

Polygamy in the context of family law and the crisis of civic responsibility

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Abstract

Polygamy among teenagers is an uncommon phenomenon in Indonesia, but it is prevalent in Musi Banyuasin Regency, South Sumatra. There are underlying factors contributing to this concerning trend among teenagers, which worries parents and continues to rise annually due to its potential impact on a child's future. Unfortunately, families often feel compelled to accept early polygamous marriages due to concerns about family honor. Despite the strict process mandated by family law, societal attitudes undermine this, leading to significant risks for those involved. Furthermore, the government's influence in implementing effective measures seems limited, highlighting an apparent lapse in civic responsibility. Therefore, this research aims to delve into the factors driving teenage polygamy and explore potential solutions that the local government and the community could pursue. The research methodology involves a qualitative approach with a focus on case studies. Purposive sampling was used to select 36 respondents, including ten polygamous teenage husbands, ten first wives, ten second wives, and six community figures. Data was collected through in-depth interviews. The research findings reveal a significant increase in teenage polygamous marriages in Musi Banyuasin Regency over the past decade. Factors contributing to this trend include premarital pregnancy, family economic conditions, societal misconceptions, and the influence of the polygamous environment.

Keywords: Teenage Polygamy, Family Law, Civic Responsibility

Introduction

Polygamous marriage is not a new thing. It has existed for centuries (Ahinkorah, 2021). In ancient times, polygamy was practiced by kings, influential people, and rich people. As in the



Arab countries, especially in the Bedouin village of the Negev, a man marries six women to the detriment of women and children (Al-Krenawi & Graham, 1999). Similarly, polygamous marriages in Africa-Sub-Saharan women who are polygamous are more often subjected to acts of violence such as sexual violence and physical violence (Jansen & Agadjnian, 2020; Ahinkorah, 2021). Canada considers polygamy a criminal offence because it is considered to support patriarchal religious practices that degrade women (Fowler, 2012). In Indonesia, there have been many polygamous marriages carried out by our society, ranging from public figures such as officials, clerics, and artists to the public who live in remote areas with diverse backgrounds (Nurmila, 2016).

Polygamous marriages have had detrimental effects on family members, particularly the first wife and children (Hikmah, 2012; Méthot, 2007). These marriages often neglect the human rights of wives and children within a family, leading to hostility between the wives' families. Many cases of polygamy have triggered various forms of domestic violence, including physical, psychological, sexual, and economic abuse experienced by women and children. This evidence underscores the urgent need for a review and reconsideration of the practice of polygamous marriage.

Youth polygamous marriage is a type of polygamous marriage in general; there are one man and two women, but what makes this marriage interesting to study is whether the marriage is carried out at the same time or at the same time in one day or in one week there are two marriages by one man, even when the wedding reception is carried out together. In addition, the age of polygamous marriage is still in adolescence. Many teenage polygamous marriages occur in Musi Banyuasin Regency; the results of an interview with one of the community shops in Musi Banyuasi Regency said that teenage polygamy is not a new thing. This teenage polygamy has existed since ancient times. However, in recent years, the prevalence of teenage polygamy has increased and become viral on several social media. Several previous researchers have researched polygamy, but no research has discussed adolescent polygamy, especially regarding the social phenomenon of adolescent polygamous marriage. The research results on adolescent polygamy are expected to contribute directly to the Musi Banyuasin Regency government to prevent adolescent polygamous marriages.

In fact, polygamous marriages in adolescents are very rare in Indonesian society because the age of adolescents, namely 10 to 18 years, is an age that is not proportional to holding a marriage, especially for polygamy or more than one wife. The occurrence of polygamy in marital status cannot be separated from the causes behind it. Meanwhile, according to Law Number 16 of 2019 concerning Marriage, the minimum age for a man and woman to start a marriage is 19 years. Thus, under that age, they are not allowed to hold marriages. However, some rules allow the marriage of this age through the Supreme Court Regulation of the Republic of Indonesia Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation, with the aim of the principle of the best interests of children, the principle of the right to life, the principle of respect for opinions, the principle of respect for human dignity and dignity, the principle of non-discrimination, gender equality, the principle of equality in public, the principle of justice, the principle of expediency and the principle of legal certainty.

