

Justice Brokers: Examining Women's Rights in the Polygamy Process in Gorontalo City

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Abstract:

The protection of women's rights in the process of polygamy in Gorontalo City is a crucial issue that requires careful examination to emphasize the fundamental objectives of Islamic law. Legal protection represents an important manifestation of Islamic law's goals in realizing justice, public welfare, and the protection of individual rights, particularly those of women. In this context, attention is directed to the preventive role of the Religious Court as well as the potential negligence of justice intermediaries (justice brokers) in prioritizing the protection of women's rights, which can be analyzed through the perspective of maqāṣid al-sharī'ah. Using the maqāṣid al-sharī'ah framework, this study evaluates whether polygamous practices in Gorontalo City fulfill the objectives of Islamic law, including the protection of religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl). The findings indicate that several challenges remain in both regulatory structures and practical implementation, particularly regarding weak verification mechanisms, unequal power relations within families, and the limited role of justice brokers in ensuring that women's rights are fully considered during the legal process. From the perspective of justice theory proposed by John Rawls, the protection of women's rights requires fairness in access to information and equal bargaining positions in decision-making. When the first wife lacks adequate information or experiences pressure to consent to polygamy, the process fails to meet the principle of *justice as fairness*. Therefore, strengthening the role of the Religious Court, improving oversight of justice brokers, and ensuring transparency in legal information are essential steps toward protecting women's rights and achieving justice in polygamous practices.

Keywords: *Justice broker, polygamy, court, Islamic family law*



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Introduction

Polygamy, as a longstanding practice across cultures and religions, continues to generate complex debates, particularly concerning women's rights. In Gorontalo City, the issue differs from other cities due to the strong integration of custom (*adat*) and Islamic law within the local philosophy, "*adat is founded upon sharia, and sharia is founded upon the Qur'an.*" Consequently, polygamy is viewed not merely as a legal matter but also as a form of moral and religious legitimacy. In a context where patriarchal norms remain influential, polygamy is assessed not only from a legal perspective but also within broader social, economic, and religious dimensions. Although Islamic law permits polygamy under certain conditions, the practice frequently attracts criticism due to the treatment of women and the extent to which their rights are protected throughout the process.¹

In many communities, village officials, religious leaders, and justice brokers play intermediary roles in polygamy cases. While intended to facilitate legal procedures, these actors often neglect women's autonomy and fail to uphold their rights, positioning women as passive objects rather than active subjects of justice. Recent studies emphasize that such conditions reinforce gender inequalities and perpetuate women's vulnerability in legal processes, particularly when women lack access to independent legal representation.

Justice brokers often gain influence in communities with limited access to formal legal institutions, especially in rural areas. Women's restricted legal knowledge shaped by inadequate education and constraining social norms results in reliance on third parties to navigate legal proceedings. This dependency, however, tends to favor the interests of intermediaries rather than the rights of women, thereby reinforcing systemic injustices. Research in Indonesian Religious Courts further illustrates that the absence of legal awareness among women contributes to the persistence of discriminatory practices.

Within this framework, the Religious Court occupies a crucial role in ensuring women's rights are protected and that polygamy aligns with principles of justice. Guided by the *maqashid shariah*, or the higher objectives of Islamic law, the court is expected to safeguard individual rights and promote social welfare. This perspective emphasizes not only legality but also moral and ethical considerations, thus offering pathways toward more equitable and sustainable solutions.²

This study examines how the Religious Court in Gorontalo addresses the protection of women's rights in polygamy cases and analyzes the influence of justice brokers in either facilitating or hindering such protection. By employing the *maqāshid al-sharī'ah* framework, this research evaluates the extent to which polygamous

¹ Analiansyah Analiansyah et al., "Polygamy and Women's Rights: An Examination of Divorce Litigation in Sharia Court Rulings Pertaining to Revisions in Indonesian Matrimonial Legislation," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (2024): 761–86, <https://doi.org/10.29240/jhi.v9i2.10833>.

² Sulistyowati Irianto, "Inheritance Legal Pluralism and Gender Justice: A Court Room Study in Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024): 459–78, <https://doi.org/10.1080/27706869.2024.2379738>.

practices align with the fundamental objectives of Islamic law. Ultimately, this study contributes to a deeper understanding of gender-sensitive justice within Indonesia's Islamic legal system and underscores the urgency of reforms that prioritize women's rights.³

Polygamy is restricted by stringent requirements intended to protect justice and the welfare of all parties involved, particularly women. In the Indonesian context, polygamy is not merely a legal issue but is also closely linked to social, cultural, and psychological dimensions, where patriarchal norms often influence the treatment of women in practice.

