet was monogamous for longer than polygamous. The Prophet was faithful to monogamy in the midst of a society where polygamy was commonplace. The Prophet's household with his only wife, Khadijah bint Khuwalid RA, lasted for 28 years. It was only two years after Khadijah's death that the Prophet practiced polygamy, and even then only about eight years of the rest of his life (Lestari, 2022). In the case of polygamy, the Prophet

was embodying Surah al-Nisa verses 2-3 regarding the protection of widows who were left dead by their husbands who fought in the way of Allah and orphans. By tracing the book Jami' al-Ushul by Imam Ibn al-Athir (544-606 AH), evidence can be found that the Prophet's polygamy was a medium to solve social problems at that time, when existing social institutions were not strong enough to provide solutions.

In addition, the rejection of polygamy is usually done with a variety of arguments, whether normative, psychological or associated with gender injustice. The practice of polygamy actually existed long before Islam came, allowing for marriages with a number of wives that swelled to dozens. When Islam came, a rule was issued limiting the number of wives to a maximum of four, with strict conditions that for some Muslim thinkers could not be fulfilled by a man because it emphasized the principle of justice. Some opinions state that the principle of justice is not just quantitative justice such as material provision or rotating time between wives, but includes qualitative justice (love which is the foundation and main philosophy of household life). This opinion is supported by al-Dhahhak and other scholars who state that the meaning of fairness in polygamy is fair in all respects, both in terms of material (needs related to collateral or physical) and immaterial (feelings). A husband is required to be fair in terms of love, affection, maintenance, housing, sleepovers and the like.

Sayyid Qutub also expressed a similar opinion, according to him polygamy is an act of rukshah. Because it is a rukshah, it can be done only in an emergency, which is really urgent. This permissibility is required to be able to do justice to the wives. The justice required here includes in the areas of maintenance, mu'amalat, socialization and the division of the night. For those who cannot do justice to their wives, one wife should be sufficient. Meanwhile, for those who can do justice to their wives, polygamy is allowed with a maximum of only four wives (Ishraqi). The same opinion is also stated by Mahmud Muhammad Thaha in his book entitled Ar-Risalah ats-Tsaniyah min al-Islam. He argues that justice in polygamy is something that is very difficult to realize because it not only includes material needs, but also justice in getting the inclination of the heart.

Differences of opinion about the concept of fairness in polygamy are interesting to study, especially when viewed from the perspective of an expert in Qur'anic interpretation. This is because all opinions that have been expressed and eventually become laws are derived from the arguments of the Qur'an which are interpreted with their respective methods. Syahrur distinguishes between two different words in the polygamy verse. The word qasatha in Oral al-Arab has two opposite meanings; the first meaning is al-adlu, as Allah ta'ala says in Surah al-Maidah verse 42: "Innallaha yuhibbul muhsinin". The second meaning is al-Dzulm wa al-jur, as Allah says in Surah al-Jin verse 14. Similarly, the word al-adl has two different meanings, namely al-istiwa' (equality) and ala'waj (crookedness). There is a difference between qasatho and adl. Al-qasth can be from one side only (i.e. only fair to his wives), while al-adl must be from two sides (fair to his wives and fair to the children of the first and second, third, fourth wives) (Syahrur).

So, what is the justice that Muhammad Syahrur is referring to? Does the principle of justice in polygamy only concern material aspects or also immaterial? How is Muhammad Syahrur's methodology in the concept of fair polygamy? The author is interested in explaining it in this research, with the title: "A Study of M. Syahrur's Thoughts on the Concept of Polygamous Justice in Households".

RESEARCH METHOD

This research is a qualitative study with a library research approach (Adlini et al., 2022). This research aims to analyze Muhammad Syahrur's thoughts on the concept of justice in polygamy from the perspective of contemporary Islamic law. The data sources

used in this research are secondary data obtained from related literature, such as books, scientific articles, journals, and other written works that discuss Muhammad Syahrur's thoughts, the concept of justice, polygamy, and contemporary Islamic law. These literatures will be identified and selected based on their relevance and credibility to the research topic. Data collection techniques in this research are carried out through literature studies or literature reviews, namely by searching, identifying, collecting, and reviewing various relevant literature. Researchers will explore various literature sources that discuss Muhammad Syahrur's thoughts and the concept of justice in polygamy, both in the form of books, journal articles, theses, dissertations, and online sources that can be accessed through digital libraries or scientific databases.

