

## Prohibition of Polygamy Women Civil Servants in a Gender Perspective ( Criticism Against PP No. 10 of 1983 Jo PP No. 45 of 1990)

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**Abstract:** This paper discusses the juridical analysis regarding the prohibition of polygamous female civil servants (PNS). In Indonesia, regulations regarding this prohibition are contained in PP No. 10 of 1983 Jo PP No. 45 of 1990 article 4 paragraph. This research has a normative juridical focus. This type of research is expository analytical, describing and evaluating research topics. The study results indicate that the rules prohibiting female civil servants from becoming second, third, or fourth wives are legally recognized and must be applied and have legal force. However, from a review of Islamic law and higher positive law, namely marriage laws, This should be permissible because work has nothing to do with marriage, as it is permissible for a man to have polygamy with more than two wives under strict conditions. This makes it discriminatory for female civil servants because male civil servants may practice polygamy, while female civil servants may not be polygamous as second, third, and fourth wives. From a gender perspective, it can be concluded that the regulation regarding the prohibition of polygamy in female civil servants contains discrimination against women which does not reflect gender equality and justice, so this regulation needs to be reviewed. If male Civil Servants are allowed to have polygamy, then female Civil Servants should also be allowed to become second, third, or fourth wives. If female civil servants are not allowed to have second, third, and fourth wives, then male civil servants should also not be allowed to have polygamy.

Keywords: *juridical, gender, marriage, polygamy, civil servants*

**Abstrak:** Tulisan ini membahas tentang analisis yuridis mengenai larangan Pegawai Negeri Sipil (PNS) Wanita dipoligami menjadi istri kedua, ketiga atau ke empat perspektif gender. Di Indonesia ada pengaturan mengenai larangan tersebut dimana tertuang pada PP No. 10 tahun 1983 Jo PP No. 45 tahun 1990 pasal 4 ayat, hal ini muncul sebagai pedoman Pegawai Negeri Sipil dalam menyelesaikan permasalahan dalam perkawinan dan perceraian, Penelitian ini memiliki fokus yuridis normative. Dengan jenis penelitian bersifat analitis ekspositori, yaitu mendeskripsikan dan mengevaluasi topik penelitian. Hasil penelitian ini menunjukkan mengenai aturan dilarangan Pegawai Negeri Sipil wanita menjadi istri kedua, ketiga atau keempat, secara yuridis diakui keberadaannya dan harus diterapkan dan memiliki kekuatan hukum, namun jika dari tinjauan hukum Islam dan hukum positif yang lebih tinggi, yaitu undang-undang perkawinan, seharusnya ini dibolehkan, karena pekerjaan tidak ada kaitannya dengan perkawinan, sebagaimana dibolehkannya laki-laki berpoligami lebih dari dua istri dengan ketentuan syarat-syarat secara ketat. Hal ini menjadikan diskriminatif bagi pegawai negeri sipil wanita, karena pegawai negeri sipil pria boleh melakukan poligami, sementara Pegawai Negeri Sipil Wanita tidak boleh dipoligami sebagai istri kedua, ketiga dan keempat. Dari perspektif gender dapat diambil benang merah bahwa peraturan mengenai larangan dipoligami pada pegawai negeri sipil wanita mengandung pendiskriminasian pada wanita yang tidak menggambarkan adanya kesetaraan dan keadilan gender sehingga peraturan tersebut perlu untuk dikaji ulang. Jika Pegawai Negeri Sipil laki-laki dibolehkan berpoligami, maka seharusnya Pegawai Negeri Sipil Wanita juga boleh menjadi istri kedua, ketiga atau keempat. Sebaliknya jika Pegawai Negeri Sipil Wanita tidak dibolehkan menjadi istri kedua, ketiga dan keempat, maka Pegawai Negeri Sipil laki-laki juga seharusnya tidak boleh berpoligami.