In contemporary Islamic legal studies, *maqāṣid al-sharī'ah* is regarded as a relevant analytical framework for evaluating polygamous practices. *Maqāṣid al-sharī'ah* emphasizes the fundamental objectives of Islamic law, namely the realization of public welfare and the prevention of harm (*jalb al-maṣāliḥ wa dar' al-mafāsīd*). The five essential objectives of the law (*al-darūriyyāt al-khamsah*) include the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). These objectives serve as critical benchmarks for assessing whether polygamy is practiced fairly and in accordance with the protection of women's rights.⁴

With regard to *ḥifẓ al-dīn* (the protection of religion), polygamy should be conducted in accordance with Islamic values that emphasize justice, compassion, and respect for human dignity. However, numerous studies indicate that, in practice, polygamy often deviates from these values. Women in polygamous marriages frequently experience a decline in spiritual well-being due to injustice, which ultimately affects their relationship with religion.

The aspect of *ḥifẓ al-naḥs* (the protection of life) is equally crucial, as poorly managed polygamy may have adverse effects on women's mental and emotional health. Stress, anxiety, and marginalization are common consequences of weak mechanisms for protecting rights within polygamous marriages. From the *maqāṣid* perspective, such conditions contradict the objectives of Islamic law, which seek to safeguard human life and well-being. Meanwhile, *ḥifẓ al-'aql* (the protection of intellect) underscores the importance of legal knowledge and awareness among women. Unfortunately, women's limited access to education and legal information often forces them to rely on third parties—known in the Gorontalo context as *justice brokers*. Ideally, these intermediaries should function as neutral mediators; however, in practice, they frequently weaken women's bargaining position.

In the context of *ḥifẓ al-nasl* (the protection of lineage), unhealthy management of polygamy may generate family problems, including conflicts among co-wives, unequal parental attention, and psychological trauma for children. Islamic law, however, emphasizes the importance of maintaining family stability and generational

³ "Justice Brokers: Women's Experiences with Injustice and Dependence in the Divorce Process," accessed January 18, 2024,

<https://www.tandfonline.com/doi/epdf/10.1080/23311886.2021.1966208?needAccess=true>.

⁴ Fatimawali Fatimawali et al., "Teori Maqashid Al-Syari'ah Modern: Perspektif Jasser Auda," *Prosiding Kajian Islam Dan Integrasi Ilmu Di Era Society (KIIIES)* 5.0 3, no. 1 (2024): 232–37.

continuity. Therefore, polygamy should be practiced with a strong emphasis on family welfare in order to achieve these objectives.⁵

Finally, *hifẓ al-māl* (the protection of property) relates to the fulfillment of material needs. Financial responsibility in polygamous marriages is often a central concern, as many men engage in polygamy without sufficient economic capacity. This condition frequently results in unequal distribution of financial support and may even generate new forms of household poverty.

Within this framework, women's rights become a central concern of the *maqāṣid al-sharī'ah* perspective, which prioritizes the protection of human dignity and individual welfare. Therefore, polygamy in Gorontalo requires in-depth examination, particularly regarding how the Religious Court and justice brokers handle such cases. When women's rights are not adequately protected, polygamous practices cannot be considered consistent with *maqāṣid al-sharī'ah*.⁶

Research by Nurul Hikmah⁷ indicates that weak regulation, gender-insensitive legal practices, and the dominant role of justice brokers in polygamy proceedings significantly contribute to the marginalization of women. Accordingly, this study seeks to enrich academic discourse through a *maqāṣid*-based analysis while offering recommendations for reforming Indonesia's Islamic family law system to make it more just, inclusive, and aligned with the objectives of Islamic law.⁸

Normatively, polygamy procedures within the Religious Court system are regulated by Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, the Compilation of Islamic Law (KHI), and Government Regulation Number 9 of 1975 on the Implementation of the Marriage Law. Under these provisions, a husband intending to practice polygamy is required to submit an application for permission to the Religious Court and to fulfill the prescribed legal requirements. These requirements include, among others, the consent of the wife where objectively possible proof of financial capability to ensure the welfare of all family members, and assurances of the husband's ability to act justly.⁹

The Religious Court may grant permission for polygamy only when the application is based on legally justified grounds, such as the wife's inability to fulfill marital obligations, the presence of an incurable physical disability or illness, or the inability to bear children. In this manner, the authority of the Religious Court functions as a mechanism of judicial oversight to ensure that polygamous practices do not contravene the principles of justice, the protection of women, and legal order.¹⁰

⁵ Abdul Latif Rizqon et al., "Analysis Of Human Resource Management Towards Improving Employee Performance Maqhasid Sharia Review," *Finansia : Jurnal Akuntansi Dan Perbankan Syariah* 6, no. 2 (2023): 195–210, <https://doi.org/10.32332/finansia.v6i2.7788>.