DISCUSSION

Definition, History, and Scholars' Opinions on Polygamy

Polygamy comes from the Greek, "poly" meaning many and "gamos" meaning marriage. In general, polygamy is the practice of marrying more than one partner at the same time. In the context of Islamic law, polygamy refers to the practice of a man marrying more than one woman, more specifically referred to as polygyny (Ichsan, 2018). Polygyny is a form of polygamy that is permitted in Islamic law under certain conditions. Terminologically, polygamy is a form of marriage in which a husband has more than one wife at the same time (Lahaling & Makkulawuzar, 2021). In Islamic teachings, polygamy is allowed with certain restrictions and must meet strict conditions, especially related to justice and the ability to provide physical and mental support to all married wives (Sayyidah et al., 2021). The provisions regarding polygamy are contained in Al-Qur'an Surah An-Nisa verse 3, which gives permission for men to marry up to four women, provided they can be fair.

Polygamy is not a practice that emerged with the teachings of Islam, this practice has existed long before Islam came (Hariyanto, 2015). In various ancient civilizations, such as in Egypt, Greece, Rome, and other Eastern civilizations, polygamy has been known and practiced for various reasons, such as to increase population, build political alliances, and strengthen power. In the Jewish and early Christian traditions, polygamy was also practiced. Some religious figures in the Bible, such as Abraham, Jacob and David, are known to have had more than one wife. However, over time, the practice of polygamy began to be abandoned in the Jewish and Christian traditions, especially after the influence of Roman law and changes in religious teachings that favored monogamy (Fatimah, 2015).

Islam came in the 7th century AD bringing with it new laws regarding marriage, including rules regarding polygamy. In the social context of pre-Islamic Arab society, polygamy was common, and the number of wives a man had could be very large, without any clear limit. Islam then limited the maximum number of wives to four and emphasized the requirement of justice as a key element in the implementation of polygamy. This provision aimed to protect the rights of women and ensure their well-being in the household.

Scholars' opinions on polygamy vary depending on their respective schools of thought and interpretations. In general, scholars agree that polygamy is permissible in Islam, but they differ on the conditions and requirements that must be met to carry out polygamy (Rohmah & Budihardjo, 2021). First, the Hanafi school of thought holds that polygamy is permissible in Islam. However, they emphasize the importance of justice and financial capability as the main requirements for a man who wants to marry more than one wife. If a husband is unable to be fair or provide for his wives properly, then polygamy is not recommended. Secondly, Maliki scholars also view polygamy as permissible, but it is not recommended unless there is a very urgent reason, such as when a wife cannot bear

children or suffers from an incurable disease. This mazhab is more inclined towards monogamy as the ideal form of marriage in Islam. Third, the Shafi'i scholars allow polygamy on the condition that there is absolute justice in terms of meeting the physical, emotional, and material needs of each wife. They argue that although polygamy is permitted, monogamy is preferred to avoid the injustice that often occurs in polygamous practices. Fourth, the Hanbali School, Hanbali scholars also agree with other scholars that polygamy is permissible in Islam. However, they emphasize that polygamy should not be practiced unless a man is sure that he can be fair. Justice here includes all aspects of domestic life, both material and non-material.

Some contemporary scholars, such as Muhammad Syahrur and Abdul Halim Abu Syuqqah, provide a more critical interpretation of polygamy in the modern context (Amin, 2021). They emphasize that the practice of polygamy in Islam must be seen from the context of true justice and not just the fulfillment of legalistic requirements. According to them, the many cases of injustice in polygamy indicate the need for stricter restrictions or even a review of the law of polygamy in the context of contemporary Islamic law.

Methodology of M. Syahrur's Thought on the Concept of Fairness in Polygamy Biography of M. Syahrur

Methodology in the context of thought is a way or approach used by a thinker to understand, interpret, and apply a concept or principle in a field of study. Methodology includes sets of theories, concepts, and techniques used to analyze a particular problem or phenomenon. Muhammad Syahrur is a contemporary Islamic thinker known for his rational and critical approach to the interpretation of Islamic texts, especially the Qur'an (Martanti, 2019). In his thoughts on the concept of justice in polygamy, Syahrur developed a methodology that is unique and different from traditional approaches (Witro, 2021).