Keyword: *moderasi beragama; Kementrian Agama; kebijakan; strategi penguatan*

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## Introduction

Marriage is an attachment relationship between women and men who are united in a marriage bond that aims to build a happy husband and wife relationship in the sight of Allah SWT<sup>1</sup>. *Marriage* is an agreement that makes lawful relations legal, limiting the rights and obligations of husband and wife and helping each other between men and women who are not muhrim<sup>2</sup>. As for marriage in law No. 1 of 1974 in article 1, which can unite men and women to build a peaceful, peaceful, and happy household ark to live life reaching heaven, marriage also has a close relationship even with religion. Marriage has not only an outward element but also a spiritual element that plays an important role<sup>3</sup>.

Judgically, the Compilation of Islamic Law in Indonesia explains another opinion that is no different from the law that provides treatment, where marriage is a "contract" to obey and fulfil Allah SWT's commands, and implementing it is a lifetime of worship<sup>4</sup>. From this, it can be concluded that marriage is an attempt to unite people of different sexes in one life to achieve a physically and mentally happy life<sup>5</sup>. Islam sees marriage and family formation as effective and efficient in protecting young men and women from damage and society from chaos.

State policy guarantees the rights of all citizens to recognize and protect their duties as citizens. Some laws and regulations regulate various dimensions of national and state life in all fields, especially in marriage arrangements for civil servants. The problems facing citizens are indeed numerous and complex, and one cannot be separated from the nature of citizens' lives as human beings united by marriage. Regarding the verses and hadiths regarding marriage, jurists have noted that many aspects of the marriage contract are emphasized, including social, legal, and spiritual aspects<sup>6</sup>. Therefore, it is hoped that by understanding these norms, the State Civil Apparatus, in this case, the Civil Servant, will become a good model for society.

In Indonesia, all marriages must be registered; this is done so that marriages and their legal consequences receive protection from the state. The registration of marriages in Indonesia first started with the passing of the law on the registration of marriages through Law No. 22 of 1946 stipulates that marriages must be registered at the civil registry office<sup>7</sup>. Article 3, paragraph 1 states that marriages not registered at the civil registry office will be fined Rp. 50, even though the explanation emphasizes that marriage registration is an administrative obligation. Then it is regulated in Article 2 Paragraph 2 of Law Number 1 of 1974 concerning marriage which explains that each marriage is recorded according to statutory regulations. As for other matters, marriage registration is also contained in PP No. 9 of 1975. It stipulates that married people who do not report it at the marriage registrar's office will be subject to a fine of Rp. 7,500.-.

Likewise, marriage registrars who violate these rules are subject to imprisonment for three months and payment of a fine of Rp. 7500,-. Likewise, it is also regulated in the Compilation of Islamic Law article 5, paragraphs 1 and 2, which regulates that to ensure the orderliness of marriage for the Islamic community, every marriage must be registered. The marriage registration referred to in paragraph (1) is carried out by the Marriage Registrar as stipulated in Law No. 22 of 1946 in conjunction with Law No. 32 of 1954<sup>8</sup>.

Marriage is considered valid if the pillars and conditions of marriage have been fulfilled, both monogamous and polygamous marriages. In Indonesia, it is regulated that marriages must be registered<sup>9</sup>. Marriages that do not contain the legal requirements for marriage have legal consequences because a marriage held based on a certain religion is considered valid even if it is not recorded. In contrast, the Marriage Law in Article 2, paragraph 1 states: "Marriage is valid if it is carried out according to the law of each religion and its beliefs. That.". Moreover, if a

<sup>1</sup> Nita Mesta Wahyu, *Hukum Perkawinan*, 1st edn (Lampung: CV. Laduny Alifatama, 2021).

<sup>2</sup> Ja'far A. Kumedi, *Hukum Perkawinan Islam Di Indonesia, Asy-Syir'ah*, 1st edn (Bandar Lampung: CV. Arjasa Pratama, 2017), VOL. 46.

<sup>3</sup> Republik Indonesia, 'Peraturan Pemerintah Nomor 45 Tahun 1990', 1990, 99–104.

<sup>4</sup> Mukhtali Jarbi, 'Pernikahan Menurut Hukum Islam', *Pendais*, I.1 (2019), 56–68.