Sayyid Qutb (1966) highlighted the presence of exceptional circumstances requirement for practicing polygamy, presenting it as an act of *rukhsah*. However, a just and equitable treatment of the wife is imperative in providing for her, managing the relationship and social interactions, and fulfilling her biological needs. Corresponding to Sayyid Qutb's perspective, Rahman (1980) argues that polygamy is permissible only in the event of a war leading to numerous orphans and widows. Furthermore, Muhammad Abduh prohibited polygamy but allowed it under specific circumstances, such as the wife's inability to conceive and bear children (Husnah et al., 2024). In summary, polygamy is permissible but subject to stringent conditions, including the occurrence of an emergency (Baker, 2023).

Regarding the rule of positive law in Indonesia, polygamous marriage is regulated in Article 3 Paragraph 2 of Law No. 1 of 1974, which states that the court can permit a husband who wants to have a second wife or polygamy, but with a note that he must get permission from the first wife, besides that a husband who will be polygamous must be sure to be able to meet the needs of the family. There is a guarantee that he can act fairly (Undang-Undang Nomor 1 Tahun 74 tentang Perkawinan).

In the Musi Banyuasin Regency, South Sumatra Province, a unique situation unfolds that seems to bypass established norms, with incidents of polygamy occurring seemingly without adherence to specific rules. Furthermore, these marriages often involve couples who do not fit the age criteria outlined in official legal statutes. This unusual trend can be attributed to various compelling reasons, including cases where extramarital pregnancies prompt marriages to avoid shame in a predominantly Muslim society where such occurrences are viewed unfavorably. The region has observed frequent instances of early and polygamous marriages, a fact that is openly recognized by local authorities, from Hamlet Heads (Kadus) to Village Heads (Kades). Remarkably, in just one month, 14 cases of marriages involving young couples were reported, which could not be officially recorded, highlighting a neglect by the government in addressing underage marriage. Adolescents, often in the midst of emotional instability or transitioning into adulthood, are deemed incapable of responsibly managing personal and familial obligations that come with marriage.

Hence, this study seeks to address several critical points; firstly, it underscores the importance of nurturing the potential of young individuals who are crucial for the nation's future. Secondly, it contrasts the prevalent trend of polygamy among adolescents in this region with the traditional practice of polygamy among adults, who are presumably more equipped to handle its complexities. Thirdly, it points out the apparent disregard for formal legal regulations that are in place to benefit society, despite Indonesia being a nation that prides itself on the rule of law. Yet, religious guidelines are fervently upheld for the sake of justice and protecting the rights of Indonesian citizens and must remain applicable. The study aims to delve deeper into the reasons behind adolescent polygamy in Musi Banyuasin Regency and propose solutions that align with both legal and religious frameworks.

Method

This research utilizes qualitative methods, specifically employing case studies for investigation. As a qualitative approach, the case study method is used to extensively explore a specific case by gathering various information sources (Creswell & Creswell, 2017). The study was carried out in the Musi Banyuasin Regency, with a focus on the Sungai Keruh District and Jirak Jaya District due to the prevalence of adolescent polygamy cases. A wide range of informants participated in the study, including polygamous teenagers, community leaders, village heads, and employees from the Religious Affairs Office in the Sungai Keruh District. Purposive sampling was used to select 36 informants, including 10 polygamous juvenile husbands, ten first wives, ten second wives, one Religious Affairs Office official, two local public figures, and four village heads.

The methods for data collection included in-depth interviews, observation, and documentation. The data analysis technique was a systematic process, drawing on concepts from Naem et al. (2017), which encompassed six sequential steps: data collection, data immersion, data processing, data analysis, data categorisation, and concluding the research findings.

Result and Discussion

Polygamous marriages involving teenagers are often conducted by individuals who are still of school age, typically ranging from 13 to 18 years old. In some areas, this age range is considered mature enough for marriage. Polygamous marriages of teenagers have been a long-standing practice in Musi Banyuasin Regency, although they are not universally accepted as

typical marriages. The prevalence of polygamous marriages among teenagers has sparked widespread discussion among the public, with many expressing concerns about the potential misuse of Islamic legal perspectives on such unions. It's important to recognize that societal perceptions play a significant role in shaping the decisions and behaviors of those involved in these marriages, ultimately influencing the acceptance or rejection of such unions. Factors such as premarital pregnancy, family financial circumstances, community attitudes, and the local environment contribute to teenagers in Musi Banyuasin Regency entering into polygamous marriages. Understanding and considering these societal dynamics is crucial when examining this complex issue. Moreover, it's important to note that polygamous marriages involving teenagers may have legal implications, especially in terms of consent and the rights of the parties involved.

