Contemporary Islamic Jurisprudence Studies on Monogamy, Polygamy and Divorce

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Info Articles

Article History
Received: 2025-12-11
Revised: 2025-12-19
Published: 2025-12-30

Keywords:
Monogamy; Polygamy; Divorce; Contemporary Jurisprudence; Islamic Law.

Abstract

This study examines how Islamic law (fiqh) views marriage in the forms of monogamy and polygamy, as well as how the process and reasons for divorce are viewed from a contemporary fiqh perspective. In everyday life, marriages do not always run smoothly. Some couples choose to live with only one partner (monogamy), while others choose to live with more than one partner (polygamy), in accordance with religious rules. Furthermore, divorce is not uncommon for various reasons. This study aims to examine how contemporary Islamic scholars view and provide solutions to these problems. The approach used in this study is a literature review, compiling various opinions from classical fiqh books and the opinions of contemporary scholars. The results of this study indicate that contemporary fiqh attempts to provide a fairer and more balanced view, adapting to current social conditions. Modern scholars increasingly promote monogamy as the ideal form of marriage, while polygamy is only permitted if there is a compelling reason and is carried out fairly. Divorce is still recognized in Islam, but should be a last resort after all efforts to improve the relationship have been exhausted.

I. INTRODUCTION

Marriage is an important part of human life, not only as a physical bond between two individuals, but also as a form of worship in Islamic teachings. In practice, two main forms of marriage are recognized: monogamy, where a person lives with only one partner, and polygamy, where marriage involves more than one partner, regulated by specific conditions under Islamic law. Both forms have long been discussed in classical Islamic jurisprudence.

However, with the passage of time and changing social conditions, societal views on monogamy and polygamy have shifted. Issues such as domestic justice, women's rights, and economic and social challenges have made polygamy an increasingly sensitive topic. Similarly, divorce, although permitted in Islam, remains a last resort after various other remedies have been exhausted.

Contemporary Islamic jurisprudence studies emerge as a new form of ijtihad (intelligence) conducted by Islamic scholars to address various contemporary marital issues. The goal is not to change existing laws, but rather to provide contextual interpretations that are more relevant to modern social conditions. Through this approach, it is hoped that the values of justice, responsibility, and welfare can be maintained in the practice of marriage and domestic life for Muslims today.

II. RESEARCH METHODS

In this research, the author employed a qualitative approach using a literature review method. This method was chosen because the study focuses on exploring and understanding the views of Islamic scholars on monogamy, polygamy, and divorce from a fiqh perspective, both from classical and contemporary times. The primary objective of this approach is to explore the content, meaning, and development of Islamic legal thought related to marriage issues from various scholarly sources.

The data sources in this study include primary and secondary written materials. Primary sources include classical fiqh books such as Ibn Qudamah's Al-Mughni and Imam Syafi'i's Al-Umm, as well as various references from Quranic exegesis and hadiths that discuss the

topic of marriage. Meanwhile, secondary sources include contemporary books, scientific journals, and previous research results relevant to this topic. The data obtained were analyzed using a descriptive-analytical approach, namely by explaining and explaining the content of the opinions of scholars, then connecting them to the social context of today's society. Through this method, it is hoped that a more comprehensive understanding of how Islamic law adapts and responds to the realities of modern marriage can be found, without losing the core values of sharia such as justice, benefit, and responsibility.

III. RESULTS AND DISCUSSION

A. Understanding Monogamy, Polygamy, and Divorce

1. Monogamy

Marriage in Islam is a highly recommended act of worship for all Muslims. Likewise, the monogamous marriage system was exemplified by the Prophet Muhammad (peace be upon him) when he was married to Khadijah for 25 years. Monogamy comes from the Latin word monogamia, which is composed of the word "mono" (from the root word "manos" meaning one, single, or alone), and "gami" (from the root word "gamos" meaning marriage). Therefore, the word "monogamy" can be interpreted as meaning a single marriage or a single marriage bond.

Meanwhile, in terms of terminology, monogamy has two meanings: (1) a condition of marriage that is only carried out with one person. (2) a marriage that is carried out with one person forever. In simple terms, monogamy is a marriage relationship where a person only has one partner in his life as long as the marriage relationship lasts. In social life, the monogamous marriage system is more dominant than the polygamous marriage system. Even though in Islam both marriage systems are declared valid.