<sup>5</sup> Bayu Dwi Widdy Jatmiko, Nur Putri Hidayah, and Samira Echaib, 'Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration', *Journal of Human Rights, Culture and Legal System*, 2.3 (2022), 167–77 <<https://doi.org/10.53955/jhcls.v2i3.43>>.

<sup>6</sup> Yurda Heti, 'Respon Masyarakat Terhadap Pelayanan Pernikahan Pasca Pemberlakuan Peraturan Pemerintah Nomor 48 Tahun 2014 Tentang Biaya Nikah (Studi Kasus Di KUA Kec. Selebar Kota Bengkulu)', *Qiyas*, 2.1 (2017), 41–48 <<https://doi.org/http://dx.doi.org/10.29300/qys.v2i1.462>>.

<sup>7</sup> Republik Indonesia, 'UU No. 1 Tahun 1974 Tentang Perkawinan' (Indonesia, 1974), pp. 1–15.

<sup>8</sup> Arnis Rachmadhani and others, 'Marriage Guidance Program at Mayong District Office of Religious Affairs, Jepara Regency, Indonesia', *Journal of Southwest Jiaotong University*, 57.4 (2022), 1–12 <<https://doi.org/10.35741/issn.0258-2724.57.4.1>>.

<sup>9</sup> Imam Faishol, 'Implementasi Pencatatan Perkawinan Di Indonesia (Studi Atas Undang-Undang Perkawinan No. 1 Tahun 1974)', *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum Dan Syariah*, 8.2 (2020), 1–25 <<https://doi.org/10.52051/ulumulyari.v8i2.53>>.

marriage is not recorded at the civil registry office or the KUA for Muslim people, it has no legal status<sup>10</sup>. Government regulation number 10 of 1983 Article 4, paragraph 1 states that a civil servant must obtain approval from the leadership/authorized official if he wishes to have more than one wife. Submission of a polygamy permit is submitted in writing on paper, stating the reason for the existence of several wives and the conditions that must be met, including the first wife's consent<sup>11</sup>.

Regarding the rules in PP No. 10 of 1983 Jo PP No. 45 of 1990 article 4 paragraph 2 regarding the prohibition of civil servants from practising polygamy<sup>12</sup>. Indicates that the above regulations were made to create a moral state civil apparatus that will become a role model to emulate the good life in the eyes of the community in terms of behaviour, actions, and understanding of the applicable laws and regulations, including regulations on family life. However, the regulations have elicited mixed reactions from women. Some of them believe that these rules can give men the opportunity to practice polygamy<sup>13</sup>. Therefore, female employees also admit that the regulation has no impact or effect on civil servants. At the same time, women with the status of Civil Servants cannot be polygamous or become second, third, and fourth wives. If polygamy is proven, a female civil servant can be dishonourably removed from her job unless the employee resigns at his request before carrying out his marriage. The emergence of gaps in these regulations has prompted researchers to analyze this from a juridical and gender perspective

## Literature Review

The gender perspective in the Qur'an not only regulates the harmony of gender relations and the relationship between men and women in society, but more than that, the Qur'an also regulates the harmony of the pattern of relations between humans, nature, and the Creator<sup>14</sup>. Gender disparities in opportunity and control over resources, the economy, power, and political participation are ubiquitous. Women and girls bear the brunt of the resulting inequalities. However, in essence, they hurt everyone..<sup>15</sup> To reveal the framework of gender equality between men and women, what must be understood is how to distinguish the concept of gender and the concept of gender itself. Understanding the differences between the two concepts can have implications for wisdom in addressing various issues of social injustice that befell women in various parts of the world..

Polygamy is a social problem in society. This happens easily because someone practices polygamy without emphasising the conditions outlined by faith, which is very concerning for women in Indonesia<sup>16</sup>. Marriage is based on monogamy. The practice of polygamy in Indonesia not only gets the blessing of the state but also gets a permissive response from some people. Investigate government regulation no. 10 of 1983 against civil servants who will have more than one wife, required to obtain prior permission from officials. Civil servants who violate this will be subject to employee disciplinary sanctions such as 1) demotion to a lower position for one year, 2) dismissal from his job and appointment as an administrator for one year, and 3) dishonourable discharge as a civil servant at his request.

