Polygamy in the Text of the Qur'an, Hadith and Bible: Theory Systems Approach of Jasser Auda

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Abstract:

Polygamy is one of the most controversial public issues particularly in the context of Islamic law (sharia). Some people often consider it as something frightening. In fact, the Qur'an, the Hadith and the Bible had mentioned about it. This paper aims to describe a range of views on polygamy according to the text of the Qur'an, Hadith and Bible. The method is library research and descriptive-analytic approach as well as historical sociology. Meanwhile, the approach of this research is theory system of Jasser Auda. The findings of this study are: polygamy in the context of Islamic law in the Qur'an and Hadith is allowed as long as the the wives and children's needs are well maintained both economically and socially. Otherwise, it becomes unlawful consideraing the usul fiqh rules between the aspect of kindness (*mashlahah*) and the aspect of danger (*madharrah*). This is different from the Bible which implied that polygamy is free choice to take without limitations on numbers of wives and the related rules of it.

Keywords:

Polygamy; Qur'an; Hadith; Bible

Abstrak:

Perbedaan pendapat yang sering muncul di ranah publik dan menjadi salah satu isu terkini dalam konteks hukum Islam (syari`ah) adalah poligami. Poligami sering disalahpahami oleh sebagian orang sebagai sesuatu yang menakutkan, namun pendapat yang lain boleh dengan dasar Alquran, hadis Nabi bahkan bible. Tulisan ini bertujuan untuk menjelaskan beragam pandangan tentang poligami menurut teks al-Quran, teks Hadis dan teks Bible. Metode yang digunakan adalah library research dan pendekatan deskriptif-analisis serta sosiologi-historis. Sedangkan teori adalah teori pendekatan sistem Yaseer Auda. Hasil temuan dari penelitian ini adalah: poligami dalam konteks hukum Islam dalam seperti al-Quran, hadis menggambarkan kebolehan poligami dengan syarat memperhatikan aspek keadilan terhadap isteri dan anaknya dengan memenuhi kebutuhannya sehari-hari baik dari aspek ekonomi maupun sosial. Apabila hal tersebut tidak dipenuhi maka poligami hukumnya menjadi haram dengan memperhatikan kaidah ushūl fiqh yakni aspek kebaikannya (*mashlahah*) dan aspek madaratnya atau bahaya (*madharrah*). Hal ini berbeda dengan teks bible yang terkesan bahwa poligami itu bebas tanpa batas bilangan dan aturan.

Keywords:
Poligami; Al-Qur'an; Hadits; Bible

Introduction

Polygamy always becomes a hot topic to talk among common people, scholars, intellectuals, academics and celebrities. It seems as a scourge or something unfair for women that makes women all over the world oppose polygamy practice considering that men can not do fairness. The opposition happened since the 1910-1921's until today.[1] Indonesian legislation in the article 3 No. 1/ 1974 mentioned that a husband can only have a wife. Some argued that the law is not

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[1] Untung Yuwono, "Ketika Perempuan Lantang Menentang Poligami," *Jurnal Wacana* 10, no. 1 (2008),. 1–25.

absolute because another article mentioned that a husband may have more than a wife.[2]

In 19th century, there occured a big mass action against polygamy by Anglosaxionism in the United States and Canada calling the practice as a criminal act.[3] According to the Western understanding, polygamy contain elements of structural inegaliterism both theoretically and practically.[4] However, some scholars allow polygamy for reasons that it becomes a perfect solution to prevent society from adultery.[5] Moreover, the Old Testament, Book of Samuel II, implied that polygamy is permitted and there is no related prohibition with it.[6]

Polygamy is becoming a serious problem and is quite exhausting theme yet still always attracts the attention of academics. Among others, Mansur wrote about the deconstructed exegesis of polygamy based on dialectic between text and context.[7] His writing emphasized the subordination and historical aspects of polygamy that he came to a statement that marriage should be in monogamy while polygamy is a temporary solution and therefre not advisable in Islam. Furthermore, U Abdurrahman discussed the exegesis of Muhammad Abduh on *Surah an-Nisā'*: 129 about polygamy.[8] According to him, polygamy should be done only in two terms, namely being fair and the situation of an infertile wife.

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[2] Hotnidah Nasution, "Pembatalan Perkawinan Poligami di Pengadilan Agama (Tinjauan Dari Hukum Positif)," *Jurnal Cita Hukum* 1, no. 1 (2013),. 137.