1. Pregnant before marriage

Polygamous marriage, especially teenage polygamy, is not a dream of marriage for everyone. It is often a result of a lack of choice and societal pressures. Even polygamous marriages are one of the final alternatives that must be done in a marriage, especially teenage polygamous marriages. Teenagers who engage in polygamous marriages, especially teenage girls, certainly have a strong reason: they choose to become second wives rather than break up with their lovers who will marry other women. The choice to become a second wife is a compulsion or one of the ways for teenagers who have become pregnant before marriage or have had conjugal relations (Hikmah 2012). The following are the results of field interviews with village cadres. It's important to note that such decisions can significantly impact the teenagers involved, affecting their self-esteem, mental well-being, and future relationships.

"Predominantly male polygamists have more than one girlfriend and intend to marry only one of his girlfriends, but one of the other girlfriends is pregnant with his child, so polygamous marriages co-occur."

"Simultaneous marriage occurs because one of the women or previous boyfriend has had conjugal relations, so the woman does not want to feel a loss because she is not married, so she has more to be a second wife than not married at all."

All three parties do not plan juvenile polygamous marriage, but it occurs because of the deviant behavior of adolescents, both boys and girls. Behavioral deviations, especially sexual deviations, occur due to environmental factors that cause sexual relations and pregnancy outside marriage (Syahri & Afifah, 2017). The ease of use of technology with the help of the internet can make it easier to access various sites, such as porn sites, that can mature teenagers before their use. The occurrence of pregnancy out of wedlock requires the family to approve the implementation of polygamous marriages carried out by their children, even though they must bear shame at the beginning. However, most societies and families think it is better to be polygamous or a second wife than to be ashamed of being pregnant out of wedlock without marrying.

Juvenile polygamous marriage is different from polygamy in general; polygamous marriages are generally desired by husbands who will be polygamous, where husbands who already have wives then remarry with or without the first wife's consent. However, in a polygamous marriage, adolescents are teenagers who will marry the woman they want. However, before the wedding day happened, another woman wanted to marry too. Because they feel that they have been harmed both morally and materially, here are the results of interviews with polygamous teenage boys:

"When I was in high school, I had a boyfriend from school with me. We dated for quite a year for more than a year, but when I was in a relationship for more than a year, I liked another woman from the same village as my boyfriend, and I also dated him. I would finally marry my second girlfriend through divorce or elopement, But I did not expect

that my first girlfriend would also come home to Dusun and want to be married by me, too."

"I used to have many girlfriends. Almost in every village in Sungai Keruh District, I had a girlfriend, but I did not expect to marry two women simultaneously. When I wanted to marry the woman of my choice, it turned out that one of my other girlfriends also came to the village and asked to be married to me (DM, 19)."

After analyzing the interview results, it is evident that teenage boys who intend to engage in polygamous relationships do not actually desire such arrangements. However, they cannot simply reject the idea of polygamy, especially when their actions have caused harm to their girlfriends. These boys need to take responsibility for their actions. The unwillingness of teenage boys to engage in polygamy is often due to their inability to provide for multiple wives, lack of permanent employment, and limited education, which also impacts their perspectives (Julianto & Utari, 2019). It is common for polygamous marriages to burden individuals who have to support multiple wives simultaneously. The interviews with parents of polygamous teenage boys reveal that parents often provide a dowry for the two brides. Juvenile polygamous marriages not only harm the boys and their multiple wives but also have long-term negative effects on the individuals involved and the community as a whole. It is essential for the community to address this issue, especially through education on sexual health and relationships, to prevent such marriages and empower teenagers to make informed decisions.

In many cases, the first wife in a polygamous marriage wishes to continue the marriage despite the fact that the other women seek to marry their future husband before the wedding. This is often due to cultural and societal pressures, as there is an assumption that once a proposal has been made or the marriage process has begun, it would be embarrassing for the family to cancel the wedding. Additionally, there is the belief that it would be difficult to find another spouse following a divorce.