Judging from the reasons for not allowing female civil servants to become second/third/fourth wives, it is clear that there is a gender bias because there are differences in position/treatment between female civil servants and male civil servants, even though everyone should be equal and equal in the eyes of the law<sup>17</sup>. From the point of view of human rights, Article 4 paragraph (2) of Government Regulation 45 of 1990 contradicts personal rights, such as personal rights, personal rights in economic terms and personal rights in law and government..

<sup>10</sup> Republik Indonesia, 'UU No. 1 Tahun 1974 Tentang Perkawinan'.

<sup>11</sup> Iswahyudi Fauzi and Nababan Budi S.P, 'Menelisik Pengaturan Kontribusi Bagi PNS Yang Melakukan Poligami Di Kabupaten Lombok Timur', 2016, 1–23.

<sup>12</sup> Emi Yulia Rosita and Sulton Akim, 'Kajian Yurdis Tentang Larangan Wanita Sebagai Istri Kedua Atau Lebih Menjadi Pegawai Negeri Sipil Dalam Perspektif Hukum Perkawinan Islam', *Fairness and Justice : Jurnal Ilmu Hukum*, 14.2 (2016), 153–64 <<https://doi.org/https://doi.org/10.32528/faj.v14i2.1966>>.

<sup>13</sup> Suhara Safira, 'Kesetaraan Gender Dalam Perspektif Al-Quran Dan Implikasinya Terhadap Hukum Islam', *Jurnal Al-Ulum*, 13.2 (2013), 373–94.

<sup>14</sup> S Sylvia, 'PENERAPAN FILSAFAT HUKUM ISLAM DALAM POLIGAMI (Studi Analisis Terhadap PP. No. 10 Tahun 1983 Jo. PP. No. 45 Tahun 1990)', *Al-Risalah: Jurnal Hukum Keluarga Islam (Abwal Al ...)*, 2.2 (2022), 60–74.

<sup>15</sup> Awaliah Musgamy, 'Menakar Batas Kesetaraan Gender Poligami Dalam Pp. No. 45 Tahun 1990 Tentang Izin Perkawinan Dan Perceraian Bagi Pns', *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan*, 6.2 (2017), 395–404 <<https://doi.org/10.24252/ad.v6i2.4892>>.

<sup>16</sup> Santoso Dri and Nasrudin Muhamad, 'Polygamy in Indonesia and Its Relevance to the Protection of Women and Children in the Perspective of Islamic Law Philosophy', *Frontiers in Neuroscience*, 14.1 (2021), 1–13.

<sup>17</sup> Mohamad Abdun Nasir, 'Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law', *Maqāhib*, 21.2 (2022), 155–86 <<https://doi.org/10.21093/mj.v21i2.5436>>.

## Method

This research has a normative juridical focus. This type of research is expository analytical, describing and evaluating research topics. The data used is the main legal material as referred to in PP No. 10 of 1983 Jo PP No. 45 of 1990, secondary legal materials including books and scientific journals related to the title of this research. Data analysis was carried out using qualitative research based on legal reasoning, which criticizes the rules to examine the scientific responsibility of legal science for the systematic collection of data in legal provisions which contain opinions and logical reasons in evidence that are criticized.<sup>18</sup>

## Result and Discussion

### Juridical Review of Polygamy Rules for Civil Servants

Civil Servant is a job with a position for people who work in government agencies. In PP number 45 of 1990 article 4, paragraph 2, there is a rule prohibiting polygamy in civil servants seen from a legal perspective as follows: 1) Judging from the validity of a marriage, it prohibits polygamous female employees from becoming second, third, and fourth wives to avoid all kinds of distractions while carrying out their duties and become role models for society. This rule applies to female civil servants, but this prohibition is not by Islamic law. The marriage of a female civil servant with a man who has marital ties with a different woman, seen from the pillars of marriage, has all been fulfilled; 2) Judging from the prohibition of marriage from an Islamic point of view, the prohibition on marriage is only regulated regarding the prohibition of marrying offspring, sexual relations, and breastfeeding relations. Prohibition due to work has no rules with the pillars and conditions of marriage.