⁶ Dainori Dainori, "Masalah Sebagai Teori Penetapan Hukum: Telaah Atas Konsep Masalah Ibnu Qayyim Al-Jauziyah," *Nizham Journal of Islamic Studies* 8, no. 01 (2020): 39, <https://doi.org/10.32332/nizham.v8i01.2092>.

⁷ Nurul Hikmah and Agung Ary Subagya, "Perlindungan Hukum Bagi Perempuan Terkait Praktik Poligami Siri Dalam Perspektif Hukum Islam," *Lentera : Journal of Gender and Children Studies* 2, no. 1 (2020): 35–54, <https://doi.org/10.26740/lentera.v2i1.9039>.

⁸ F. C. Susila Adiyanta, "Hukum Dan Studi Penelitian Empiris: Penggunaan Metode Survey Sebagai Instrumen Penelitian Hukum Empiris," *Administrative Law and Governance Journal* 2, no. 4 (2019): 697–709, <https://doi.org/10.14710/alj.v2i4.697-709>.

⁹ Bianchi, S. M., Sayer, L. C., & Raley, S. B., "The Shifting Importance of Education for Family Formation in the United States.," *Population and Development Review* 46, no. 3 (2020): 465–93.

¹⁰ Irianto, "Inheritance Legal Pluralism and Gender Justice."

The novelty of this study lies in the integration of *maqāṣid al-sharī'ah* analysis with empirical research on the roles of the Religious Court and justice brokers in polygamy practices in Gorontalo. Unlike previous studies that primarily emphasize normative or legal-formal aspects, this research combines the philosophical perspective of Islamic law with the social realities of legal intermediaries, thereby offering a more comprehensive evaluative framework for assessing the extent to which legal protection of women's rights is genuinely realized in practice.

Method

This study employs an empirical legal research method to explore the experiences of women subjected to polygamy in Gorontalo City, particularly in relation to the protection of their rights through the framework of *maqashid syariah*. A qualitative method was chosen because it allows for an in-depth understanding of the social, legal, and religious dynamics surrounding polygamous practices within a patriarchal society.

Data were collected through direct observation, semi-structured interviews, and document analysis. Observations were conducted on the entire series of polygamy trials at the Gorontalo Religious Court between 2020 and 2023, covering the process from case submission to verdict, in order to understand how judges and legal apparatus uphold principles of justice. Semi-structured interviews were conducted with women subjected to polygamy, village officials, religious leaders, justice brokers, as well as court judges and clerks, to capture their personal experiences, perceptions, and perspectives on women's rights within the practice of polygamy. In addition, official documents, including court rulings, regulations related to polygamy, and the technical policies of the Religious Court, were analyzed to identify legal patterns and their alignment with *maqashid syariah*.¹¹

The data were analyzed using thematic analysis. This process involved organizing the data, generating thematic categories, identifying recurring patterns, and interpreting the linguistic and symbolic meanings of women's experiences in the context of polygamy. The analysis was directed at evaluating the extent to which polygamous practices in Gorontalo consider the principles of *maqashid syariah*: the protection of religion (*hifz ad-din*), life (*hifz an-nafs*), intellect (*hifz al-'aql*), lineage (*hifz an-nasl*), and property (*hifz al-mal*).

To ensure data validity, several strategies were applied. First, source triangulation was carried out by comparing findings from interviews, observations, and legal documents. Second, member checking was conducted by confirming preliminary findings and interpretations with key informants, particularly women subjected to polygamy, to ensure the accuracy of meanings. Third, an audit trail was maintained to systematically document all stages of the research process, from data collection to analysis, ensuring transparency and dependability.

Through this methodology, the study not only describes the lived experiences of polygamous women but also contributes theoretically and practically to the development of Islamic legal systems in Indonesia. Specifically, it aims to strengthen the role of the Religious Court in protecting women's rights and in upholding the principles of Islamic justice in accordance with *maqashid syariah*.

