

## The Application For A Polygamy Permit Is Reviewed From An Islamic Legal Perspective (Analysis of PA.DEPOK Decision No. 3051/Pdt.G/2020/PA.Dpk)

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**ABSTRACT:** Polygamy or having more than one wife is permissible under the provisions of Islamic law and positive law. Even though the large number of polygamy in our society has never been investigated in research what the real motives and causes are, in reality most polygamy is carried out by our society not in accordance with all the provisions, so that the polygamy that is carried out is very far from the wisdom and secrets contained therein. The permissibility of practicing polygamy according to Islam in many cases is often implemented and implemented. This causes many things to happen at will, without paying attention to and heeding the conditions that must be met. The problems in this thesis are how the judge considers in the decision on the case for a polygamy permit application No.3051/Pdt. G/2020/PA.D pk and what are the aspects of justice for polygamy applicants. This research method uses normative juridical research or a normative legal approach and is commonly called library research. The data collection technique in this research is library research which originates from laws and regulations, books, publications and research results. Based on the research results it is known that: 1). In determining the decision on the principle of proving the polygamy licensing case, the judge considered that the respondent did not mind polygamy by her husband, referring to Law No. 1 of 1974 to serve as a guideline in resolving polygamy problems. However, the judge did not grant the petitioner's request. 2). The concept of fairness in polygamy, according to the judge, goes back to Islamic teachings, namely justice that is meant is justice that is material in nature that can be controlled by the husband and becomes his ability, such as good treatment, sharing of time in spending the night, and giving a living. As for those related to the heart, then she may not be able to do it, because it is beyond the husband's control or beyond his ability, such as feelings of love and inclinations of the heart. So in this case the husband is not required to make it happen because it is beyond human power which is impossible to fulfill. Then the judge saw the fairness of the decision by looking at the statement made by the husband to be able to act fairly in guaranteeing the needs of his wives and children.

**Keywords:** Polygamy Permit; Perspective; Islamic law



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## INTRODUCTION

Marriage is a bond between a man and a woman's guardian or their representative and it is permissible for men and women to have fun in accordance with the prescribed path. Allah SWT has prescribed marriage with the aim of creating a harmonious relationship and boundaries

between them. It is impossible for a woman to feel that she does not need a husband to accompany her legally even though he has a high position, abundant wealth, or high intellect. Likewise, it is impossible for a man to feel that he does not need a wife to accompany him.

According to Law Number 1 of 1974 (Article 1), marriage is a spiritual and physical bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Almighty God. The consideration is that as a country based on Pancasila principles, the first principle of which is divinity, Almighty God, marriage has a very close relationship with religion/spirituality, so that marriage not only has a physical/physical element, but an inner/spiritual element also has an important role.

Forming a happy family is closely related to offspring, which is also the goal of marriage, the care and education of children is the right and obligation of parents. Article 1 and explanation of Law no. 1 of 1974 which is and is also the legal basis for marriage.

Article 2 paragraph (1) Law no. 1 of 1974 determines that marriage is valid if it is carried out according to the laws of each religion and belief. Meanwhile, article 2 paragraph (2) regulates that every marriage is recorded according to the applicable laws and regulations. Of course, Muslims marry according to the laws of their religion, as do other religions. Regarding special marriage registration for Muslims, it is regulated in Law no. 22 of 1946 in conjunction with Law no. 32 of 1954.

According to Article 3 paragraph (1) of Law Number 1 of 1974. Basically in a marriage a man can only have one wife, a woman can only have one husband, paragraph (2). The court can give permission to a husband to have more than one wife if desired by the parties concerned.

The purpose of marriage according to Islam is to fulfill religious instructions in order to establish a harmonious, prosperous and happy family, harmonious in exercising the rights and obligations of family members. Prosperity means creating inner and outer joy due to the fulfillment of life's and inner needs, thus creating happiness, namely love between family members.

Happiness in the family will be more easily realized with a monogamous marriage, that is, a man has one wife, so that with one wife happiness in the family can be obtained. In marriage there are also the terms polygamy and polyandry, the definition of polygamy is a man who has more than one wife as a wife at the same time.

