

## ***Procedure for issuing Polandandri Marriage Certificate at KUA (Case Study of the Issuance of Marriage Certificate of Polyandri Actors)***

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**Abstract:** *The purpose of this study was to explore the procedure for issuing a polyandry deed at KUA (Office of Religious Affairs). The object of research is the procedural issuance of the deed of polyandry. This type of research is descriptive qualitative. Where the various phenomena found will be analyzed qualitatively and objectively. The method of collecting data in research uses library research and interviews with several related parties. Analysis of the data used is descriptive by using literature studies in the form of books both Civil Law and fiqh munakahah including fatwas. The results show that the Ministry of Religion has established various procedures related to the implementation of marriage and polygamy which are selective that must be obeyed by every Muslim to do polygamy. The Religious Courts have an important role in fulfilling polygamy procedures. However, there is still a possibility that polyandri marriages will occur due to administrative negligence and / or forgery that has been carried out either by various agreements by various parties, there are several parties.*

**Keywords:** *Procedure, Marriage Certificate, polyandry.*

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### **Introduction**

UU no. 1 year. 1974 is one of the rules relating to marriage in force in Indonesia. In addition there are several related rules such as KHI and also PMA. These various regulations were born with the aim that marriages that occur within the scope of the Indonesian homeland truly provide benefits for various parties, and prevent various problems that could be caused later on. For couples who will get married, you should know the essence of the law.

Poliandri is the marriage of a woman with more than one husband. Polyandri law is haram based on the Qur'an and Sunnah. In the Qur'an, Surah An-Nisa, verse 24 says, "and (you are forbidden to marry) a married woman, except for the slaves you have." The verse that reads "wal muhshanaat min al-nisaa 'illa maa malakat aymaanukum" shows that one of the categories of women forbidden to be married by men, is women who are married, which in the above verse is called al-Muhshanaat. (an-Nabhani, 2003: 119).

According to the provisions above that among women who are forbidden to be married temporarily also forbidden to be married, (Shobuni, 2008: 66), namely the wives of other people or women who have a husband, these women are included in the group of illegitimate women married because they are under the responsibility and protection of others. Therefore, it is forbidden for them to marry other than their husbands and it is not lawful for anyone else to marry. (Qutb, 2001: 322)

Regarding polygamy there are still procedures that allow it to be implemented in Indonesia. While polyandri, although in the perspective of Islamic law is not justified and illegitimate, there are still many legal events relating to this forbidden act of Islam, various cases on this earth are found in polyandri marriages, for example in the Himalayas of the Tibetan city, Nepal, Upper Dolpa, in this area is a woman who is married to another man and brother. Although polyandri in the perspective of Islamic law is not justified and unlawful, but there are still many legal events related to this prohibited act of Islam, various cases in this hemisphere are found in polyandri marriages, for example in the Himalayas of the city of Tibet, Nepal, Upper Dolpa, in the area of this is a woman who is married to another man and brother. Then in India, exactly Dahradun Village, a woman named Rajo Verma married 5 men as her husband at the same time and lived in one house, then Maasai tribes in Kenya and Tanzania where a wife as a sexual servant for guests from her husband during the guest was in their home. (<http://kaltim.tribunnews.com/2017/09/10/8-tradisi-sexual-in-berbagai-negara>, accessed on 12 July 2019)

In Indonesia, the prohibition of women from polyandry does not mean that polyandri does not exist or has never happened, in fact many polyandri acts are carried out by women who are still legally husbanded, only because polyandri marriages are forbidden, so many of these married women commit polyandry clandestinely (siri).

In the North Sumatra Regional Police, complaints of criminal acts continue to increase, according to data from the North Sumatra Regional Police there are a number of complaints from the public until 2017 totaling 34,458. (<http://bareskrim.com/2018/01/01/polda-sumut-catat-34-458-complaints-throughout-2017>, accessed on 10 June 2019). This amount is quite a lot even though as many as 62% have been resolved, so that from the number of cases so much it does not rule out the possibility of polyandriic crimes in it.