2. Polygamy

Polygamy is marrying multiple members of the opposite sex simultaneously. Polygamy means practicing (carrying out) polygamy. According to Drs. Sidi Gazalba, polygamy is marriage between a man and more than one woman. Law No. 1 of 1974 concerning marriage is the law used as a reference in resolving all issues related to marriage, divorce, and reconciliation. This law is the result of efforts to create national law and is the result of legal unification that respects variations based on religion. This legal unification aims to complement all laws regulated by that religion.

Based on Law no. 1 of 1974 concerning marriage article 3 (1), the marriage law in Indonesia adheres to the principle of monogamy, for both men and women. Only if the person concerned desires it because the law and religion of the person concerned allows it, a husband may have more than one wife. However, the marriage of a husband with more than one wife, even if this is desired by the parties concerned, can only be carried out if certain conditions are met and decided by the court.

Islam views polygamy as carrying more risks than benefits. Because humans are naturally jealous, jealous and like to complain. Therefore, polygamy is only permitted in emergency situations, such as when the wife turns out to be infertile. So in this situation, the husband is given permission to carry out polygamy because he is afraid that he will not have children, provided that he is truly able to provide for the entire family and must be fair in providing physical and spiritual support as well as his turn in residence.

3. Divorce

Divorce is taken from the word ithlaq which means to release or irsal (to decide) or tarkun (to leave), Firaqun (separation). What is meant by divorce is to release the bonds of marriage with the word talak or something similar (Abdul Halim, 2006). In Islamic jurisprudence, the word talak has two meanings, namely the general meaning and the specific meaning. Divorce according to the general meaning is all forms of divorce, whether imposed by the husband and determined by a judge or a divorce that falls automatically or divorce due to leaving one of the parties.

In the specific sense, divorce is a divorce decreed by the husband. As mentioned above, divorce has both general and specific meanings, and the meaning of the description above can be understood to mean that what is meant by divorce or divorce is releasing the wife from the bonds of marriage that have a certain waiting period. If during the waiting period the husband does not return her so that the iddah period expires, then the husband and wife relationship is no longer permissible except with a new marriage contract. So, divorce is the breaking of the bonds of marriage due to the intentional act of the husband or wife, whether consciously or not, forced.

B. Terms and Conditions of Monogamy

Monogamy is a marriage system in which a person legally has only one life partner at a time. In Islam, monogamy has certain conditions and pillars, which can vary depending on the religious context and applicable law. The following are the conditions and pillars of monogamy based on the general view in Islam:

Conditions for Monogamy According to Islamic Law.

1. Maturity: Both parties to a marriage must have reached the age considered sufficient for marriage (adulthood).
2. Mutual Consent: Both parties must consent to and agree to the marriage.
3. No Legal Barriers: For example, there is no mahram relationship (siblings, parents, etc.) between the two parties.
4. Guardianship: In some cases, if the prospective wife is still a minor or has never been married, the woman's guardian must be present and give permission.
5. Dowry (Dowry): Men are required to give women a dowry as a sign of respect and part of women's rights.
6. Marriage Contract: There is an ijab and qabul, which is a sign that both parties agree to marry with full awareness.

Pillars of Monogamy According to Islamic Law:

1. Bride and Groom: Both parties must be present and legally present under the specified conditions.
2. Guardian: For unmarried women, the presence of a guardian is a valid pillar of marriage.
3. Ijab and Qabul: Statements or words that bind both parties in marriage.
4. Witnesses: Two valid witnesses are required to validate the marriage contract.
5. Dowry: A dowry given by a man to a woman who becomes his wife.

C. Conditions and Pillars of Polygamy.

Polygamy in Islam is a marriage in which a man has more than one wife simultaneously. While permitted, polygamy in Islam has strict conditions and pillars to ensure that the rights of each wife are respected and protected. The following are the conditions and pillars of polygamy based on the general view of Islam.

Conditions and conditions for polygamy in Islam.

1. Justice**:** A man who wishes to practice polygamy must be able to treat all his wives fairly in terms of living expenses, treatment, and attention. This fairness is the main requirement for polygamy, as stated in the Qur'an, Surah An-Nisa' [4:3], which states that if one is unable to treat all his wives fairly, it is better to marry only one wife.
2. Financial Capability**:** A man must have the ability to provide a decent living for each of his wives and children, both in terms of food, shelter, clothing, and other needs.
3. First Wife's Consent**:** Although not a legal requirement, many Islamic scholars believe that the first wife must be informed and agree to her husband's decision to remarry. This is a form of etiquette in marital relations.
4. There is no legal prohibition**:** Polygamy is only permitted if there are no legal obstacles, such as the presence of mahram (siblings, mothers, daughters, etc.) or marital relationships prohibited by Islamic law.