[3] Margaret Denike, "The Racialization of White Man's Polygamy," *Hypatia* 25, no. 4 (2010),. 852–874.

[4] Thom Brooks, "The Problem with Polygamy," Philosophical Topics 37, no. 2 (2018) ,. 109-122.

[5] Nasaruddin Umar, *Fikih Wanita untuk Semua* (Jakarta: Serambi Ilmu Semesta, 2011),. 97.

[6] Old Testament of the Samual II, 5:13 "David took more concubines and wives from Jerusalem, after he came from Hebron and were born to David more sons and perempua".

[7] Mansur, "Dekonstruksi Tafsir Poligami: Mengurai Dialektika Teks dan Konteks," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 1, no. 1 (2008),. 31–64, http://ejournal.uin-suka.ac.id/syariah/Ahwal/article/view/01103.

[8] U. Abdurrahman, "Penafsiran Muhammad 'Abduh terhadap Alquran Surat Al-Nisâ' Ayat 3 dan 129 tentang Poligami," *Al-'Adalah* 14, no. 1 (2017),. 25, https://doi.org/10.24042/adalah.v14i1.1139.

Additionally, Abdul Helim wrote on polygamy in the perspective of Banjarnesse scholars.[9] According to them, polygamy is allowed on the condition that the number of wives should not exceed four by virtue of the and the certainty to be fair among the wives. Abd. Moqsith, another scholar, examined polygamy in the Qur'an in his article.[10] He mentioned that there found several opinions on polygamy according to scholars of Tafseer. *First* is that polygamy is allowed with nine wives at maximum. *Second*, polygamy is permissible in emergency situations, namely the barrent wife or specific disease she suffers. *Third*, polygamy can only be practiced at the time of the Prophet Muhammad and therefore nowadays, the condition is different.

In a broader scope, Imam Machali researched polygamy in the text and context by tracing back the arguments in the sacred texts.[11] He then concluded that the argument about polygamy is generally divided into four; *First*, polygamy is an order of the syari'a. *Second*, polygamy is not a part of the law. *Third*, polygamy should be connected to the understanding of socio-community consideration. *Fourth,* polygamy can only be made to the orphans and widows to protect them.

Above description shows that polygamy still bceoms an interesting debate to study. However, researches on polygamy generally associate with the opinion of both classical and contemporary exegesis only without addressing the appropriate bit of *maqāsid as-Syarī'ah* aspects. Therefore, the author believes that study on polygamy using *maqāsid as-Syarī'ah* approach is the novelty of this paper. More specifically, the problem that this paper observes is on the polygamy in the perspective of the Qur'an, the Hadith and the Bible using *maqāsid as-Syarī'ah* theory of Jasser Auda.

Research Method and Theoretical Framework

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[9] Abdul Helim, "Poligami dalam Perspektif Ulama Banjar," *Islamica Jurnal Studi Keislaman* 12, no. September (2017),. 50–79.

[10] Abd Moqsith, "Tafsir atas Poligami dalam Al-Qur'an," *KARSA* 23, no. 1 (2015),. 133–149.

[11] Imam Machali, "Poligami dalam Perdebatan Teks dan Konteks: Melacak Jejak Argumentasi Poligami dalam Teks Suci," *PALASTREN* 8, no. 1 (2015),. 35–56.

This paper aims to discuss the practice polygamy using both descriptive-analytic and sociology-historical approach. Meanwhile, theoretical framework *maqāsid as-Syarī'ah* theory of Jaseer Auda with a system approach.[12] The approach was made to resolve the legal or *fiqh* issues found in the community in order to give benefit for people. According to Amin Abdullah, the approach is essentially the entire methodology of ijtihad u*ṣūl fiqh* consisting of linguistic and rational perspectives.[13]

The system approach consists of the following: *First*, the approach of *al-Idrākiyyah/*cognisition, which uses logic or reasoning to understand divine revelation. *Second,* the approach of *al-kulliyyah/*wholeness, which is a holistic and impartial Islamic law approach. *Third*, the approach *al-Infitāḥiyyah/ openness,* which is open and compatible to interact with other social sciences and culture in observing the problems found. *Fourth*, hierarchical approach, which is a general type of approach with systematic and decomposition methods. *Fifth*, the multidimensionality approach which seeks to combine the seemingly contradictory arguments of the Qur'an and hadith text. *Sixth*, purposiveness approach (*al-maqāṣidiyyah*) based on the Qur'an and the hadith as well as ijtihad qiyās, istiḥsān and others.[14]

Meanwhile, the operational steps of the research method as well as the theoretical framework are: *First*, describing and explaining polygamy in the Qur'an, hadith, and Bible. *Second*, analyzing using the Jaseer Auda's *maqāṣid as-Syarī'ah* theory of systems approach to the Islamic law. As mentioned before, the later step is through cognisition, wholeness, general, multidimension using a variety of disciplines such as religious, social and cultural, and the *maqāṣidi* (aim) approach.