Then the polyandri case also took place in the Pematang Siantar religious court based on the civil case verdict with registration number 141 / Pdt.G / 2011 / PA.Psst dated September 13, 2011 between Brother Taufan Lesmana Putra Bin Sumantri (Plaintiff) with the Defendant Head of the Office of Affairs Religion Dolok Silau District in Saran Padang Dolok Silau District Simalungun Regency North Sumatra Province (as Defendant I), Nurhaida Binti M.Lekar (as Defendant II) and Ahmad Azman Halim Bin Abd.Gani (as Defendant III).

Based on the acknowledgment from the defendants and written evidence, the facts in the trial have been found, which in principle are as follows;

1. That there was a marriage between Nurhaida (Defendant II) and Ahmad Azman Halim (Defendant III) on May 3, 2010 at Muhammad Arifin Marpaung's house in TDI Complex on Jalan Budi Utomo, Kisaran City.
2. That during the marriage, Nurhaida (Defendant II) was married by the guardian of the judge, namely the head of the religious affairs office of Dolok Silau District, Simalungun Regency.
3. That when the marriage took place, Nurhaida's status as a prospective wife (Defendant II) was still in the status of another person's wife named Sumantri while Ahmad Azman Halim was a widower.
4. That Sumantri as Nurhaida's husband (Defendant II) died on May 30, 2010.

5. That as a result of the marriage, Defendant I as the head of the religious affairs office in Dolok Silau District, Simalungun Regency issued a marriage certificate quotation book with number; 058/04 / VI / 2011 dated June 3, 2011.

Based on the facts in the trial, the Panel of Judges argued that the marriage between Nurhaida (Defendant II) and Ahmad Azman Halim (Defendant III) contained a marriage obstacle, because at the time the marriage took place on May 3, 2010, the status of the prospective wife (Nurhaida / Defendant II) is still alive and died on May 30, 2010, therefore based on article 3 of law number 1 of 1974 which states that a woman can only have a husband, jo article 71 letter b compilation of Islamic law in 1991 which stated that the woman who was married was later found to be still the wife of another male mafqud, then based on this provision, the panel of judges agreed to cancel the marriage between Defendant II and Defendant III. Thus this was decided in the Pematangsiantar religious court on Thursday, October 13, 2011, to coincide with the 15th Dzuqaidah 1432 H.

Based on the polyandri evidence above, it is evidence of a marriage violation issued by KUA and is not subject to the principle of law number 1 of 1974. This is relevant with the case of polyandry in Islamic law, so polyandry is an act that is not justified and is prohibited according to the provisions Islam is not only as mentioned in Surah An-Nisa 'verse 24, but it is also forbidden according to the Sunnah of the Apostles as he said, from Samuroh from the Prophet said: Whoever is married by two wai, then (legal marriage) women it is for the first (guardian) of the two and anyone who sells an item to two other people, then (the legal contract) for the seller is the first contract of the two ". (Ash-Syaukani 2005, 163-164)

Then narrated Umar ibn Hafshi Syaibani Basri, narrated Abdullah bin Wahbi who related to us from Yahya Ibn Aiyub from Rabiah Ibn Sulaim, from Busri Ibn Ubaidillah from Ruwaifa Ibn Sabit from the Prophet said: whoever believes in Allah and later on, then from Rabiah Ibn Sulaim, from Busri Ibn Ubaidillah from Ruwaifa Ibn Sabit from the Prophet said: whoever believes in Allah and the later days, then he must not water other people's seed water (that is, he cannot cheat other people's wives). Apart from that it has been narrated by Qutaibah who has narrated to Ghundar has narrated to Sa'id ibn Urubah from Qatadah from Hasan from Samurata bin Jundab that the Messenger of Allah said: "Whoever the woman is married to by two saints, the woman's legal marriage is for the first guardian of both. " (HR. Tirmidhi)

According to Imam Ash-Syaukani the above hadith explicitly shows that if two saints marry a woman to two men in succession, then what is considered valid is a marriage contract carried out by the first guardian. The hadith also shows that it is not legal for a woman to marry except with one husband. The meaning of this Dolalah namely the illegitimacy of a woman's marriage except with one husband alone is the meaning demanded from the hadith so that the meaning is correct in syara '. (Ash-Syaukani, 2005, 2185)