Therefore, in Islamic law and Law Number 1 of 1974, there is no prohibition for someone to marry someone based on their work. Female Civil Servants who wish to be polygamous as second, third, and fourth wives because work has nothing to do with the prohibition because of heredity, marriage, or breastfeeding as long as there is no kinship with the man she marries<sup>19</sup>; 3) Polygamy has a legal basis in the Qur'an letter An Nisa verse 3, polygamy is permitted with the condition that only four wives<sup>20</sup>. Thus, according to Islamic law, the position of a woman who becomes a second, third, or fourth wife is recognized by religion. However, this is not in the rules in the PP. No. 45 of 1990 article 4, paragraph 2 as a preventive effort for the government to intervene by regulating and limiting it as an effort to avoid unwanted things.

The regulation prohibiting female civil servants from engaging in polygamy was issued solely to prevent female civil servants from engaging in polygamous marriages, except in the first wife's position. However, religious leaders are guided that polygamy is permissible<sup>21</sup>. The legal basis for polygamy is stated in surah An-Nisa verse 3: "Marry the woman you love two, three and four". This is the basis for men to be polygamous. Surat An-Nisa verse 3 states that a husband may be polygamous if he can treat his wives fairly. Be fair in all matters, for example, providing needs in the form of income, accommodation, carrying out marital relations, and others<sup>22</sup>. Considering these developments, in Islamic law, women are allowed to be polygamous either as first, second, third, or fourth wives and this polygamy is recognized by religion.

Observing PP No. 10 of 1983 Jo PP 45 of 1990, article 4 paragraph 2 regarding the rules for civil servants to practice polygamy besides this aiming for the benefit of the state civil apparatus should be measured by the Shari'a. Juridically, this prohibition is not a form of oppression, violence, cruelty, crime, and absurdity against women but is instead understood as a form of normative guarantee inspired by theological legalization, which ensures that civil servants, with all their consequences, carry out their main tasks and functions<sup>23</sup>. The regulation prohibiting polygamous female civil servants is a wise way to achieve the work assigned to organizations/institutions. It is feared that if female civil servants are allowed to practice polygamy, it could have negative consequences for family life itself, such as a) internal conflicts within the family, b) Having the risk of experiencing pressure from mental/psychological health, experiencing mental pressure, so that this can cause the duties assigned as a Civil

<sup>18</sup> Nanda Amalia et al., *Legal Research Methods: As an Introduction*, ed. M. Akib, Marzoni, and Hamzah, *Lex Privatum*, 1st ed., vol. 2 (Lampung: CV. Laduny Alifatama, 2016).

<sup>19</sup> Frima Sintia Liliana, 'Larangan Aparatur Sipil Negara Wanita Menjadi Istri Madu Perspektif Hukum Islam Dan Gender', 2022.

<sup>20</sup> Muhammad Herowandi, 'Persyaratan Izin Poligami Dalam Perspektif Politik Hukum', *Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam*, 18.1 (2022), 97–111 <<https://doi.org/10.24042/tps.v18i1.13124>>.