Polygamy in the Qur'an, Hadith and Bible
a. Definition of Polygamy at Glance

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[12] Jasser Auda, *Membumikan Hukum Islam melalui Maqasid Syariah* (Bandung: Mizan Pustaka, 2015),.12.

[13] *Ibid,.* 13.

[14] *Ibid.,* 14.

Polygamy in Indonesian dictionary means a marriage system where a person marries several persons from the opposite sex at the same time.[15] In Greek, polygamy comes from the word "poly" or "polus" which means a lot. Meanwhile, the word "gamein" or "gamaus" means getting marriage or marriage. Therefore, polygamy is a marriage system involving more than two persons and even unlimited. This definition does not limit polygamy to the men, but also women who marry several men at the same time.[16] Therefore, it means a marriage between one person with two or more people, such as a husband with two wives or more.[17]

b. Polygamy in the Qur'an

The Qur'an explicitly provides information about men marrying more than a woman with the condition that he could be fair as follows:

وإن خفتم ألا تقسطوا في اليتامى فانكحوا ما طاب لكم من النساء
مثنى وثلاث ورباع فإن خفتم ألا تعدلوا فواحدة أو ما ملكت أيمانكم
ذلك أدنى ألا تعولوا

"If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if ye fear that ye shall not be able to deal justly (with them), the only one, or (a captive) that your right hand possess, that will ne more suitable, to prevent you from doing injustice," (QS. An-Nisā' [4]: 3)".[18]

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[15] Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1989).

[16] Hasan Shadily, *Ensiklopedi Indonesia* (Jakarta: Ichtiar Baru Van Hoeve, 1984),. 2736.

[17] Pius A Partanto and M. Dahlan Al Barry, *Kamus Ilmiah Populer* (Surabaya: Arkola, 1994),. 606.

[18] Departemen Agama RI, *Al-Quran dan Terjemahnya* (Bandung: Diponegoro, 2006),. 77.

Textually, this verse confirms the legality of polygamy with four women as the maximum limit and the condition for the men to be fair. *Sabab al-nuzūl* (context of revelation) of this verse is as mentioned by Imam al-Bukhāri[19] where he narrated from Urwah ibn Zubayr. Urwah once asked Aisha about the verse and Aisha answered: O, the son of my sister, this verse speaks of orphans who were in the house of a guardion as the manager of their property.

In this condition, the orphan's wealth and beauty stunned the guardian that he intended to marry her by giving her unfair dowry like what he gave to others. This verse avoids him to do so except when he can do justice because the highest *sunnah* for women is dowry. As the alternative, they were ordered to marry a good woman other than the orphan. People then asked for a *fatwa* to the Prophet after the revelation of this verse and Allah revealed the following verse (Surat an-Nisā' verse 127):ويستفتونك في النساء etc,.[20]

The statement explicitly mentioned that the revelation of the verse was due to a beautiful orphan with much wealth under the protection of a guardian who later wanted to marry her by giving unfair d7owry. The condition to be fair applies to all (non-slave) women because Allah will not give any difficulties to His creatures. According to the Shafi'i school, if a man wants to practice a fair polygamy to follow Prophet's *sunnah*, he should not exceed to marry more than four women.[21] This verse specifically talks about the free (non-slave) men because he can marry a woman with his own money as long as he does not marry two sisters at the same time.[22]

The Qur'an really emphasizes an obligation to be fair among wives or otherwise, a man is only allowed to marry a

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[19] Muḥammad bin Ismā'il bin Ibrāhīm bin al-Mughīrah al-Ju'fi Al-Bukhāri, *Ṣaḥīḥ Al-Bukhāri*, vol. 3 (Beirūt: Dār al-Ṭūq al-Najaḥ, 1422),. 140.

[20] Muḥammad Ali As-Ṣabūnī, *Rawāi' al-Bayān: Tafsīr Ayāt al-Aḥkām min al-Qur'ān* (Beirūt: Al-Maktabah al-'Aṣriyah, 2005),. 393.