Considering that polyandries are not justified in Islamic law and the laws are haram, then the marriages committed by polyandri are illegal, so that illegitimate marriages if they continue to be carried out would certainly be classified as adultery. In Islamic law adultery is determined as a very damned act and as jarimah (criminal act). This opinion was agreed by the ulama, except for the difference in the sentence. According to some scholars regardless of the culprit, whether done by an unmarried person or someone who is married, as long as the

intercourse is outside the legal marriages, it is called adultery and is determined as an illegal act, which does not reduce the value of the crime, even though it voluntary or like. Although no one feels harmed, adultery is seen by Islam as a violation of sexuality that is highly despicable and heinous, without knowing priorities and forbidden in all circumstances. (Judge, 2000: 69)

Based on the above phenomenon, it is interesting to conduct research on the procedure for issuing a marriage certificate of polyandri perpetrators from the KUA Office.

## **Method**

The subjects of this study were the heads of the KUA in North Sumatra. While the object of this research is the procedure for issuing a marriage certificate, deviations from the procedures that can occur in that procedure.

While the population in this study were all KUA Heads in the North Sumatra Ministry of Religion, which totaled 20. The sample of the fifteen population of the author decided to withdraw as many as 3 KUA, given the limited time of the existing research.

Data Sources are data obtained from the field through interviews and observations from several KUA offices in Sumatra related to the procedure for issuing a marriage certificate. While secondary data is data obtained from various references related to this study.

Data collection methods are as follows: a. Interview, which is a method of collecting data through a process of dialogue and question and answer (direct and oral) conducted by the author of several Heads of KUA regarding those related to research. b. Observation, namely by observing the object of study directly to the location of the study. c. Literature study, namely by examining books related to the problem under study

## **Research result**

The documents that must be fulfilled by the couple who are going to get married are a photo of a KTP ID, a photo of a family card, a photo of a birth certificate and the last diploma. Plus it is required to bring an introduction from the Village Chief or Village Head such as Marriage Certificate (form model N1), Certificate of Origin (form N2), Certificate of parents. Besides that, there is a permit from the parents if the bride and groom are under 21 years of age, the bride's consent letter, the statement of the bachelor / girl or widower / widow with a stamped Rp. 6000, Paspoto blue bacgorund 4x6 = 1 sheet and 2x3 = 2 sheets for each bride. Then also attached a dispensation letter from the court for prospective husbands aged less than 19 years and prospective wives who have not reached 16 years, divorce certificate / death certificate with the status of widower / widow. Furthermore, if the marriage is conducted in another district, there must be a recommendation from the KUA of the originating district. The cost at KUA is Rp. 0 and Rp. 600,000 outside KUA and directly deposited to the bank. (interview with one of the Heads of KUA in North Sumatra, November 12, 2019)

Regarding polygamy, Indonesia is one of the countries that make strict rules related to the implementation of polygamy. In the regulation of Law for example, in Law No. 1 year.

1974 precisely article 3 paragraph (2) explained, a husband is allowed more than one wife if desired by the parties concerned and received permission from the court. Court permission here is part of the conditions that must be met for polygamists. Regarding the reasons used by the court to give permission for polygamy, it is found in article 4 paragraph (2) of the Law: 1) the wife cannot fulfill her obligations as a wife; 2) the wife has a disability or an incurable disease; and 3) the wife cannot give birth to offspring.

The author also found that provisions like this were also affirmed in PP No. 9 of 1975 article 41 letter a and KHI article 57. Article 5 of the Marriage Law stipulates the requirements of polygamy as follows: 1) there is an agreement from the wife / wives; 2) there is certainty that husbands are able to guarantee the living needs of their wives and children; 3) there is a guarantee that the husband will be fair to his wives and children. In addition to this provision the Marriage Law also regulates the procedures that must be taken by a husband in carrying out polygamy, namely through a court process.

While regarding polyandry, Indonesia does not accommodate this act, bearing in mind the teachings of Islam also do not allow it. However, this does not mean that these actions have never been committed or occurred in Indonesia, especially in North Sumatra. As stated in the introduction above, a polyandri case was found in Siantar. Where, a wife who has not divorced with her husband who was sick concluded a marriage contract with another man.

Based on data from the Case Tracking Information System (SIPP) in the Class 1-A Religious Court, the number of cases up to now is 10,899, while the cases entered in 2018 range from 2476 cases, so with the number of cases that enter each year, it is probable that polyandri cases are widely available in the Medan Religious Court. (<http://sipp.pa-medan.net>. Accessed on 8 June 2019).