Polygamy or having more than one wife is permitted under the provisions of Islamic law (Mohd Kamal, 2015; Sarwar, 2013) and positive law. Even though the prevalence of polygamy in our society has never been thoroughly investigated research what are the actual motives and reasons, but in reality most polygamy carried out by our society does not comply with all regulations, so that the polygamy carried out is very far from the wisdom and secrets contained therein. In many cases, the ability to practice polygamy according to Islam is often applied and implemented. This causes many things to happen as they please, without paying attention and paying attention to the conditions that must be met. Allah SWT indeed allows polygamy for up to four wives on condition

that he is fair to them. That is, being fair in serving his wife and children, such as matters of living, housing, clothing, and all external matters. If you can't be fair, then just one wife (monogamy) is enough.

Polygamy is a marriage between one man and more than one woman. According to Islamic law (Hafandi & Handayati, 2021; Sukarja & Rahman, n.d.), marrying more than one woman is permitted with a maximum limit of four.

Polygamy in Islam has been completely and perfectly regulated, but people rarely practice polygamy in accordance with religious regulations, namely to help women. Most of those who practice polygamy follow their desires. This happens very often, especially in Indonesia. Therefore, for the sake of the public benefit, it is necessary to have limitations that must be applied clearly and firmly. Islam allows a husband to have more than one wife, with a maximum limit of four, but with onerous conditions, without these conditions the husband is only allowed to have one wife.

This ability is based on the word of Allah in Surah an-Nisa' (4) verse 3. This verse provides several limitations. First: the maximum limit is four wives and second: this can only be done if you are able to act fairly. If the fair conditions are not met, it is prohibited to enter into a polygamous marriage. Justice, which is a prerequisite for polygamous marriages, is stated by Allah in general, including obligations that are material in nature as well as obligations that are not material in nature. Ulama agree on the need to be fair in obligations that are material or nafaqah. Scholars differ in determining fair limits, whether fair in the sense of equal numbers or fair in the sense of balanced. Some scholars understand the meaning of fairness as fair in the sense of equality nutrition between one wife and another quantitatively.

In terms of daily shopping (nutrition in a special sense) husbands are obliged to make equality between their wives, because that is what is meant by fairness. Some scholars are of the opinion that as long as the husband has fulfilled his nafaqah obligations according to the wife's needs and sufficiency, it does not have to be in the same amount, because each of them has received what is sufficient for their needs. Likewise, the obligation to be fair in providing clothes for his wives.

In providing a house where the husband lives, it must be fair in the sense mentioned above. He must provide a separate residence for each of his wives. It is permissible for a husband to place several wives in one house, if the wives have agreed, they are not allowed to place them in the same bed.

The ulama limit the justice that Allah has made as a prerequisite for polygamous marriage to justice in the opportunities for intercourse between wives and other wives. The equality and distribution of social opportunities between wives is deeply called with *Qasm*, while the benchmark for socializing opportunities is night, because night is the usual time for socializing between husband and wife, while during the day is the time to earn a living. Thus, in simple terms *Qasm* that means it's the turn of the chance to spend the night.

The legal system in Indonesia, especially regarding marriage, in this case Law Number 1 of 1974 and the Compilation of Islamic Law (Ullah et al., 2021) (KHI), adheres to the principle of monogamy, but its implementation is not absolute and is not a fixed price that cannot be negotiated. The law still tolerates and gives certain men the opportunity to have more than one wife (polygamy) under certain conditions. The conditions stated in the law for polygamy are considered quite heavy, you have to submit an application to the religious court, without permission from the religious court, the marriage has no legal force.

Marriage or marriage in literature fiqh Arabic is called with two words, namely *Iah* (marriage) and *zawaj* (marriage). These two words are used in the daily life of Arabs and are widely found in the Qur'an and the hadith of the Prophet

Marriage is a general *sunnatullah* and applies to all creatures. Marriage will play a role after each partner has played their respective positive roles in making the marriage happen. So marriage is a *sunnatullah* for humans in their life in this universe.

Marriage is a command from Allah SWT to His servants to obtain legitimate offspring in society, namely by establishing a peaceful and peaceful household.

Allah says in Surat Ar-Ruum [30]: 21

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ  
بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

*"And among the signs of His power is that He created for you wives of your own kind, so that you may be inclined and feel at ease with them, and He made love and affection between you. Indeed, in such a thing there are indeed signs for the people who think".*

Marriages carried out in accordance with religion are followed up by registration. This matter of recording is indeed necessary, because in a modern state the issue of administrative arrangement itself actually concerns personal or private matters. In fact, this recording process in state life becomes urgent when it comes to evidence. A marriage that has been held in accordance with religious and belief laws, and then recorded, will produce a marriage certificate which is really needed by the couple concerned, in order to, among other things, prove their respective legal status as husband and wife. Without this evidence, you will definitely face many obstacles when it comes to matters both in the legal and other administrative fields.