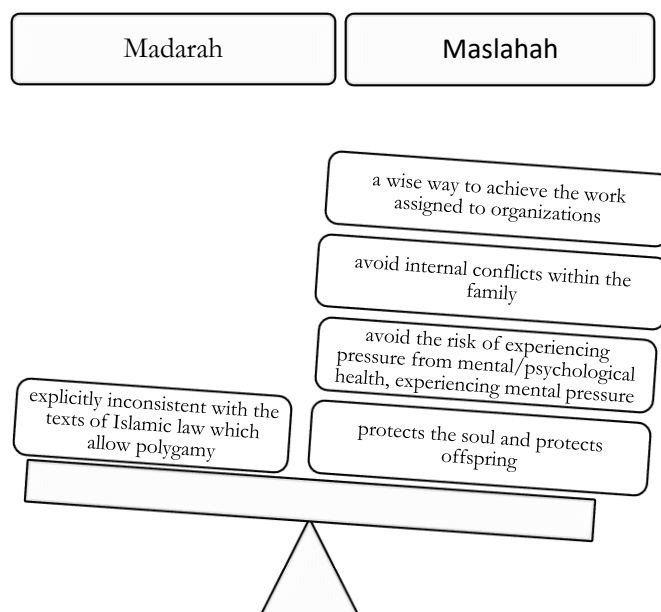
<sup>21</sup> Ahmad Tholabi Kharlie and Windy Triana, 'Reforming Islamic Marriage Approaches and Impacts', *Al-Jāmi'ah: Journal of Islamic Studies*, 59.2 (2021), 255–86 <<https://doi.org/10.14421/ajis.2021.592.255-286>>.

<sup>22</sup> Herowandi.

<sup>23</sup> Juwaini Saleh and others, 'Marriage Guidance towards Family Resilience in Aceh: A Study of Islamic Law Philosophy', *Samarah*, 6.2 (2022), 594–613 <<https://doi.org/10.22373/sjhk.v6i2.12448>>.

Servant to be neglected and even disrupted<sup>24</sup>. The next view on the prohibition of women from practising polygamy contained in the government regulation is seen from the perspective of maqashid sharia, where this protects the soul and protects offspring. This view is considered good for humans and hopes for the grace of Allah SWT to bring comfort and convenience to humans<sup>25</sup>. PP No. 45 of 1990, article 4, paragraph 2 symbolizes the dignity and dignity of civil servants, always being a good role model for society, one of which is respect for the principle in Indonesia, monogamous marriage.

Picture 1. Masalah and Madarah in Polygamy Rules for Civil Servants According PP number 45 of 1990 article 4



Moving on from a phenomenon widely discussed in society, one of which is marriage carried out by one party, in this case, the husband, to several women at one time, raises various controversial opinions. On the other hand, monogamy is a marriage carried out by a man with one woman<sup>26</sup>. Monogamy is widely practised in sociological reality because it is considered a form of human nature with rules that cannot be violated. It is the most important element in marriage towards family peace<sup>27</sup>.

The rules prohibiting female state civil servants from being polygamous also do not apply to cases where civil servants are encouraged to marry men in the same league. Instead, the prohibition aims to force women to become the first or only wives of men who are not equal or equal during their time as first wives.<sup>28</sup> Because of this rule, female civil servants are prohibited from polygamy and do not discuss the prohibition of being the wife of a man who is not of the same profession<sup>29</sup>. However, the existence of this prohibition discriminates against women. Because legally based on the rules regarding marriage Law number 1 of 1974 and the Compilation of Islamic Law, if polygamy meets the requirements such as permission from the first wife and is permitted by the court, female civil servants may be polygamous just like male civil servants. - men are allowed to polygamy with certain conditions.

<sup>24</sup> Hilmi Yusron Rofi'i and others, 'Analisis Hukum Keluarga Islam Terhadap Pasal 4 Ayat (2) Peraturan Pemerintah Nomor 45 Tahun 1990 Tentang Izin Perkawinan Dan Perceraian Bagi Pegawai Negeri Sipil', *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 4.1 (2022), 93–104 <<https://doi.org/10.37680/almanhaj.v4i1.1576>>.

<sup>25</sup> Rahman Fawit Syaiful, 'Analisis Maqashid Syari'ah Jaseer Auda Terhadap Izin Perkawinan Dan Perceraian Bagi Pegawai Negeri Sipil', *Momentum: Jurnal Ilmiah Ilmu Sosial Dan Keagamaan*, 07.1 (2018), 35–58.

<sup>26</sup> Alejandro Nieto Cruz, 'Discrimination of Women in Islamic Family Law and Public Order', *Cuadernos De Derecho Transnacional*, 12.1 (2020), 286 <<https://doi.org/10.20318/cdt.2020.5190>>.