"I do not know that my future husband already has another girlfriend, especially until someone gets pregnant. If I know, I do not want to, but because I have already divorced him, I also have to continue my marriage because I am ashamed if I cancel. It is better to divorce and be widowed after marriage than cancel marriage."

The first woman to be married chooses not to withdraw from her marriage because it is better to marry and be polygamous than to cancel marriage. Annuling a marriage unilaterally is vulnerable to fines, such as paying a certain amount of money to the man. A big dilemma for a woman who chooses to be polymerised, if continued, will affect her mental health and, if not continued, will also affect her mental (Shepard, 2013). It will overcome shame, and society's views are also often negative if we have divorced someone but did not become married, so continue the marriage even though the marriage will not last long.

So it can be concluded that the innocence and ignorance of these teenage girls about sex education, The impact of pregnancy and childbirth at a young age, the impact of marrying at a young age, and their outlook on life and the future have not been thought of, for researchers it is necessary to socialize about sex education and reproductive health for adolescents in Musi Banyuasin Regency. It is also essential for adolescent boys to instill responsibility and respect for women.

2. Family Economy

Polygamous marriages are generally carried out by men or male families from the upper middle economy, with high incomes and able to be fair to both wives later. However, unlike polygamous marriages, teenagers in Musi Banyuasin Regency do not come from wealthy families or have permanent jobs. The average juvenile polygamist is still a male and female student, meaning that parents still carry the perpetrator of adolescent polygamous marriage.

"The man who will marry two women simultaneously is still in class XI high school and is the first child. His parents only have a few gardens and many children, so it is often lacking for daily needs."

"The bridegroom had just finished school and worked in one of the restaurants in Palembang, but after marriage, he no longer worked, only relying on his parents' garden, which was not much."

The average juvenile involved in polygamy comes from economically disadvantaged families, both male and female. As a result, the woman's family cannot ask for a large dowry when marrying off their daughter. Since the groom often does not have a permanent job, and it is difficult to sustain a living, teenage marriages are not desirable for the families of the bride and groom. Therefore, it is not uncommon for brides in polygamous marriages to not receive a dowry at all. Additionally, women with higher education tend to receive a higher dowry compared to those who are not educated, as society views educated women as of higher quality (Nagashima & Yamauchi, 2023).

Although some polygamous teen weddings are celebrated elaborately, with the bride and groom adorned in wedding attire and conducting a traditional wedding ceremony, afterwards, they typically move in with the groom's parents. As a result, the husband's parents often provide for both wives in terms of shelter and daily needs.

The lack of independence, responsibility, and fairness from one of the wives leads to some teenage polygamous marriages being short-lived. A successful marriage or family relationship depends on understanding each other's rights and responsibilities (Zaelani et al., 2021). When a family lacks understanding about these rights and obligations, some spouses may choose divorce instead of enduring uncomfortable conditions (Zaelani, 2022). In teenage polygamous marriages, some wives decide to end their marriage very shortly after it began, sometimes after just one month or even one week.

"In polygamous marriages, these teenagers often do not last long; one of the polygamous wives will go home to her parents and ask to end the marriage."

"Marriages carried out simultaneously with the first wife and the second wife, one of the wives only lasted one month, said goodbye to the husband and in-laws to return to their parents and were escorted by the husband's person, with modest money in hand."

Establishing a marriage bond is not enough if it is only based on love; it must also be based on a sense of responsibility and fairness towards both wives. Especially a teenager who should be enjoying the time of gathering with family and friends. However, it has been charged with the status of a wife who must participate in taking responsibility for taking care of the family. So, one of the wives of teenage polygamists decided to separate and choose widowhood instead of staying in a love triangle marriage. The slow openness of adolescent thinking at the research site caused many adolescents to fall into polygamous teenage marriages that spread to the status of young widows. So polygamous marriages, especially polygamous teenagers, contain more misery than the happiness expected in a marriage (Farid & Hidayat, 2022; Hikmah, 2012).