The religion adhered to by the Indonesian people, there are also customs that apply in various tribes, always regulate and teach how to carry out a marriage. The standardization of the continuation of marriage by religious teachings has crystallized as a creed that is adhered to by its adherents. Therefore, when the results of this crystallization are able to form values that are

internalized, to then be used as the art of group life, then it is very natural for the marriage laws made by the authorities to take them, further and then use them as a principle, to base the articles assembled articles. Like the foundation of a house, this principle is used as the building block for marriage provisions issued by the state.

However, in practice, the relationship between husband and wife is often characterized by various conflicts, disputes, violence and domination of the husband over the wife so that in the end marriage becomes a prison or shackle for women's freedom.

The very strong meaning of the contract in the Compilation of Islamic Law (Bastomi, 2016; "Polygamy in Perspective of Islamic Law Hermeneutics," 2023) is that if the implementation of the marriage contract has occurred between a man and a woman as husband and wife by fulfilling the conditions and pillars of marriage determined by Islamic law (Nurdin et al., 2021; Saleh et al., 2022) and state law, then the marriage bond is not so easily broken. ending the relationship between husband and wife. The marriage bond cannot be broken by a husband and wife for reasons that are not strong and fabricated.

A marriage bond that has already occurred can only be severed if there is a strong reason and in accordance with the provisions of Sharia law and state law and there is no other way to maintain the marriage bond to remain strong forever.

One of the interesting things in Islamic marriage is polygamy, because there are pros and cons in certain circles regarding polygamy. In language, polygamy is a marriage bond in which one party has or marries several people of the opposite sex at the same time. This term is general, it can be used for men who have more than one wife at the same time, or it can be called polygamy.

Medieval theologians argued that the Prophet Muhammad SAW was the initiator, which preceded Islam for a very long time and became a human habit since primitive times, and was commonly known by various nations in the world. Polygamy is carried out for various reasons and needs. So Islam is not the initiator of polygamy, however, Islam provides limits and conditions. The restrictions were given because polygamy that existed before Islam had no limits and no rules, and placed women as objects.

The word polygamy comes from Greek etymologically, polygamy is a derivation of the words *apolus* which means many, and *gamos* which means wife or partner. So polygamy can be said to be having more than one wife at the same time. Terminologically, polygamy can be understood as a situation where a husband has more than one wife. In the Big Indonesian Dictionary (KBBI) the word polygamy is defined as a marriage system that allows a person to have more than one wife or husband. Polygamy is marrying someone as a second, third and so on wife or husband.

Polygamy is permitted as long as there is no fear of abuse of the wives. If there is concern about the possibility of sin, it is recommended for men to settle for just one wife. Thus it becomes clear that the permissibility of polygamy is related to ensuring justice and the absence of abuse, namely abuse of the wife.

When referring to rules fiqh, It has been said that "Rejecting corruption is more important than reaping benefits" meaning that if there is an equal relationship between corruption and benefits then it should be postponed and not implemented. Based on the rule, it appears that when polygamy marriages give more harm than good, it is time for such marriages to be postponed and not implemented. That marriage using the principle of monogamy based on love and affection to achieve mawaddah warrahmah is a concept of marriage that must be a set model.

Judging from the legal norms regarding marriage contained in the Koran and the Sunnah of the Prophet, it can be seen that there is one of the principles of the principles of marriage, namely the purpose of marriage to fulfill the instinctive demands of human life, relationships between men and women in order to realize family happiness in accordance with teachings of Allah and His Messenger. The purpose of marriage is concluded from the Koran, which states, He created everything in pairs, from this pair of husband and wife, He then created a sense of peace and mutual affection between husband and wife.

The words polygamy come from Greek, namely from the word *pole* which means a lot of and *gamos* which means marriage. Meanwhile, polygamy in Indonesian is "a man who has more than one wife". In Arabic it is called *polygamy ta'addud az-zaujât*. Polygamy is defined as marriage between several partners at the same time. Thus, polygamy is not limited to only men, but also women.