¹¹ Adi Rianto, *Metodologi Penelitian Sosial Dan Hukum* (Granit, 2004).

Result and Discussion

Factors Leading to the Denial of Women's Rights in Polygamy

In Gorontalo City, many women face significant challenges in fighting for their rights within the practice of polygamy. Several key factors contribute to this denial of rights, including limited legal knowledge, social stigma, economic dependence, and cultural pressures. Limited legal awareness often prevents women from understanding their rights and the necessary procedures for filing or objecting to polygamy applications. Without adequate knowledge, many feel compelled to rely on others, who often fail to provide proper or sufficient guidance.¹²

Social stigma surrounding legal proceedings plays a major role in preventing women from accessing justice. The judicial system is often perceived as complicated and intimidating, discouraging women from bringing their cases to court. Moreover, cultural stigma frames women subjected to polygamy as a disgrace, further worsening their situation. Many women feel ashamed and fear being judged by their communities, leading them to avoid legal processes altogether. These perspectives are deeply tied to patriarchal values that dominate local culture, where women are expected to submit to their husband's decisions without questioning the legitimacy of polygamy.

The Religious Court of Gorontalo City, as the institution responsible for handling Islamic family law cases, is expected to protect women's rights. However, data indicate that only a few polygamy applications were officially filed between 2018 and 2023. Based on data from the Decision Directory of the Mahkamah Agung Republik Indonesia, the number of polygamy permit cases at the Pengadilan Agama Gorontalo during the 2018–2023 period was relatively very low compared to the total number of Islamic civil cases handled. Within this period, polygamy permit decisions ranged only between 3 and 7 cases per year (for example, 3 cases in 2021, 5 cases in 2022, and 7 cases in 2023), while divorce cases reached more than 1,000 annually. Proportionally, polygamy permits constituted only a very small fraction of the overall family law cases, indicating a disparity between officially recorded applications and the possible practice of polygamy occurring in society outside formal legal procedures.

Many women remain trapped in unregistered marriages (*nikah siri*), often conducted without the first wife's knowledge. When husbands later seek *isbat nikah* (legalization of marriage), the court often rejects the application, instructing that a polygamy petition must first be filed. This reveals a significant gap in law enforcement and the protection of women's rights. Economic dependence is another critical factor. In many communities, women lack independent income and rely entirely on their husbands for daily needs. This dependency generates fear of losing financial support if they challenge or reject polygamy. The uncertainty of financial security makes women feel safer remaining silent, despite perceiving injustice. Furthermore, the perception of maintaining household harmony also plays a crucial role. Many women feel responsible for preserving the family's public image, fearing

¹² Lukman Santoso et al., "Refusal of Polygamy Permit in Religious Court Decision," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (2023): 160–73, <https://doi.org/10.30631/alrisalah.v23i2.1472>.

that legal action could disrupt familial harmony. They often feel guilty or ashamed if they take steps considered as damaging to family reputation.¹³

Lack of understanding of legal rights also creates substantial obstacles. Many women do not fully realize that they have the right to reject or demand justice in the context of polygamy. This ignorance makes them feel unworthy of fighting for their rights, leading them to passively accept the situation. The combination of social stigma, family pressure, economic dependence, perceptions of harmony, and lack of legal awareness creates enormous barriers for women seeking justice in polygamous marriages.¹⁴

Negative Stigma Toward Polygamous Women

Negative stigma represents one of the most fundamental challenges for women in polygamous marriages. In many societies, such women are often labeled as “not good enough” or as having “failed” to meet their husband’s needs. This view not only degrades women’s dignity but also disregards the complex social, economic, or religious factors that may lead a man to practice polygamy. This stigma can cause women to feel alienated and marginalized within their communities. They may develop low self-esteem and shame, which exacerbates their mental health struggles. In some cases, stigma forces them into competition with co-wives for their husband’s attention and affection, generating deep insecurity and persistent jealousy, ultimately causing tension within and beyond the household.¹⁵

Communities often treat polygamous women with suspicion or excessive pity, which many find unwanted. They may face discrimination, both direct and indirect, including exclusion from certain social groups. Such discrimination limits women’s access to social and economic opportunities, making active participation in society more difficult. As a result of this stigma, many polygamous women feel uncomfortable sharing their experiences, even with close friends or family. This isolation leaves them to struggle alone with their challenges. To address this, more inclusive approaches and better understanding of women’s rights are essential. Legal education and efforts to dismantle unfair social prejudice are vital to creating a supportive environment for women.¹⁶

Thus, supporting women in polygamous marriages requires collaboration between society and judicial institutions to raise awareness of women’s rights and to promote gender justice and equality in polygamous practices. Through these joint efforts, women can feel empowered and courageous enough to fight for their rights without being burdened by stigma or harmful social norms.