[21] Imāduddīn Abu al-Fidā Ismā'īl bin Kašīr Al-Dimasqi, *Tafsīr Qur'ān Al-Aẓīm* (Kairo: Muassasah al-Qurṭubah, 2000),. 207.

[22] Muhammad bin Idris As-Syāfi'i, *Al-Umm*, vol. 3 (ttp.: Dār al-Wafa, 2001),. 145.

woman only. The revelation of verse closely related to a bad purpose of a man in practicing polygamy. Therefore, a man with good purpose and real commitment to be fair among wives could marry four women at maximum as a solution for coping with his desire and willingness.[23] This view is corroborated by the Qur'an Surat al-Nisa 'verse 129 as follows:

ولن تستطيعوا أن تعدلوا بين النساء ولو حرصتم فلا تميلوا كل الميل فتذروها كالمعلقة وإن تصلحوا وتتقوا فإن الله كان غفورا رحيما

"Ye are never be able to be fair and just between women, even it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practise self-restraint, Allah is Oft-forgiving, Most Merciful." (QS. an-Nisā' [4]: 129)".[24]

The Qur'an puts an alternative to avoid a husband from doing bad deeds through a strong commitment for being fair although it can't be totally at whole as mentioned at the above verse. The God does not give difficulties for His servants and therefore, He allows polygamy practice by setting the maximum number. However, if a man worries that he will not be fair, the he is obliged to only marry a wife. Being fair here means giving the same portion for food, clothes, home and staying at night.[25] This opinion is corroborated by Abu al-Jazā'iri by mentioning that such behavior is closer to be fair among women in a polygamy marriage.[26]

Most of Islamic scholars agree that polygamy is legal in condition that a husband must be fair in providing both physical and non-physical necessities in spite of his natural characteristic to get inclined to a wife. However, efforts to be

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[23] Sa'ad Abdul Wahid, *Tafsir Al-Hidayah: Ayat-Ayat Syari'ah* (Yogyakarta: Suara Muhammadiyah, 2004),. 166.

[24] Departemen Agama RI, Al-Quran dan Terjemahnya,. 99.

[25] Sayyid Sābiq, *Fiqh Al-Sunnah* (Beirūt: Dār al-Fikr, 2008),. 509.

[26] Abu Bakar Jabir Al-Jaza'iri, *Aisar al-Tafāsir Li Kalam al-'Ali Al-Kabir* (Al-Madīnah al-Munawwarah: Maktabah al-'Ulūm wa al-Hikām, 2008),. 435.

fair must continue along with strong belief that God will not make anything difficulte as He is the giver to His creatures.

c. Polygamy in The Hadith Text

Polygamy in the hadith are found in some hadith compilation books with different wordings but the same meaning. One of which is a hadith narrated by Aḥmad bin Ḥanbal as follows:

عن سالم عن أبيه أن غيلان بن سلمة الثقفي أسلم وتحته عشر نسوة

فقال له النبي صلى الله عليه وسلم إختر منهن أربعا (رواه أحمد)

"From Sālim, from his father that Ghailān bin Salamah al-Ṡaqafi converted to Islam and he had ten women (who became his wives), then the Prophet said to him: choose four among them". (HR. Aḥmad)".[27]

Another hadith used وعندى ثمان نسوة wording and was sourced from al-Asadi, a Prophet companion, informing that he had eight women as wives.[28] Ibn Majah reported that Qais bin al-Ḥāriṡ had eight wives while Ghailān had ten.[29] On the other hand, Imam Aḥmad bin Ḥanbal mentioned that Ghailān had ten women وتحته نسوة عشر along with *amr* or imperative *ihktar* (choose) and *khuż* (take) wording[30] while Imam Malik in the book of al-Muwaṭṭā 'mentioned the story of Ghailān with ten wives وعنده نسوة عشر with *amr* or instruction to resist (*amsik*) and divorce *(fāriq)*.[31]

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[27]Aḥmad bin Ḥanbal, *Musnad Al-Imām Aḥmad Bin Ḥanbal*, vol. 8 (Beirūt: al-Muassasah al-Risālah, 2001),. 251.

[28] Abū Dāwud Sulaimān bin al-Asy'aṡ al-Sijistāni, *Sunan Abī Dāwud*, vol. 2 (Riyāḍ: Bait al-Afkār al-Dawliyyah, n.d.),. 239.