M. Quraish Shihab commented that polygamy is an emergency door that can only be opened if there is an emergency and very urgent situation. Like emergency exit emergency door in the plane. The emergency door must not be opened except by those who are able. Children, paralyzed people, and others who are not strong enough to open emergency exit can't sit in the chair emergency exit. And even if someone is sitting in a chair emergency exit and some can open emergency exit That requires a pilot's license. That's Polygamy, which can be interpreted as not being able to close your eyes and saying that polygamy is prohibited, because sometimes it is needed.

## **METHOD**

This research uses a type of normative juridical research or normative legal approach and is usually called library research, which is a form of legal research carried out by examining library materials or secondary data alone. Refers to legal norms contained in legislation and court decisions as well as legal norms that exist in society.

This research is legal research, namely a process of finding legal rules, legal principles and legal doctrines in order to answer legal issues and use a case approach. This research was conducted to examine and analyze the legal considerations used as the basis by the PA.Depok Panel of Judges regarding the (Azwar & Az-Zarqy, 2021) application No.3051/Pdt.G/2020/PA.Dpk in deciding the case regarding the polygamy permit application.

In this case the author chose research in the Depok Religious Court area as the Government agency that adjudicated Case NO. 3051/Pdt.G/2020/PA.Dpk.

## **RESULT AND DISCUSSION**

### **A. Case Position**

Based on the application submitted by the applicant on 09 October 2020 and registered at the Registrar's Office of the Depok Religious Court on 12 October 2020 with case register Number 3051/Pdt.G/2020/PA.Dpk.

That the Petitioner and Respondent are a legal husband and wife couple whose marriage took place on Sunday, 04 August 2002. Based on the Marriage Certificate Excerpt Number: 976/35/VIII/2002 issued by the Office of Religious Affairs dated 05 August 2002. After the marriage, the Petitioner and Respondent lived together in a jointly owned house.

During their marriage, the Petitioner and the Respondent have been blessed with 6 (six) children, namely, 5 (five) sons and 1 (one) daughter and have acquired joint assets in the form of:

- 1) 1 (one) house unit with an area of 60 m<sup>2</sup> (sixty square meters)
- 2) 2 (two) units of four-wheeled motorized vehicles, namely a silver Daihatsu Grand Max with a 2014 license plate number and a metallic gray Nissan Grand Livina with a 2007 license plate number.
- 3) 6 (six) two-wheeled motorized vehicles, namely a black Vespa Piaggio with a 2017 license plate number, a white Suzuki Skydrive 53 with a 2010 license plate number, a green Suzuki Skydrive with a 2012 license plate number, a red Suzuki Skydrive with a 2013 license plate number, a black Suzuki Skydrive with a 2009 license plate number, and a black Suzuki Skydrive with a 2007 license plate number.

The applicant is a self-employed worker with an income of Rp. 25,000,000.00 (twenty-five million rupiah) on average per month. So, the applicant stated that he was able to meet the living needs of his wife and children and was able to claim justice.

Therefore, the Petitioner wants to remarry (Polygamy) with a 28 year old woman, born in Tangerang on July 10 1992, who works as a nurse with a bachelor's degree and is Muslim, as the applicant's prospective second wife. The application will be carried out and registered before the

Marriage Registration Officer of the Religious Affairs Office, with the reason that the Petitioner is pursuing polygamy because the Petitioner and the prospective second wife are quite close and have known each other for about 2 (two) years, and to avoid negative views from other people. -people around the Petitioner and his future second wife, so the Petitioner applied for a polygamy(Kamaruddin & Abdullah, 2017; Wirastri & van Huis, 2021) permit.

The respondent stated that he had no objection to the applicant's request to remarry (polygamy) with a woman (potential second wife) and the applicant's prospective second wife stated that she would not contest the property that had existed all this time, namely joint property 54 between the applicant and the respondent.

Thus, the applicant requests the head of the Depok Religious Court, the Majelis Hakim, in adjudicating this matter, to grant a decision to grant the applicant's request, thereby deciding to give permission to the applicant to remarry (Polygamy) with the applicant's second wife.

#### **B. Judge's Considerations in Decision on Polygamy Permit Application Case No.3051/Pdt.G/2020/PA.Dpk**

In the case of the application for a permit for polygamy in Decision No.3051/Pdt.G/2020/PA.Dpk, the basis for the consideration of the Panel of Judges was that they had reconciled the Petitioner and Respondent who had complied with the summons to appear in person at the trial, by advising the Petitioner to postpone the application and remind them of the heavy responsibility for polygamous husbands.