Syahrur uses a linguistic hermeneutic approach to interpret Qur'anic verses, which means he tries to understand sacred texts by examining the language and context in which they were revealed. This methodology is based on the belief that human understanding of sacred texts must evolve in accordance with the times and human knowledge. In the concept of polygamy, Syahrur argues that justice does not only mean equality in material or physical terms, but also includes emotional and psychological justice. According to Syahrur, the verses on polygamy in the Qur'an are not intended to encourage or oblige the practice of polygamy, but rather to regulate and limit the existing practice to make it more humane and just. He emphasizes that justice in the context of polygamy must be understood as absolute justice which is very difficult to achieve, so monogamy is actually more recommended in Islam.

Syahrur also uses the concept of limits (hudud) in his methodology. He interprets the laws in the Qur'ān as guidelines that have certain limits, within which Muslims are given the freedom to choose between these limits according to their social and temporal context. In the case of polygamy, Syahrur asserts that the maximum limit is four wives, but this is not an obligation, but rather a license with a condition of justice that is almost impossible to fully fulfill (Muhammad, 2020).

Muhammad Syahrur was born in Damascus, Syria, on April 11, 1938. Syahrur is known as one of the modern Islamic thinkers who tries to connect religious texts with modern contexts through a rational and scientific approach. He spent his youth in Syria before continuing his education to the Soviet Union in 1957, where he earned a bachelor's degree in civil engineering. After completing his undergraduate studies, Syahrur pursued a doctorate in Ireland and returned to Syria in 1964 as an engineer. However, his interest in religious knowledge and Islamic thought led him to take another path as an intellectual and writer.

Syahrur became widely known after publishing his controversial book, "Al-Kitab wa Al-Qur'an: Qira'a Mu'asira" (The Book and the Qur'an: Contemporary Readings) in 1990. The book generated widespread debate among Muslim scholars and intellectuals because of Syahrur's novel approach to interpreting the Qur'ān. He used linguistic and scientific approaches to present new views on various issues in Islam, including polygamy, which were very different from the traditional view. Syahrur argues that the Qur'ān must be interpreted in the context of the times and places in which Muslims live. He emphasizes the importance of freedom of thought and interpretation in Islam, and opposes any form of dogmatism that hinders the development of thought in religion.

His thoughts on polygamy in particular received attention for emphasizing justice as the main principle in this practice, as well as his view that monogamy is actually more in line with the spirit of Islamic teachings if absolute justice cannot be met (Sumitro, W., & Kholish, 2014). Muhammad Syahrur passed away on December 21, 2019 in Abu Dhabi, United Arab Emirates. His legacy as a contemporary Islamic thinker lives on through his works that are still read and discussed by many around the world. Syahrur is appreciated by his supporters as an innovator in Islamic thought who sought to bring religion into dialogue with modernity, while his critics see him as too liberal and incompatible with traditional interpretations of Islam. However, his works remain important in discussions regarding the development of contemporary Islamic law and thought.

Methodology of M. Syahrur's Thought on the Concept of Fairness in Polygamy

Muhammad Syahrur's methodology in understanding the concept of justice in polygamy is an innovative approach and different from conventional methods in Islamic legal studies (Zulyadain, 2018). This methodology includes several main aspects that form the basis of Syahrur's thinking in interpreting and applying the concept of justice in the practice of polygamy, including:

- 1. Linguistic Hermeneutics Approach Muhammad Syahrur uses linguistic hermeneutics as one of the main methodologies in his thinking. This approach focuses on understanding and interpreting sacred texts, especially the Qur'an, in a deep and contextual way. He believes that an understanding of classical Arabic and the historical context behind revelation is essential for accurate interpretation. In the case of polygamy, he analyzes words and phrases in Qur'anic verses to understand their deeper meanings, including the emotional and social aspects of iustice.
- 2. Historical and Social Contextualization Syahrur emphasizes the importance of historical and social contextualization in interpreting Islamic laws. He argues that many laws in the Qur'an, including those related to polygamy, need to be understood in the context of the Arab society of the time as well as the social changes taking place today. Thus, the understanding of justice in polygamy is not only based on ancient texts, but also on social realities and developments of modern times.
- 3. Rational and Critical Approach, in his approach, Syahrur adopts rational and critical methods to evaluate Islamic legal practices. He argues that Islamic laws must be accepted using sound reason and logic. In the case of polygamy, Syahrur evaluates the possibility of this practice based on the principles of justice and human rights. He considers that justice in the context of polygamy does not only mean dividing property equally but also includes the emotional and psychological well-being of the wives.
- 4. Criticism of Traditional Interpretations, Syahrur often criticizes traditional interpretations that he considers inadequate in the modern context. He considers that many older interpretations of polygamy do not take into account the social and