The author conducted observations and various interviews with various parties including several Heads of the Office of Religious Affairs in North Sumatra to find the potential for polyandries to still be found in various other regions. However, due to this problem entering the realm of privacy can rarely be revealed due to the parties who still hide it. Another form of case is the existence of a wife whose husband is not known because she went to another place but did not notify him of her whereabouts for months, but there is no divorce certificate that is the reason for separating the two.

Based on interviews and observations conducted, it was found that there were various possible steps that could lead to polyandry acts. As the interviews have done, there are various things that make this polyandir really happen in the community. The existence of a number of related parties that made mistakes, whether intentional or not, in a way helped the actions of the police.

The existence of acts of falsification of identity carried out by various parties with the help of both the sub-district, kelurahan or KUA itself can smooth the polyandry action taking place in the community. Various fake identities are used as a backrest for the KUA to issue a marriage certificate for a poly couple. According to the head of the KUA interviewed, the death certificate or letter is a very potential letter to be falsified by the person who will carry out the polyandry action.

It was also found the potential assistance of this polyandry action with the intentions of a couple who deliberately lost their marriage certificate, so it was replaced with a certificate from the Ministry of Religion's Guidance. However, the actual marriage certificate which is called lost is actually given to those who are not responsible to be changed and adjusted to the couple who will or has already done a polyandri marriage.

Another potential fraud was the existence of the KUA who violated his oath of office by intentionally slowing the release of the marriage certificate for the couple, but then the marriage certificate was given to another couple who could have been the polyandri marriage partner. Where the wife of this marriage still has a marriage bond with her previous husband.

Considering that there is still wide open potential for these acts of polyandry, the government must tighten arrangements in the field of marriage, by placing relevant officials who are truly trustworthy as a deterrent to polyandries. Besides that, the community also needs to look after each other and report to the authorities if a polyandri case is found in the area near their residence. In addition, there must be a strict legal policy from the State to crack down on polyandri perpetrators and all related parties because of course there is fraud, abuse of authority or mal administration done.

## **Conclusion**

In Polygamy there are still procedures for the Indonesian government to apply with various stringent conditions. Unlike the case with polygamy, polyandri is not allowed according to Islamic teachings recognized by the State.

The potential for polyandries to occur can still be found due to various things, both done by those who will carry out polyandries and assisted by various related parties. This is due to the people who will commit a crime can invite or influence various related parties to smooth the desire to do the crime in this case is the police.

Therefore, the government needs to make special rules for police officers as well as the threat of punishment for various parties who helped assist this prohibited act. Criminal accountability to the polyandri perpetrators must exist and be enforced in Indonesia.

## **References**

- An-Nabhani, Shaykh Taqiyuddin. 2003. *an-Nizham al-Ijtimai fi al-Islam*. Beirut: Darul Ummah
- Ash-Shobuni, M. Ali. 2008. *Islamic marriage*, trans. Ahmad Nurrahim, Solo: Mumtaza
- Asy-Syaukani, Imam, Nailul Authar, Hadith No. 2185 (Cairo: Dár al-Hadis, 2005), p. 163-164
- Asy-Syaukani, Imam. 2011. *Bustanul Akhyaat Mukhtashor Nailul Al-Authar*. Volume 3. Azzam Library
- Fajar, Mukti and Yulianto Achmad. 2010. *Dualism of Normative & Empirical Law Research*. Yogyakarta: Student Library
- Hakim, Rahmat. 200. *Islamic Criminal Law (Fiqh Jinayah)*. Bandung: Loyal Reader
- Compilation of Islamic Law
- PP No. 9 of 1975 concerning the Implementation of Law No. 1 year. 1974
- PMA 20 of 2019 concerning Marriage Registration
- UU no. 1 year. 1974 About Marriage
- Qutub, Sayyid. 2001. *Fi Zhilalil Qur'an*. Terj. As'ad Yasin et al. Jakarta: Gema Insani Press
- Interview with Mr. X Head of the Tapanuli Region Religious Affairs Office
- Interview with Mr. Y Head of the Siantar Regional Office of Religious Affairs
- Interview with Mr. Z Head of the Office of Religious Affairs in Langkat Regency