5. Able to Maintain Emotional and Psychological Justice**:** A man must be able to give equal attention and affection to each wife emotionally, which is part of the justice that must be fulfilled.

Pillars of Polygamy in Islam.

1. Bride and Groom: Polygamy must still follow the basic principles of Islamic marriage, namely the existence of a legitimate bride and groom, and their ability to carry out the marriage.
2. Guardian (If the wife is not yet independent)**:** Just like a monogamous marriage, if one of the wives to be married is not yet independent or is still under a guardian, then the guardian must be present at the marriage contract process.
3. Ijab and Qabul (Marriage Contract)**:** As in a monogamous marriage, the marriage contract between a man and a woman (second wife and so on) must be carried out with a valid ijab and qabul.
4. Dowry (Dowry)**:** Every marriage in Islam, whether monogamous or polygamous, must be accompanied by the giving of a dowry from the husband to the legal wife as a sign of respect and rights for the wife.
5. Witness**:** The marriage contract must be witnessed by two witnesses who are legally recognized under Islamic law. These witnesses must witness the marriage contract as proof that the marriage was valid.

D. Terms and Conditions for Divorce

Divorce (talaq) in Islam is one way to end a marriage when all other efforts to save the marriage have failed. Divorce is permitted in Islam, but only as a last resort after various remedial efforts. The following are the complete requirements and pillars of divorce in Islam. These are the requirements and pillars of divorce based on the general view of Islam.

Terms and Conditions for Divorce

1. There is a valid reason.

   Divorce in Islam can only be carried out if there is a valid reason according to sharia law. These reasons could be incompatibility, lack of harmony in the household, one party committing a detrimental act (such as domestic violence or infidelity), or other problems that cannot be resolved.
2. No Possibility of Reconciliation.

   Before a divorce is finalized, a husband and wife must work to repair their relationship. Islam encourages reconciliation efforts, such as appointing a mediator or involving a third party to resolve the issue. Divorce may only be finalized if there is no further possibility of repairing the situation.
3. Divorce is done at the right time.

   In Islam, divorce must be performed at the appropriate time, namely during the period of purity or when the wife is not menstruating or pregnant. This is to ensure that the divorce is not carried out in an emotional state that could influence the decision and to ensure that the wife's rights (especially regarding the iddah period) are protected.
4. puberty

   A person procuring a divorce must be of sound mind and mature. Divorce may only be obtained by a person of sound mind and of adult age. A husband who is mentally or physically unwell may not perform a divorce.
5. The Right of Divorce to a Husband.

   In the Islamic marriage system, the husband has the right to divorce (talaq). However, a wife can also file for divorce through khulu' (a divorce requested by the wife in exchange for a dowry from her husband) if she feels uncomfortable in the marriage.
6. No Legal Barriers.

   If one of the parties (husband or wife) is in a situation that prevents divorce, for example during the iddah period or still in a period of invalid marriage, divorce cannot be carried out.

Part of Divorce:

1. Husband and Wife.

Both the husband and wife who are divorcing must be present and directly involved in the

divorce proceedings. A divorce can only be performed by a husband against a legally married wife according to Islamic law.

2. Acceptance and Acceptance.

   Divorce is carried out through the acceptance of the marriage vows (ijab and qabul). In this case, the husband pronounces the word "talaq" (divorce), for example, "I divorce you," or a sentence indicating his intention to divorce. The wife does not need to respond as in the marriage contract, but the divorce is considered valid once the husband pronounces the word "talaq" (divorce).

3. Witness

   Divorce in Islam must be witnessed by two fair witnesses. These witnesses are necessary to ensure that the divorce is carried out properly according to Islamic law and to prevent potential abuse of the right of divorce.

4. Dowry (If Not Paid)

   If the dowry (dowry) has not been paid in full, the husband must pay it in full before the divorce is finalized. If it has been paid, the wife is entitled to her rights after the divorce is finalized.