[29] Abu Abdillah Muḥammad bin Yazīd Al-Qazwīni, *Sunan Ibnu Mājah*, vol. 1 (Beirūt: Dār al-Iḥyā' al-Kutub al-Arabi, n.d.),. 628.

[30] Ḥanbal, *Musnad Al-Imām Aḥmad bin Ḥanbal*,. 251, vol. 9,. 69 dan vol. 9,. 393.

[31] Imam Mālik, *Muwaṭṭā' Al-Imām Mālik*, vol. 4 (Beirūt: Muassasah Zāyid bin Sulṭān Āli Nahyān, 2004),. 844.

The hadith of polygamy can be found in hadith compilation books as in the following table:

No.	Hadith Compilation Books	Number	Keywords
1	Sunan Abi Dāwud	2243	إختر منهن أربعا
2	Sunan Ibnu Mājah	1952	إختر منهن أربعا
		1953	خذ منهن أربعا
3	Musnad Imam Aḥmad bin Ḥanbal	4631	إختر منهن أربعا
		2057	خذ منهن أربعا
4	Sunan Al-Bayhaqi	14 219	إختر منهن أربعا
5	Al-Muʾjam al-Kabīr al li Ṭabrāni	13 221	إختر منهن أربعا
6	Sunan al-Dāruquṭnī	100	إختر منهن أربعا

		94	خذ منهن أربعا
7	Ṣaḥīḥ Ibnu Ḥibbān	4156	إختر منهن أربعا

Based on these wordings, a man should not do polygamy with more than four wives. This is due to the story of Ghailan with ten wives and Qais with eight who were commanded to divorce their wives and chose four out of eight and ten. These hadiths, therefore, show that polygamy with four wives at maximum is permitted by the Prophet Muhammad.

In Arab's Jahiliyah era, polygamy was the right solution for married couples in solving economic problems. A wife and children used to work the garden to support the family income. They could only rely on the plantation for their livelihood and as the solution, the husband had to marry to a wealthy woman.[32] Islam does not legalize such action no matter how poor a person is since he still needs to try finding *halal* money without having to marry again for the sake of economic. Ghailān is an example of an (old) infidel who did polygamy during the Jahiliyah period. His marriage was legal until he finally converted to Islam and was not ordered to renew a marriage contract except that it was forbidden to gather wives in a single house and have more than four wives at the same time.[33]

Contextually, polygamy in the era of the Prophet was regulated when he saw Ghailan with ten wives then he ordered him to divorce some and kept the rest (four women). Furthermore, the history records that the Prophet had nine

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[32]Rohmansyah, Rohmansyah "Analisa Pendekatan Bahasa dan Historis terhadap Poligami dalam Hadis Nabi," *Kalimah* 17, no. 1 (2019),. 59–74.

[33] Muḥammad Abdurraḥmān bin Abdurraḥīm Al-Mubārakfūri, *Tuḥfat al-Aḥważi Bi Syarḥ Jāmi Al-Tirmiżī*, vol. 4 (Beirūt: Dār al-Fikr, n.d.),. 233.

wives and this was his specialty which does not apply to his people. Additionally, the specialy does not mean an excuse that the Qur'anic verse mentioning polygamy to two, three and four actually shows nine as the maximum number by adding the numbers altogether. Moreover, the letter *wawu* in that verse means *takhyīr* (choice), so it gives a chance for a Muslim to have two, three or four wives with the condition of being morally and materially fair according to Islamic rule. Thus, the Prophet's words are in accordance with the Qur'an's *nāṣ* and it even, becomes *taqyīd* (limitation) towards *khabar* (guide) of Qur'an.[34]

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[34] Wahbah Al-Zuhaili, *Al-Tafsir al-Munīr al-Aqīdah fi asy-Syarī'ah wa al-Manhaj* (Damasqus: Dār al-Fikr, 2009),. 329.

d. Polygamy in the Bible Text

Polygamy is an old deed since the very old time. It was told about the polygamy of King Solomon with 700 wives and 300 concubines as mentioned in the Old Testament.[35] This shows that the Bible did not condemn polygamy. Otherwise, it allows polygamy along with prohibition for a man to marry his wife's sister.[36] However, a statement in Talmud forbids polygamy with more than four wives.[37] Other than what mentioned in the Bible, around the sixteenth century, the Jewish people in Europe also carried out polygamy, including those in the East, although it was prohibited at the Israeli Civil Law.[38]

As for the New Testament, according to Father Eugene Hillman in his book *Polygamy Reconsidered,* there found no clear explanation on legality of polygamy. Jesus never forbade his people to do polygamy. Hilman then added that the church in Rome prohibited polygamy as their effort to create harmony with the Greco-Roman culture which justifies the practice of monogamy but strangely allows men to have concubines and prostitutes. Hilman postulated with the words of St. Augustine: "In our time, in order to be in harmony with the customs of the Romans, it is no longer justified to have more than a wife".[39] Based on this, the African churches remind its people that the prohibition of polygamy is not merely a valid Christian rule, but a Roman custom.