Factors Driving Women to Involve Third Parties as Justice Intermediaries

Several factors drive women to involve third parties as intermediaries of justice when their husbands apply for polygamy. First, women often feel the need to

¹³ Pengadilan Agama Negeri Kota Gorontalo, *Interview Results*, Agustus 2024.

¹⁴ Budimansyah Budimansyah and Syarifah Arabiyah, “Keabsahan Status Hukum Perkawinan Poligami tanpa Izin Pengadilan Agama,” *Jurnal Hukum Media Bhakti* 2, no. 2 (2018): 107–18.

¹⁵ Rahmi Damis et al., “Gender, Sufism, and Qur’anic Exegesis: Perceptions of Women’s Leadership within Sufi Orders in South Sulawesi,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 83–106, <https://doi.org/10.22373/sjhk.v9i1.26145>.

¹⁶ Siti Raudhatul Jannah and Yuyun Wahyu Izzati, *Resistance of Polygamous Women*, n.d.

engage lawyers or legal institutions to ensure their rights are protected and that the polygamy process aligns with both law and Islamic principles. Involvement of third parties also creates greater transparency and fairness, with neutral mediators facilitating communication between husband and wife.¹⁷

The imbalance of power between spouses makes emotional support from third parties crucial, allowing women to express objections more freely. Counselors or psychologists can also provide essential emotional support in navigating stressful situations. In social and cultural contexts, involving third parties helps women conform to religious norms while protecting family reputation.¹⁸

Additionally, third parties may reduce the potential for conflict and violence by facilitating more peaceful negotiations. They can provide detailed explanations of women's rights and the consequences of polygamy, enabling women to make more informed decisions. Finally, concern for children's welfare often motivates women to seek third-party involvement, as mediators can help establish clear agreements on financial support and custody. Overall, involving third parties helps women ensure that polygamy applications are processed fairly, transparently, and in accordance with prevailing values, while minimizing negative impacts on the family.

The Role of Courts in Gender-Responsive Protection of Women's Rights in Polygamy

Courts play a central role in safeguarding the rights of women in polygamous marriages, particularly by addressing imbalances in financial support and emotional care. Many first wives feel neglected when husbands fail to provide equal treatment, often due to dishonesty or manipulation during the polygamy application process.¹⁹ Under Indonesian law, the *Compilation of Islamic Law* (KHI) sets provisions designed to protect women in polygamy, including Articles 57 and 58, which require husbands to provide equitable financial support and grant first wives the right to approve or reject polygamy. While these rules aim to protect women, real-world practices often diverge. Interviews reveal cases such as that of "Maria," whose husband submitted a polygamy petition without informing her and without disclosing his true financial capacity. Such gaps allow men to exploit loopholes or social pressures to obtain approval.²⁰

Religious Courts are therefore expected to act as guardians of justice by verifying whether husbands are genuinely capable of fairness before approving applications. However, women often face systemic challenges ranging from document falsification to emotional coercion limiting their ability to achieve justice. Even with legal brokers or consultants providing guidance, women report that court

¹⁷ Bianca J Smith and Mark Woodward (Edit.). ., *Gender and Power in Indonesian Islam: Leaders, Feminists, Sufis and Pesantren Selves* (Routledge, 2014).

¹⁸ Justice broker, *Interview Results*, Gorontalo, Agustus 2024.

¹⁹ Farhat Munir and Muhammad Aboidullah, *Gender Differences in Transformational Leadership Behaviors of School Principals and Teachers' Academic Effectiveness*, 2018, Bulletin of Education and Research.