3. Community Perception

The rise of polygamous marriages makes many parents with teenage children feel restless, for fear that their children will fall into marriages that every parent does not want, both male and parents on the side of the wives. Here are the results of interviews with parents of polygamous teenage boys:

"We parents were apprehensive, confused, and embarrassed when we knew our son would marry two women simultaneously; how could we not face two families whose hearts we had hurt? Besides that, we also had to provide a large enough dowry because the dowry had to be the same between the first wife and the second wife."

"There is no problem regarding polygamous teenage marriage because it has always existed, but not until the community outside the village knows it, let alone outside the district, in the life of teenagers who become problems and disgrace if teenagers get pregnant out of wedlock and do not want to be responsible."

People think polygamous teenage marriages sound funny but accurate, and even most people consider this marriage normal. However, it is considered normal because it is not a disgrace and even a solution for teenagers not to commit adultery so that families and communities do not oppose the polygamous marriage of teenagers. However, societies and families with teenage children hope that their children will not fall into polygamous marriages. Polygamous marriages can be carried out in emergency conditions or limited to some conditions, especially in adolescent polymetal marriages (Romli, 2016; Trigiyatno, 2011). The average polygamous teenage marriage is still below the minimum marriage limit; according to the 2019 Constitution, the minimum age for marrying men and women is 19 years.

Juvenile polygamous marriage Law No. 16 of 2019 says marriage is permitted if the woman and man are over 19 years old (Undang-undang Nomor 16 Tahun 2019 tentang Perkawinan). Suppose the prospective bride is to marry under the age of 19. In that case, she must apply for marriage dispensation to the religious court so that the marriage is valid religiously and in the state. However, in polygamous marriages, the family does not apply for marriage dispensation to the religious court, so the marriage is carried out and is valid religiously only. The reason teenage polygamous marriages are only carried out religiously, or *sirih* marriage, is because of the long process that the bride and groom must take to get permission from the religious court.

The stages that must be passed start from applying for marriage dispensation because the age is still below the minimum limit to asking for permission for polygamy. According to Law No. 1 of 1974 concerning marriage, which is further amended to Law No. 16 of 2019, the court will permit the husband to polygamy if the wife cannot carry out her obligations as a wife. The wife is permanently disabled or suffers from an incurable disease. The wife cannot bear children (Nurmila, 2016). From the criteria for polygamy permit, polygamous marriages of teenagers will inevitably not get permission from the Religious Court because the wife to be polygamous is still young so that she can perform obligations as a wife, not disabled and not sick. There are even some cases of his wife being pregnant. Polygamous teenage marriages are prone to divorce at a young age, meaning that polygamous teenage marriages can also damage much of adolescents' future, especially for women.

In addition, it is also necessary to pay attention to the prevailing religious norms that pregnancy outside marriage is an act of adultery; then, those who can marry her are people who commit adultery. Thus, the reason for a compulsion to marry a pregnant girl out of wedlock to the man who married her is a rule established in religion, with the demand for responsibility for her sinful deeds so that the fate of the conceived child is clear. However, it is also necessary to pay attention to the concept of taking for these sinful acts so that this condition becomes a social construction of law enforcement within the scope of the social context of law enforcement. This perception is explained by Terpstra and Salet (2020), who state that social construction in law enforcement can be interpreted within a social context.

Although not stipulated in written state law, religious courts must take a stand in implementing *takfir* to bring out the deterrent effect of wrongdoing committed, even if the marriage is done. Another thing to note in this case of teenage polygamy is that the contract should not be done simultaneously or two marriages in one contract. There must be a time lag to obtain permission for polygamy from the wife who is married for the first time or who is *ijab qabul* for the first time to perform the next marriage contract. These two marriage contracts occur looking at the conditions that occur and force marriage to be carried out on two women because both of them are pregnant out of wedlock carried out by a man.

4. Region of Residence

The region where a person lives becomes a factor that influences a person to decide to migrate or move to another region. Lack of road access from the area of origin, lack of public facilities, difficulty looking for work, and marital status are substantial factors encouraging someone to migrate to the destination area. Everyone wants to live in a village or a location with adequate facilities and infrastructure, close to the crowd. Adequate facilities and infrastructure can facilitate the activities of people living in villages or locations. Besides that, it can also minimise people's migration. Adolescent polygamists, especially women, make marriage one solution to move their residence to a location with good facilities and infrastructure. If teenagers have skills in working, of course, having a place to live can be achieved by getting married and by finding a job in the expected destination location. In addition to the initial purpose of migrating to feel comfortable by utilizing the facilities and infrastructure owned by the destination location, it can also increase economically because of work (Barbieri et al., 2010; Becker, 2009).