Irena Handono, a Christologist which is a Moslem convert as well as the owner of the Irena Center confirmed that no Christians believe about the married of Jesus and his offspring considering that how God could have a wife and children. This part of Jesus' history seems to be covered up so that any Muslims who find that will be surprised to know about the children of

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[35] The Old Testament Samuel 5: 13.

[36] Lev Old Testament. 18: 18.

[37] Leonard J. Swidler, *Women in Judaism: The Status of Women in Formative Judaism* (Metuchen: Scarecrow Press, 1976),.144-148.

[38] Lesley Hazleton, Israeli Women: The Reality behind the Myths (New York: Simon and Schuste, 1977),. 44-45.

[39] Eugene Hillman, *Polygamy Reconsidered: African Plural Marriage and the Christian Churches* (New York: Orbis Books, 1975),. 140.

Jesus. However, it was told that the married Jesus is Jesus as a human being instead of as the Prophet.

The marriage of Jesus was supported by a Professor who stated that Jesus had got married twice. His marriage ceremony can be seen in the New Testament telling that when Jesus was in Bethany at the house of Simon the leper and was sitting and eating, came a woman, Mary Magdalen, carrying a marble jar filled with expensive and pure nard oil. After breaking the jar's neck, she poured the oil on Jesus' head.[40] Mary then took half a cattel of expensive pure nard oil, anointed Jesus' feet and wiped them with her hair; and the smell of the oil spread throughout the house.[41]

Although this scene implied that relationship of Jesus and Mary Magdalene was special, the church denied this incident and vilified Mary Magdalene as a sinful woman over the centuries.[42] In the same gospel of Luke 7, verse 38 stated clearly about the marriage of Jesus as follows: "While crying, she went and stood behind Jesus at His feet, then wet His feet with tears and wiped them with her hair, then kissed His feet and oiled them with the perfume."This church's claim was later denied by Prof. Theiring by stating the argument that Jesus once had more than a wife based on his findings in the following part of Treaty of Philip:

"There are three people who always walk with Jesus, namely Maria, his mother, and Maria, his mother's sister, and Magdalene, referred to his partner. The couple of the Savior is Maria Magdalena. (He loves) her more than his other students and often kisses her in the mouth. The other students asked him: "Why do you love her more than us?" And the Savior answered: "Why don't I love you like I do to her?" (59, 6-12; 63, 32- 64, 5).

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[40] New Testament of Marcus 14: 3
[41] See New Testament Book of Johannes 12:3.
[42] See the New Testament, Luke 7: 37

Polygamy in the Christian tradition is indeed prohibited.[43] However, Old Testament allows it without any restrictions on the number of women. Another part of the Old Testament, namely the Book of Kings at the chapter 1 verse 11 says that King Solomon once loved countless women from Moab, Ammon, Edom, Sidon and Hittite. The same thing is found at the chapter 11 verse 3 mentioning that Jesus had seven hundred wives and three hundred concubines which drew his hearts from the God. Furthermore, the Book of Samuel in chapter 5 verse 13 said that David took several concubines and wives from Jerusalem after he came from Hebron which gave him sons and daughters.

The information polygamy is further found at Deuteronomy chapter 21 verse 15. It tells about a man with two wives. One is loved and another is not. Then, both gave birth to sons and the first born was from the unloved wife. This clearly shows that Bible does not prohibit and even allows polygamy as it was practiced by the noble one, namely Jesus as the savior and the good example.

Analysis on Polygamy in the Qur'an, Hadith and Bible Text: Jaseer Auda's Theory of *Maqasid al-Shari'ah*

To get a closer look and to eliminate confusion about polygamy in the context of the Qur'an, Hadith, and the Bible, the author uses the theory of *maqāṣid as-syarī'ah* of Jaseer Auda, known as the system approach theory, as follows.

a. Cognitive approach (ratio/reasoning)

Polygamy is considered as a solution for disharmony family condition due to the wife's infertility and/or venereal diseases. This allows a husband to marry another woman. On the other hand, the practice of polygamy will potentially cause new problems leading to another family disputes because it is painful for women and only helpful temporarily. In such condition, a cognitive approach is needed to resolve unfair polygamy because it is more likely to stand for men and lower the dignity of women.