²⁰ Arism Munandar and Endang Susanti, "Negosiasi Identitas Gender Dalam Arena Politik Hukum Islam: Studi Kasus RUU Ketahanan Keluarga Dan Respons Ormas Islam: Studi Kasus RUU Ketahanan Keluarga Dan Respons Ormas Islam," *Al Fuadiy Jurnal Hukum Keluarga Islam* 6, no. 2 (2024): 81–101, <https://doi.org/10.55606/af.v6i2.1293>.

proceedings are exhausting and often biased.²¹ Thus, while Islamic family law formally protects women's rights, gaps in enforcement demand stricter legal reforms, stronger gender awareness, and more responsive judicial practices. Only then can gender-sensitive justice be achieved in cases of polygamy.²²

The Role of the Gorontalo Religious Court in Protecting Women's Rights

The Gorontalo Religious Court plays a significant role in protecting women's rights through strict pre-registration screening of polygamy applications. The pre-registration screening process at the Gorontalo Religious Court is carried out through several preliminary stages before a case is officially registered.²³ This process includes a substantive examination of the completeness of application documents, verification of the reasons for submitting the case (such as the justification for polygamy), assessment of the applicant's financial capacity through proof of income, and confirmation of the first wife's consent and the family's condition through an initial interview conducted by the registration desk officers. At this stage, the officers do not merely perform administrative checks but also conduct direct clarification with the applicant to ensure the seriousness of the case submission and to assess whether the application is filed with legitimate grounds or merely as a trial or a non-serious attempt without clear justification. Through this mechanism, the court seeks to filter cases from the outset so that only applications with a legal basis, sufficient evidence, and good faith from the parties can proceed to the formal registration and trial stages, thereby maintaining the effectiveness of the judicial process while protecting the rights of potentially disadvantaged parties, particularly women in family law cases.

One of the most crucial elements assessed is whether the husband can genuinely act justly toward all wives, including in financial, emotional, and daily responsibilities. If fairness cannot be ensured, the application is often discouraged from proceeding. This screening helps prevent women from being subjected to unfair or deceitful practices, such as husbands concealing financial realities or presenting false justifications.²⁴ Moreover, the court's role extends to raising legal awareness in society, ensuring that men understand their responsibilities under both Islamic and state law. This proactive approach not only reduces problematic polygamy cases but also reinforces the principles of *maqashid syariah*—justice, welfare, and protection for all parties involved.

Justice Brokers and Religious Courts: Challenges and Negligence in Protecting Women's Rights within the Maqashid Shariah Framework

Negligence by justice brokers in practice can be seen in several specific actions that disadvantage wives. One example is concealing information regarding joint marital property rights that should legally belong to the wife within the marriage. In some cases, justice brokers fail to provide adequate explanations about the wife's legal rights to property acquired during the marriage, leaving wives

²¹ Pengadilan Agama Negeri Kota Gorontalo, *Interview Results*.

²² Nurul Mahmudah et al., "GENDER IN FIQH PERSPECTIVE," *SETARA: Jurnal Studi Gender Dan Anak* 1, no. 02 (2019): 02.

²³ administrative staff member of the Gorontalo Religious Court, "Pre-Trial Administrative Process," (Gorontalo), July 12, 2024.

²⁴ Atun Wardatun et al., "Family Dynamics and Social Cohesion in the Inter-marriage of Indonesian Muslims in Australia: Revalidating Ibnu Khaldun's Theory of Asabiyyah," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 2 (2025): 778–802, <https://doi.org/10.22373/dbj7dm60>.

without a full understanding of their legal position when facing polygamy applications or divorce proceedings. As a result, wives may lose the opportunity to claim legal protection over economic rights that are actually guaranteed under both state law and Islamic law.²⁵

Another form of negligence occurs when wives are encouraged or pressured to sign agreements or consent letters, such as approval for polygamy or other legal arrangements, without being fully informed about the legal consequences. This pressure may be direct or indirect, for example through unbalanced persuasion, incomplete information, or the creation of circumstances that make the wife feel she has no option but to agree to the document. In such situations, the consent given by the wife does not fully reflect her free will, which may lead to injustice and undermine the protection of women's rights within the framework of Islamic family law.

Negligence by justice brokers in protecting women's rights in polygamous cases reflects violations of Islamic principles of justice and equality²⁶. The Qur'an (Surah An-Nisa, 4:3) permits polygamy only under the condition of justice, including equitable financial support and emotional care. Failure to fulfill these obligations results in structural injustice against women, contradicting the objectives of Islam, which emphasize family welfare and harmony.²⁷

From a legal justice perspective, such negligence violates distributive and procedural justice, where rights and obligations must be shared fairly. Lack of transparency in rights distribution further entrenches systemic discrimination. Theories of justice, such as Rawls' The case of negligence by justice brokers who conceal information regarding joint marital property rights or pressure wives to sign polygamy consent documents can be analyzed using the theory of justice developed by John Rawls, particularly through the concept of justice as fairness. Rawls emphasizes that social justice must be built upon two main principles: the principle of equal basic liberties and the difference principle, which aims to protect the most vulnerable members of society. In this context, the first wife often occupies a weaker position socially, economically, and psychologically compared to the husband and other actors involved in the legal process. Therefore, legal procedures should be designed to ensure that the fundamental rights of the wife are fully protected.