<sup>27</sup> Safira.

<sup>28</sup> Nur Afni Khafsoh, Rukmaniyah Rukmaniyah, and Karina Rahmi Siti Farhani, 'Praktik Poligami Di Indonesia Dalam Perspektif M. Quraish Shihab, Husein Muhammad, Dan Nasaruddin Umar', *Jurnal Sosiologi Reflektif*, 16.2 (2022), 475–94.

<sup>29</sup> Marisa Fera, Imran, and Surya Hendra, 'Keadilan Dalam Poligami Menurut Hukum Islam Dan Perspektif Masyarakat Kota Sabang', *AL ILMU: JURNAL KEAGAMAAN DAN ILMU SOSIAL*, 33.1 (2022), 1–12.

### Prohibition of Polygamous Female Civil Servants from a Gender Perspective

Gender can also be interpreted as the difference between masculinity and femininity. Generally, both can be interpreted as gender but have different connotations. The issue of gender equality always includes aspects of human rights<sup>30</sup>. Gender issues become more relevant when it is recognized that there are gender differences between men and women that lead to injustice in a variety of simple factors, including women's impoverishment, marginalization, subordination, stereotypes, violence, and multiple roles against women where it leads to violations of law, acts, unlawful acts—hated by Allah SWT. According to Showalter, gender is an analytical concept whose meaning is explained from the topic and continues to be studied<sup>31</sup>. The gender perspective in the holy Qur'an does not only align the harmony between the differences between men and women in one communication. However, it regulates the pattern of harmonious relations of ecosufism (nature, humans, and the creator)<sup>32</sup>.

These various phenomena of gender inequality are detrimental to women as subjects who are placed as weak creatures when it comes to men. Gender justice is a process that leads to equality, harmony, balance, and compatibility without discrimination<sup>33</sup>. With the existence of government regulations regarding rules that do not allow female civil servants to be polygamous as second, third, and fourth wives, while men are allowed to have polygamy for up to four wives, this creates a gender bias and requires thought and analysis of existing regulations and must be immediately follow up<sup>34</sup>.

Based on the consequences of the prohibition of polygamy on female civil servants who identified no gender equality, there are two views regarding the positive and negative impacts on female civil servants<sup>35</sup>. Female civil servants are not allowed to be polygamous to become second, third, and fourth wives; this emphasizes because women are more dignified as state civil servants who need regulations as guidelines and binding so that these regulations can be used as guidelines for work discipline so that they are maintained by the rules and as implementers state duties can encourage productivity based on performance and achievements. However, the problem is that this rule does not apply to male Civil Servants, who should apply the same rule, namely the prohibition of marrying women for second, third, and fourth wives. This shows a form of discrimination against women who work and have status as Civil Servants. This dissimilarity of rules also shows a form of injustice to women. Male Civil Servants should also be prohibited from polygamy so that they can focus more on work and can be used as examples and role models for society.

Some think there are negative implications when female civil servants are polygamous, namely when female civil servants experience household problems that cause psychological disturbances and may neglect child care<sup>36</sup>. The regulation prohibiting polygamous female civil servants deprives women of civil servant status of their rights because they think it will hamper their careers. Differentiation of opportunities between male and female employees in permitting polygamy includes treating someone differently and unfairly based on certain characteristics towards male and female state civil servants. Discrimination is different treatment given to a party, only men or women, which is a form of gender injustice<sup>37</sup>.

Application to implement gender equality values should be included in the law on marriage and divorce for Civil Servants where marriage is a characteristic of human nature as a social being to achieve prosperity in terms of psychological and biological aspects in maintaining a survival system. Both male and female state civil servants should be equal before the law<sup>38</sup>. The views of PP No. 45 of 1990 article 4, paragraph 2, from the perspective of human rights, seriously violate the rights of every citizen. Observing some of the losses incurred in the case of polygamy, men who have status as state civil servants must also be prohibited from practising polygamy because it can harm his wife and result in himself and have an impact the growth and development of his children and have an impact on performance as a public servant.