- psychological dynamics that prevail today. Therefore, Syahrur offers alternative interpretations that emphasize substantial justice rather than mere adherence to form or practice.
- 5. Pluralistic Approach, Syahrur also adopts a pluralistic approach in his thinking, which means that he recognizes and appreciates various views within the Muslim community. He seeks to find common ground between Islamic teachings and contemporary realities in an inclusive way. In the case of polygamy, Syahrur argues that while this practice is permitted in Islam, its implementation must take into account the welfare and justice of all parties involved, as well as adjust to existing social developments.
- 6. Emphasis on the Principle of Absolute Justice, Syahrur emphasizes that absolute justice is a very difficult goal to achieve in the practice of polygamy. Therefore, he argues that Islam actually recommends monogamy in modern conditions, as the justice guaranteed in polygamy is almost impossible to fully fulfill. This is based on the understanding that justice achieved absolutely is a very difficult ideal, even in highly regulated practice.

This discussion describes the main methods used by Muhammad Syahrur in interpreting the concept of justice in polygamy, with an emphasis on rational, contextual and pluralistic approaches.

An Analysis of M. Syahrur's Concept of Fairness in Polygamy

Muhammad Syahrur, a contemporary thinker in the field of Islamic law, offers a new perspective on the concept of justice in polygamy that is different from traditional interpretations. In analyzing the concept of fairness in polygamy according to M. Syahrur, there are several important points that become the main focus (Dozan, 2021): First, the definition of justice in polygamy according to Syahrur, justice in the context of polygamy must be understood holistically. He emphasizes that justice does not only include equal distribution of material or property, but also non-material aspects such as attention, affection, and fulfillment of emotional needs. Syahrur argues that the concept of justice in polygamy must include a balance in the attention and rights of each wife, as well as recognition of their psychological needs. Second, historical and social contexts Syahrur analyzes justice in polygamy by considering historical and social contexts. He argues that the practice of polygamy at the time of the Prophet Muhammad had certain social reasons, such as the protection of widows and orphans. However, in the context of modern society, where social and economic structures have changed significantly, Syahrur believes that the application of polygamy should be reflected with contemporary conditions. He considers that justice in polygamy today needs to be adjusted to the principles of human rights and gender equality.

Third, the challenge of realizing justice Syahrur acknowledges the challenge of realizing justice in the practice of polygamy. He emphasizes that while Islamic law allows polygamy, the practice is often difficult to implement fairly in real life. According to him, justice in polygamy involves a fair share in various aspects of life, not only material, but also in attention and time. Syahrur criticizes that many polygamous practices fail to meet the standards of justice stipulated in the Qur'an due to the husband's inability to provide equal treatment to all wives. Fourth, as a conceptual and practical alternative, Syahrur suggests that in the modern context, monogamy could be a more suitable option to achieve better justice. He argues that in today's society, where individuals have high rights and emotional needs, monogamy can more easily create balance and justice between spouses. Syahrur argues that although polygamy is permissible, justice in the current context may be better realized through monogamous relationships, where attention and responsibility can

be more easily shared fairly.

Fifth, he critically analyzes traditional interpretations of polygamy. He argues that many current interpretations do not take into account the social and psychological developments of modern society. With this approach, Syahrur offers a more dynamic and adaptive understanding of justice, which does not only rely on classical texts but also considers the conditions and needs of contemporary society. Sixth, in terms of implications for contemporary practice, Syahrur suggests that the principle of justice in polygamy be applied by considering the emotional and social well-being of all parties involved. He emphasizes the need for better education and understanding of the rights in polygamy, as well as regulations that can help ensure that the practice of polygamy is carried out in a way that is fair and in accordance with broader principles of justice.

CONCLUSION

Scholars' opinions on polygamy vary, with some schools of thought allowing it under certain conditions and others favoring monogamy. Contemporary scholars such as Muhammad Syahrur offer a more critical interpretation, emphasizing that justice in polygamy must include emotional and psychological aspects, as well as considering the social context and developments of modern times. Syahrur uses linguistic hermeneutic methodology, historical contextualization, rational approach, critique of traditional interpretation, and pluralism to interpret and apply the concept of justice in polygamy, and argues that monogamy may be more appropriate in current conditions. Thus, Syahrur's thinking provides a new perspective on how justice in polygamy can be achieved, and highlights the need for adaptation of Islamic legal principles to the contemporary social context.

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