From the perspective of equal basic liberties, concealing information about joint marital property clearly violates Rawls's principle of justice. The wife has the same right to access legal information that affects her life, including economic rights within marriage. When such information is intentionally withheld by justice brokers, the wife loses the opportunity to make free and rational decisions. Within Rawls's framework, this condition indicates that the legal process fails to provide equal opportunities for all parties to participate fairly in decision-making.

Furthermore, according to the difference principle, Rawls argues that social inequalities can only be justified if they benefit the least advantaged members of

²⁵ administrative staff member of the Gorontalo Religious Court, "Pre-Trial Administrative Process."

²⁶ Auda, J. (2008). *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. International Institute of Islamic Thought (IIIT) (n.d.).

²⁷ Alfiyah Faizatul Arif, "Assessing Couples' Readiness and Child's Best Interests: A Comparative Analysis of Mojokerto Religious Court Decisions on Marriage Dispensation," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 15, no. 1 (2025): 36–67, <https://doi.org/10.15642/alhukama.2025.15.1.36-67>.

society. In polygamy cases, the most vulnerable party is often the first wife. However, when justice brokers pressure the wife to sign consent documents without adequate explanation, the imbalance of power between the husband and the wife becomes even stronger. This situation contradicts Rawls's principle because the inequality does not benefit the weaker party but instead increases the potential harm experienced by the wife.

Rawls also introduces the concepts of the "original position" and the "veil of ignorance," which describe a hypothetical condition in which individuals design social rules without knowing their future position in society. If this principle is applied to polygamy cases, legal rules and judicial practices should be structured as if anyone could potentially occupy the vulnerable position of the first wife. Under such circumstances, the legal system would place greater emphasis on transparency of information, genuinely voluntary consent, and the protection of women's economic and social rights.

Therefore, an analysis based on Rawls's theory shows that negligence by justice brokers is not merely an administrative issue but a structural failure to ensure procedural and substantive justice. The legal system should guarantee that any consent given by the wife is free from pressure, based on complete information, and capable of protecting the interests of the most vulnerable party. Without such safeguards, the legal process risks reinforcing gender injustice, which contradicts the principle of justice as fairness proposed by Rawls.²⁸

The actions of justice intermediaries who conceal information regarding joint marital property rights or pressure wives to sign consent for polygamy can be analyzed in depth through the framework of Maqashid al-Shariah, particularly the five fundamental protections: *hifz ad-din* (protection of religion), *hifz an-nafs* (protection of life), *hifz al-'aql* (protection of intellect), *hifz an-nasl* (protection of lineage), and *hifz al-mal* (protection of property). First, from the perspective of *hifz ad-din* (protection of religion), concealing information or exerting pressure on a wife contradicts the principles of honesty, justice, and trustworthiness that form the ethical foundation of Islamic teachings. In Islamic family law, polygamy is only permitted when the husband is able to act justly and does not cause harm or injustice. When justice intermediaries fail to provide accurate information or facilitate consent that is not genuinely voluntary, such practices undermine the moral values and integrity of Islamic law itself. This situation risks reducing religious law to a mere administrative formality without reflecting the substantive justice that the Shariah seeks to uphold.

Second, from the perspective of *hifz an-nafs* (protection of life), psychological pressure on a wife to sign consent documents can create serious emotional and mental consequences. Women who are forced or manipulated within legal processes often experience psychological stress, insecurity, and even trauma in their marital lives. Such conditions may disrupt psychological well-being and family stability, both of which Islamic law seeks to safeguard. Therefore, practices that place women under significant psychological pressure can be considered a threat to the protection of life.

Third, within the framework of *hifz al-'aql* (protection of intellect), concealing legal information restricts the wife's ability to make rational and informed decisions.

²⁸ Mustamam et al., "Reinterpreting *Hifz Al-Nasl* in Contemporary Marriage Contracts: Navigating Islamic Normativity and State Law," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1258–80, <https://doi.org/10.32332/milrev.v4i2.11158>.