At first glance, it appears that there is gender inequality in the rules regarding licensing, marriage, and divorce

<sup>30</sup> Musgamy.

<sup>31</sup> Uce Loeziana, 'Keseimbangan Peran Gender Dalam Al-Qur'an', *Takammul: Jurnal Studi Gender Dan Islam Serta Perlindungan Anak*, 11.1 (2022), 44–59 <<https://doi.org/http://dx.doi.org/10.22373/takamul.v11i1.12165>>.

<sup>32</sup> Izzas Humam Rohmatul, 'Konsep Kesetaraan Gender Dalam Islam', *Al Itoan*, 4.2 (2018), 29–52 <<https://doi.org/doi.org/10.47454/itqan.v4i1.678>>.

<sup>33</sup> Benita Stavre, 'Insights of British and American Writers into the Family Concept and Gender Issues in Albania in the 1920s and 1930s', *Ezjikov Syat (Orbis Linguarum)*, 20.3 (2022), 403–11 <<https://doi.org/10.37708/ezs.swu.bg.v20i3.11>>.

<sup>34</sup> Musgamy.

<sup>35</sup> Dri and Muhamad.

<sup>36</sup> Tillotami Dyah Tantri, 'Bias Gender Dalam Peraturan Pemerintah Republik Indonesia Nomor 45 Tahun 1990 Tentang Perkawinan Dan Perceraian Bagi Pegawai Negeri Sipil', *Dinamika Journal*, 3.3 (2021), 10–20.

<sup>37</sup> Nieto Cruz.

<sup>38</sup> Inayatillah and others, 'Social History of Islamic Law from Gender Perspective in Aceh: A Study of Marriage Traditions in South Aceh, Indonesia', *Samarah*, 6.2 (2022), 573 – 593 <<https://doi.org/10.22373/sjhk.v6i2.14598>>.

among civil servants; polygamy is only permitted for male civil servants, while female employees are prohibited from being polygamous as second, third, and fourth wives, even receiving sanctions in the form of threats of dishonourable dismissal. Those who violate the code of ethics or disciplinary rules, as stated in PP No. 45 of 1990 article 4 paragraph 2. In other words, it can be understood that gender inequality should not occur in Indonesia because every citizen should have the same rights and obligations before the law. Regarding the limitations of gender equality in polygamy, the rules regarding marriage and divorce permit civil servants. Both women and men must pay attention to clear, firm, and fair conditions for each sex. This gender issue is caused by gender gaps or disparities which have implications for discrimination against one party.

**Table 1.** Gender Inequality In The Prohibition Of Polygamy For Female Civil Servants

No.	Aspect	Inequality	
		Male Civil Servant	Female Civil Servant
1	Permission of polygamy	Permitted	Not permitted
2	Sanction	Nothing	threats of dishonourable dismissal
3	Reason of Prohibition	Male civil servants must also be prohibited from practising polygamy because it can harm his wife, the growth and development of his children, and performance as a public servant	women are more dignified as state civil servants

On the other hand, the rules intended for female employees not to be polygamous as second, third, and fourth wives from a gender perspective do not reflect gender equality and justice. Therefore, the norms of values in the statutory framework do not provide the same opportunities for male civil servants to obtain permission to practice polygamy, for example, having two, three, or four wives. Where the regulation discriminates against female civil servants by not providing gender justice, if female civil servants are not allowed to practice polygamy with various considerations, then the same thing should be applied to male civil servants not marrying multiple women at the same time, this is justice from a gender perspective..

## Conclusion

In the 2020-2024 RPJMN, religious moderation has been determined as one of the directions of state policy to build the moderate character of Indonesian human resources, namely adhering to the essence of religious teachings and values, oriented towards creating the public good, and at the same time upholding national commitments. In implementing the strategy to strengthen the direction of religious moderation, 4 indicators are grouped, namely: 1. national commitment; 2. tolerance,3; anti-violence, and 4; acceptance of local culture. Then, the strategy of strengthening moderation requires the participation of all parties. In this case social agents, community leaders and religious leaders are expected to really play an active role in a moderate attitude in religion.

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