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[43]See New Testament of Corinthians, 7:27, "*If you have a wife, do not seek to end the marriage. If you do not have a wife, do not seek to get married.*

Rationally, family problems must be resolved in a kinship way without first having to take further and hurried action like polygamy. Therefore, both parties will get the goodness and benefits even though polygamy is textually permitted in the Qur'anic, Hadith and Bible texts. In this extent, Islam teaches deliberation in solving any problems and on the other hand, understanding of the Qur'an and hadith must be based on the surrounding circumstances or the context.

The Qur'an does not require people to take polygamy as the only absolute solution to solve family problems. It even emphasizes the fairness in terms of both material and biological aspects, because farirness or *tawazun* in the family is an absolute need. However, in another verse, the Qur'an emphasizes that people will not be fair among the wives even if they try hard for that. It is mainly because humans, the wrong and forgetful doers which, are different from the infallible Prophet and the Angels with forever submission and obedience to Allah. It is natural for mankind to practice unfair deeds because of the evil lusts inside themselves while, as the Qur'an said, "lust is indeed to send man to badness".

The problem of polygamy led a response from the famous *fiqh* expert, Wahbah al-Zuhaili. He said that it comes to tyranny when a husband does not behave fairly to his wives in the division of biological relations and the provision of income. Therefore, to eliminate the potential of tyranny, having a monogamy is preferable. He added that limitation numbers of wives is a fair way to keep women away from the tyranny of a husband with more than a wife. This is clearly different from the Jahiliyah Arabs' custom who practiced polygamy as they wished without considering the maximum limit and ignoring fairness among wives.[44] Therefore, rationally, in practicing polygamy, a husband must pay attention to the negative rather than the positive impacts of it. This is particularly because educating and fostering a wife (and children) is not an easy thing to do and the

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[44]WahbahAz-Zuhaili, *Al-Fiqh Al-Islāmi Wa Adillatuhu*, vol. 9 (Damaskus: Dar al-Fikr, 1984),. 158.

burden will be multipled by having more than a wife even though Allah allows polygamy with some certain condition.

b. Wholeness approach (comprehensive/impartial)

This approach is particularly relevant to the issue of polygamy as a controversial topic among scholars. Those who support polygamy would allow the practice and otherwise, those who do not do would surely prohibit it. Therefore, there needs a comprehensive understanding on the verses of the Qur'an, Hadith and Bible while considering various other aspects such as social, economy and culture developing both in the past and present time.

From the social aspect particularly in a family circle, it is clear that children need attention from both parents. When the father practices polygamy, however, his attention should not only focus on the wives, but also the children. Children are an asset and next successor of their parents that they have right to get love, education and proper facilities. It becomes very ironic, therefore, when a husband only focuses his attention to the wife and ignore her children. Such condition must become a concern of the husband so he will share joy, attention and time also with the children.

Therefore, the problem of polygamy needs a comprehensive look because it relates to the social, educational and economic aspects of the family. Polygamy is a hard work to do other than fulfilling the sexual needs.

c. Open system approach

The use of this approach intends to apply Islamic law while considering modern scientific aspects such as social and cultural science. Hence, the case of polygamy needs an overview on the the social and cultural condition of Arab society at that time. The motivation to practice polygamy among Arabian people was mainly coming from wives who wanted their husband to remarry another woman due to the economic factor. Generally, this occured in a family which only relied the livelihood on farming and the husband could not fulfill the family needs well. To add the family income, a husband remarried a rich woman with aiming that his living needs can be fulfilled. This situation is logically unacceptable considering the difficulties for a poor

husband to marry a rich woman particularly in paying the cost of wedding. In fact, it was the situation at that time at Arabia that a saying mentioned that the man has been bought by a rich woman.

However, it is different from the perspective of both the Qur'an and Hadith of the Prophet which put polygamy as a solution to the wifes' infertility instead of the sexual motivation. In this case, therefore, the one who can pratice polygamy is a husband with this situation. This was experienced by Ibrahim *alaihi salam*. Siti Sarah, his first wife, could not give an offspring that Ibrahim asked for her permission to marry SitiHajar. From the second marriage, Ibrahim got a child named Ismail *alaihi salam.* Meanwhile, the Prophet Muhammad as the last prophet practiced polygamy because of the humanity since he marryied widows whose husbands were killed in the battlefield instead of the fulfillment of his sexual desire as some people misunderstand about.