The protection of intellect in *maqashid al-shariah* emphasizes the importance of knowledge, awareness, and the freedom to think critically when making life choices. When important information about legal rights, joint property, or the consequences of polygamy is not transparently explained, the decision-making process becomes irrational and is not based on full understanding. This situation contradicts the principle of protecting the intellect, which requires access to accurate and complete information.

Fourth, from the perspective of *hifz an-nasl* (protection of lineage), polygamous practices that are not implemented fairly may negatively affect family stability and the well-being of children. When a wife's consent is obtained through pressure or manipulation, family relationships may become filled with conflict and prolonged tension. Such conditions can influence the psychological development of children and disrupt harmony among family members. Consequently, the failure to ensure fair and transparent consent may threaten the protection of lineage, which is one of the central objectives of *Shariah*.

Fifth, in the context of *hifz al-mal* (protection of property), concealing information about joint marital property directly harms the wife's economic rights. Both Islamic law and state law recognize that property acquired during marriage carries legal implications that must be clearly understood by both spouses. When justice intermediaries fail to explain these rights or deliberately hide relevant information, the wife may lose access to her legitimate economic entitlements. This not only causes financial harm but also contradicts the principle of protecting property within *maqashid al-shariah*.

Therefore, the negligent or non-transparent actions of justice intermediaries are not merely procedural issues within the judicial system but also pose serious threats to the five fundamental objectives of *Maqashid al-Shariah*. Legal processes in family cases, particularly those involving polygamy, should therefore ensure transparency of information, genuinely voluntary consent, and strong protection of women's rights in order to align with the broader goals of justice and public welfare that lie at the heart of Islamic law.²⁹ Thus, protecting and fulfilling women's rights in polygamy is essential to achieving the higher aims of *shariah* and maintaining the credibility of Islamic law in promoting justice.³⁰

Conclusion

The critical synthesis of the research findings shows that the protection of women's rights in the practice of polygamy does not depend solely on formal legal norms, but also on how religious courts and justice intermediaries translate principles of justice into legal practice. Although regulations have established requirements such as fairness, financial capability, and the consent of the first wife, their implementation still faces various challenges, including weak verification mechanisms, unequal power relations within families, and limited public understanding of women's rights. From a theoretical perspective, this study expands the interpretation of *Maqāshid al-Sharī'ah* by positioning it not only as a normative

²⁹ *Al-Syatibi, I. A. I. (2006). Al-Muwafaqat: Rozatun Min Ilmi Ushul al-Syari'ah (F. Al-Salami, Ed.). Dar Ibnul Qayyim. (n.d.).*

³⁰ Azman Arsyad et al., "Religious Moderation, Pela Gandong and Jihad Reconstruction: Conflict Prevention in Maluku from the Perspective of *Maqāshid Al-Sharī'ah*," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 394–415, <https://doi.org/10.22373/sjhk.v9i1.26416>.

framework but also as an analytical instrument for evaluating procedural and distributive justice in Islamic family court practices, particularly in polygamy cases related to the protection of life, lineage, and the welfare of women.

Practically, these findings have important implications for the reform of Islamic family law, especially in strengthening the screening mechanisms for polygamy applications through verification of the husband's financial capacity, education on women's rights, and the reinforcement of family mediation processes. In addition, this research emphasizes the importance of the presence of justice brokers or intermediaries who are transparent and accountable in providing legal information to the parties involved, particularly to the first wife. Transparency regarding legal rights, joint marital property, and the consequences of consenting to polygamy is essential so that decisions are genuinely based on awareness and the free will of the parties. From the perspective of the theory of justice proposed by John Rawls, this condition relates to the principle of fairness or justice as fairness, where each party must occupy an equal position in accessing information and opportunities to make choices. If the first wife is placed in a weaker informational position or pressured to give consent, the process fails to meet Rawls' principle of justice because it does not reflect a balanced bargaining position.

The impact of this research lies in three main aspects: first, the integration of the role of justice intermediaries in protecting women within polygamous marriages; second, the reinterpretation of Maqāṣid al-Sharī'ah as an evaluative framework for assessing the practices of religious courts; and third, the argument that the reform of Islamic family law requires not only regulatory changes but also transformation in institutional and social practices involving religious courts, community mediators, and the wider society, emphasizing the importance of transparency and accountability in the dissemination of legal information to the public.

Declaration of AI Tool Usage

The author used DeepL AI as a translation tool to write this article in English. All AI-generated content was critically reviewed and substantially edited to ensure accuracy, clarity, and academic integrity. The author is fully responsible for the final version of the article

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