From 'Abdullah bin 'Umar radhiyallahu 'anhu, the Prophet sallallaahu 'alaihi wa sallam said

كُلُّكُمْ رَاعٍ فَمَسْئُولٌ عَنْ رَعِيَّتِهِ، فَالْأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ وَهُوَ مَسْئُولٌ عَنْهُمْ،  
وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْئُولٌ  
عَنْهُمْ، وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ بَغْلِهَا وَوَلَدِهِ وَهِيَ مَسْئُولَةٌ عَنْهُمْ، وَالْعَبْدُ رَاعٍ عَلَى مَالِ  
سَيِّدِهِ وَهُوَ مَسْئُولٌ عَنْهُ، أَلَا فَكُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ

*"Each of you is a leader and will be held accountable for those you lead. Amir (head of state), he is the leader of humanity in general, and he will be held accountable for them. A husband in the family is the leader and will be held responsible for them. A wife is the leader in her husband's household and over her children, and she will be held responsible for them. A servant is the leader in the affairs of his master's property, he will be held accountable for it. Know that each of you is a leader and each of you will be held accountable for who he leads."(HR. Bukhari no. 2554 and Muslim no. 1829).*

As in the hadith, a husband who is polygamous can not only increase his happiness, but also increase his burdens and responsibilities. Therefore, it is important for husbands to think long before deciding to have polygamy. Don't let polygamy cause the husband to neglect carrying out his responsibilities to all his wives, considering that he is a priest or head of the household.

Whereas the Petitioner's Petition Letter was then read out, and at the hearing the Petitioner gave an additional explanation verbally which basically stated that up to now the Applicant's household



with the Respondent has been fine and there are no problems so that they can still serve the Applicant's mental needs well, and the Respondent is also healthy. is in good health and does not have any serious illnesses, then the respondent has given a verbal answer which is basically correct. The respondent is the applicant's wife who was married on August 4 2002 and has six children. The respondent also knows the applicant's intention to propose polygamy or remarry another woman. The respondent also still feels confident about being a wife and can serve her husband well and the respondent also has joint property with the applicant in his petition.

In the consideration of the panel of judges, after examining the Petitioner's petition, the main issue in this case was that the Petitioner requested that the Petitioner be given permission to remarry (polygamy) with a woman named NAMA, on the grounds that the Petitioner was already in a relationship with that woman, and the Petitioner has known the woman for about 2 (two) years, and also to avoid negative views from people around the Petitioner and NAMA. Apart from that, the Petitioner stated that he was able to act and was able to meet the needs of the Petitioner's wives and children, as well as the Petitioner's first wife, namely the Respondent had allowed the Petitioner to remarry the woman and then considering that the Respondent in his answer stated that he had no objection to the Petitioner remarrying the woman.

However, the Respondent stated that the Petitioner's household with the Respondent had been fine and there were no problems. The Respondent is still able to serve and carry out his obligations as a wife, the Respondent does not have a serious illness, and the Respondent has also been blessed with 6 (six) children during his marriage to the Petitioner, that taking into account the arguments of the Petitioner's petition and the Petitioner's statement, as well as the Respondent's answer and the information of the prospective second wife The Panel of Judges was of the opinion that the Petitioner's request to remarry (polygamy) with a woman was not supported by valid legal reasons. Therefore, from the Petitioner's statement and the Respondent's answers, the Panel of Judges found the fact that the Respondent as a wife was still able to carry out her obligations as a wife, the Respondent did not have a physical disability or an incurable disease, and the Respondent and the Petitioner as husband and wife were blessed with six children.

Considering these facts, the panel of judges was of the opinion that these facts did not meet the alternative requirements for polygamy as regulated by Article 4 paragraph 2 of Law Number 1 of 1974 Jo. Article 41 letter a government regulation number 9 of 1975 Jo. Article 57 of the compilation of Islamic law (Barkah et al., 2022; Djubaidah, n.d.; Mesraini et al., 2023; Syarif et al., 2022), namely that religious courts only give permission to a husband who will have more than one person, if

1. The wife cannot carry out her duties as a wife.
2. The wife has a physical disability or an incurable disease.
3. The wife cannot give birth to children.