These social and cultural factors need serious consideration so that the practice of polygamy is not solely due to the physical ability and momentary willingness, but the consideration of related aspects. Some people consider polygamy as a scourge because they only see empirical things without understanding what polygamy actually is, such as the requirements and other related things. Therefore, it is necessary to dig up deeper and understand religion, especially the Qur'an and hadith text while integrating it with social-humanities perspective.

On the other hand, nowadays Christians do not accept polygamy and even forbid it forever to show the loyalty of a married couple. This seems contradictory with the Bible they believe in because the Bible tells about polygamy in which a husband is free to have more than four to hundreds of wives.

d. Multidimensional approach

Qur'anic verses on polygamy need to compare with a variety of theorem in order to provide benefits to humankind as a whole. This becomes important as the permissibility of polygamy in the Q.S. An-Nisā' verse 3 seems to contradict to Q.S. An-Nisāˈ verse 129 because the former states that men may practice polygamy on the condition of behavin fairly. However, the later

mentions that humans can not actually do it even if they try hard exerting all their abilities both physically and materially.

This contradiction can be related to other verses about three types of lust that humankind have, namely *nafs al-muṭmainnah, nafs al-lawwāmah* and *nafs al-ammārah*. First is *nafs al-muṭmainnah* as mentioned in Q.S. Al-Fajr verse 27 and It means a calm soul leading to to goodness. Second is *nafs al-lawwamah* as mentioned in Q.S. Al-Qiyāmah verse 2 which means a despicable soul according to IbnKaśīr. Third is *nafs al-ammārah* as mentioned in Q-S Yūsuf verse 53 which leads people to the badness.[45] Based on this, those who want to practice polygamy must consider any possible impacts to happen and influence the family condition. It makes sense, therefore, if Q.S. An-Nisā' warns people to be careful in taking action because they actually have three lusts that may lead to death if they cannot control them well as The Qur'an at Surah Al-Baqarah verse 195 mentions; "do not plunge yourself into destruction".

e.   Approach *Maqāsidi* (aim).

This last approach is very important to determine and direct anything toward the goodness in both world and hereafter. Polygamy as the subject of public discussion should be seen from the objectives of the *Shari'a* particularly from the origin of the marriage purpose. Marriage is regulated not only to fulfill sexual desire but more importantly, to establish a *sakīnah, mawwaddah* and *raḥmah* family. In the perspective of Islamic law, the purpose of marriage is to maintain offspring *(hifẓ al-nasl)* in order to protect the children from negligence of clothing, food and shelter needs.

Therefore, if polygamy can maintain and carry out the objectives of Islamic law well, it becomes permissible although it still becomes a question whether men can be consistent in looking after their wives and children fairly. This consideration is needed to get balanced perspective and proper action to take. Hence, polygamy must be viewed more from its disadvantage aspect rather than its advantage like the rules of ushulfiqh, "*żar'u al-mafāsid muqaddamun ala al-Jalbil al-maṣāliḥi*" (avoiding the

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[45]Al-Dimasqi, *TafsīrQur'ān Al-Aẓīm.*, vol. 4., 393.

disadvantages is more important than taking the advantages), and other rules, *al-Muḥāfaẓahala al-qadīmi al-ṣāliḥi wa al-Akhżu bi al-Jadīd al-Aṣlaḥi"* (keeping the old good while taking a better new one).[46]

Conclusion

Islamic legal concept, particularly the Qur'an and Hadith allows polygamy under the condition of being fair namely baheving fairly among the wives and children according to a husband's capability. In addition, a husband must pay attention to the *maṣalaḥah* (advantages) and *maḍarat* (disadvantages) aspects, mainly on whether polygamy leads to goodness or badness based on to the purpose of marriage i.e. establishing a *sakīnah mawaddah* and *raḥmah* family. Therefore, a man who wants to practice polygamy must pay attention to all supporting and related social and economic aspects. Polygamy might be unlawful when those aspects are not fulfilled according to the rules of Islamic law. This is different from the Bible which does not mention any underlying reasons for the permissibility of polygamy and its requirements. This makes polygamy practice in the concept of Christian law seems to be free without any limits and protecting rules.

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[46]JasserAuda, *Membumikan Hukum Islam melalu Maqasid Syariah.*, 15.

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