Perpetrators of polygamous teenage marriages, especially women in Musi Banyuasin Regency, tend to come from more remote areas or look at areas with inferior road access. Especially from the aspect of facilities and infrastructure, the location of polygamous perpetrators of adolescent girls is also quite far from the crowd, and even the distance between houses is quite far, causing no place to relieve boredom after a day of activities. When viewed from the geographical aspect, the location of the village where teenagers who practice polygamy live is one of the most remote villages in Musi Banyuasin Regency, bordering Musi Rawas Regency. Road access to get there is still relatively complex. No public transportation passes through the village, road conditions are paved and unpaved, and road conditions are potholes in the middle of the road.

Polygamous adolescent male perpetrators are more dominant in areas entirely developed compared to areas where polygamous adolescent girls live. The location where the polygamous teenage boys live, when viewed geographically, the location of the village is close to the capital city of Sungai Keruh District. The phenomenon of teenage polygamous marriage in Musi Banyuasin Regency reveals a tendency for women from remote villages to be attracted to men from more developed villages. In addition, this village also has a long and exciting journey and historical value to be used as a tourist site. The findings are in line with opinions (Malamassam, 2016). That said, the migration of young people tends to be to areas with a cultural background similar to the area of origin where they live. Women who were highly educated and lived in urban areas were less receptive to polygamy than women living in rural areas. The strong desire of adolescent girls to get out of a somewhat remote village with minimal facilities and infrastructure and the absence of a place to relieve fatigue requires choosing the path of polygamy because of the lack of skills.

Girls choose to practice polygamy as long as they can live in a village with good facilities and infrastructure, close to the crowd, and even the sub-district capital. This condition occurs because of several things. The community, especially teenagers, believes they should continue school if they are still farmers or working in gardens. Then, adolescence is the age phase of self-search to get recognition. They still need to gain confidence in their actions, whether good or not. So, it is essential to socialize various things that change adolescents' thinking and behavior for the better. Adolescents are the spearheads of progress in a country, so adolescents play an essential role in creating a quality country.

Some of the explanations above are based on the factors that cause polygamy among adolescents and the need for counseling or guidance among adolescents about the risks of early marriage, especially with polygamy. It can be in the form of additional knowledge embedded in school lessons so that teenagers understand marriage problems that occur in their area. In other words, school education has an essential role in overcoming polygamous marriages in these adolescents. Religious knowledge about things that are not allowed to happen to

adolescents outside marriage needs to be improved, either directly or through allusions and descriptions of daily behavior, including guidance on knowledge about reproductive health. The government needs to involve relevant agencies to carry out such guidance if special rules or bylaws govern this matter, which are decided by the local government or district based on the applicable law.

Conclusion

The research conducted on adolescent polygamous marriages in Musi Banyuasin Regency revealed several significant causes contributing to this issue. The primary factors discovered in the qualitative analysis include pregnancies before marriage, family economic conditions, societal misperceptions of long-term teenage relationships, and the geographical location of polygamous women in suburban villages. The most prominent factor influencing adolescent polygamous marriages was found to be pregnancies out of wedlock, as it placed an obligation on men to marry the women they impregnated, especially if it occurred multiple times. This was driven by the desire to protect the woman's reputation and avoid shame, leading to polygamous unions. The economic impact of these marriages was also evident, with worsened financial conditions and a high likelihood of eventual divorce. Additionally, the perceived economic status of men played a role, as some women chose to become second wives based on the men's perceived financial stability. Social perceptions of shame and the migration of communities also contributed to the prevalence of polygamous teenage marriages. Preventative measures outlined in the study included active participation from various groups, increased attention to children's growth and development, providing access to education and healthcare, and promoting societal openness and understanding. Furthermore, the study recommended government intervention, including social awareness campaigns and the establishment of local regulations to prevent early and polygamous teenage marriages. This study represented the first examination of teenage polygamous marriages in the region, and it suggested that further research into additional variables could help address and prevent this societal issue.

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