Considering that based on these facts, the panel of judges is of the opinion that the applicant's application is declared without legal grounds, and is declared as an unclear (vague) application, considering that because the case of the application for a polygamy (Cheema, 2020; Shukri & Owoyemi, 2014) permit is included in the category of marriage case, Mak is based on the provisions

of article 89 paragraph 1 Law Number 7 of 1989 concerning religious courts, which has been amended by Law Number 3 of 2006 and Law Number 50 of 2009, the applicant is charged with paying all costs arising in this case, taking into account the articles of the statutory regulations the valid invitation and the syar'i arguments that are relevant to this matter. It must be realized that by practicing polygamy, it places a heavy burden of responsibility on the side of Allah SWT.

However, in this effort, the Panel of Judges was unsuccessful in suspending the application submitted by the applicant. Then, the Panel of Judges ordered the parties to carry out a mediation process facilitated by Kosidah, S.H., M.Sc.,

As stipulated in the Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 1 of 2016. Based on the results of the mediator's report, on October 26 2020 it was stated that the mediation was still unsuccessful until this decision was handed down. As in Article 49 paragraph (1) and Article 49 paragraph (2) of Law Number 7 of 1989 and its explanation, which has been amended by Law Number 3 of 2006 and Law Number 50 of 2009, the case for applying for permission to marry is more from one person (polygamy) is the absolute authority of the Religious Court.

### **C. Analysis of Aspects of Justice for Applicants**

Basically, marriage in Indonesia is a marriage based on monogamy, but polygamy in Indonesia can be done with certain reasons and conditions. In the Marriage Law Article 3 paragraph (1) states that "Basically in a marriage a man can only have one wife. A woman can only have one husband" and as per Article 3 paragraph (2) "The court can give permission to a husband to have more than one wife if desired by the parties concerned."

After the researcher conducted research and analyzed the problem and from the explanation chapter by chapter, the researcher assumed that the issue of polygamy was not an easy problem to decide which one was correct from the various opinions expressed. The scholars are of the opinion that being fair from a material perspective (Emon, 2019; "Hajj, Its Islamic Perspective, Management and Role of Supply Chain in Indonesian Perspectives," 2020) is a fixed price that cannot be negotiated for husbands who want to practice polygamy, while immaterial justice is another matter, in the sense that it can be negotiated, however, a husband must not be biased (one-sided). ) his heart for one or some of his wives, so that the other wives feel hurt and psychologically depressed. This is in accordance with the verse from Surah an-Nisā' [4]: 129, "Do not love one of your wives too much, while the other wife is left in limbo. Indeed, if you do justice and are pious, then Allah is Most Forgiving, Most Merciful. Thus, in essence these two verses, namely Surah an-Nisā' [4]: 3 & 129 do not contradict each other. In fact, the essence of the content of the two verses complements each other, so that a conclusion can be found that doing justice includes both material and non-material things that must also be fulfilled, only if there is something non-material, namely the inclination of the heart, love or affection which is sometimes mentioned. beyond the limits of human ability, by religion it is considered something that is within human capabilities.

However, a husband needs to carefully consider the possibility of injustice that he will commit. Due to the fact that there are many facts that prove that husbands who practice polygamy then

fail to build a happy and harmonious household, what arises is a household situation that is filled with feelings of envy and hostility. Then regarding the case number 3051/Pdt.G/2020/PA.Dpk, after researchers analyzed the case, it can be concluded that the judge's consideration was less thorough and less fair in deciding the case, because the judge only looked at the approval of the first wife and the statement letter. can be treated fairly, which is seen from the husband's side and a certificate of being able to guarantee the living needs of his wife and children.

## **CONCLUSION**

In determining the decision on the principles of evidence in the polygamy licensing case, the judge considered that the respondent did not mind being polygamous by her husband, referring to Law No. 1 of 1974 as a guideline in resolving polygamy issues. However, the judge did not grant the applicant's request.

The concept of fairness in polygamy according to the judge. Returning to Islamic teachings, namely justice that is meant is justice that is material in nature which can be controlled by the husband and is within his power, such as good treatment, distribution of time in overnight stays, and provision of living expenses. As for things related to the heart, it is impossible for her to do it, because it is beyond her husband's control or beyond his ability, such as feelings of love and inclinations of the heart. So in this case the husband is not required to make it happen because it is beyond human power and it is impossible for him to fulfill it. Then the judge looks at the fairness of the decision by looking at the statements made by the husband to be able to act fairly in ensuring the needs of his wife and children.

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(Analysis of PA.DEPOK Decision No. 3051/Pdt.G/2020/PA.Dpk)**

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