5. Iddah (Waiting Period)

   After a divorce, the wife is required to undergo a waiting period (iddah) to ensure there is no possibility of pregnancy arising from the marriage. The iddah period for a divorced wife varies depending on circumstances, such as menstruation or pregnancy, and typically lasts around three months or until delivery if the wife is pregnant.

E. Legal Basis of Contemporary Islamic Jurisprudence Studies on Monogamy, Polygamy and Divorce.

Contemporary Islamic jurisprudence studies on monogamy, polygamy, and divorce are based on fundamental Islamic principles found in the Qur'an, Hadith, and Ijma' (consensus of Islamic scholars). In the context of increasingly complex developments and social challenges, contemporary scholars conduct ijtihad, or reinterpretation, of Islamic legal sources to address issues arising in modern life. The following is the legal basis for contemporary Islamic jurisprudence studies on monogamy, polygamy, and divorce:

1. Legal Basis for Monogamy in Islam

Monogamy is a legitimate form of marriage in Islam, prioritizing one husband and one wife. The Quran and Hadith provide a strong legal basis for monogamy as the primary and primary form of marriage.

a) Al-Qur'an: One of the verses that forms the basis of the law of monogamy is Surah an-Nisa' [4:3]

وَاِنْ خِفْتُمْ اَلَّا تُقْسِطُوْا فِى الْيَتٰمٰى فَانْكِحُوْا مَا طَابَ لَكُمْ مِّنَ النِّسَاۤءِ مَثْنٰى وَثُلٰثَ وَرُبٰعَ ۚ فَاِنْ خِفْتُمْ اَلَّا تَعْدِلُوْا فَوَاحِدَةً اَوْ مَا مَلَكَتْ اَيْمَانُكُمْ ۗ ذٰلِكَ اَدْنٰٓى اَلَّا تَعُوْلُوْا ۗ

"Then if you fear that you will not be able to deal justly with orphans, then marry women who are good for you, two, three, or four. But if you fear that you will not be able to deal justly with them, then marry only one." This verse shows that monogamy is the first form of marriage recommended and is more recommended if the husband is unable to deal justly with more than one wife.

b) Hadith

In the Hadith, the Prophet Muhammad (peace be upon him) emphasized the importance of treating wives fairly in a marriage. Although polygamy is permitted in Islam, monogamy is preferred by most Muslims, especially in modern societies filled with social and economic challenges. The Hadith of the Prophet Muhammad (peace be upon him) states, "Indeed, you will be asked about your wives, so treat them well." (Narrated by Muslim). This Hadith teaches the importance of justice and compassion in marriage.

2. Legal Basis for Polygamy in Islam.

   Polygamy is permitted in Islam, but with strict restrictions. Contemporary Islamic jurisprudence emphasizes that polygamy can only be practiced if the husband can fulfill the conditions stipulated by Islamic law.

a) The Qur'an: Polygamy is permitted in Surah An-Nisa' [4:3], which also states the limits and conditions for polygamy to be carried out fairly. The verse reads, "Then if you fear that you will not be able to deal justly with orphans, then marry women who are good for you, two, three, or four. But if you fear that you will not be able to deal justly, then marry only one..." This verse explains that a man is allowed to marry more than one woman, but with the condition that he must be fair. If he is unable to do justly, then it is recommended to marry only one wife.
b) Hadith: Rasulullah SAW gave instructions regarding fair treatment in polygamy through several hadiths. In the Hadith narrated by Bukhari and Muslim, Rasulullah SAW said, "Whoever has two wives, then he is more inclined towards one of them, then he will come on the Day of Judgment with his body tilted" (HR. Bukhari and Muslim). This hadith warns about the dangers of injustice in polygamy.
c) Ijma' (Consensus of Scholars): Scholars agree that polygamy is permissible in Islam, but with strict restrictions. Contemporary scholars often emphasize that if polygamy is practiced, the husband must ensure fairness, physically, emotionally, and financially, between his wives. If he is unable to do this, polygamy is not recommended.

3. Legal Basis for Divorce in Islam.

Divorce (talaq) is permitted in Islam, although it is greatly hated by Allah. Divorce is only permitted if all efforts to reconcile the couple have failed.

a) The Qur'an: One of the legal bases for divorce is Surah al-Baqarah [2:229], which states, "Divorce is two times. After that, it is permissible to reconcile with them in a good manner or to let them go in a good manner. And it is not lawful for you to take back anything of what you have given them, unless both of them fear that they will not be able to observe the limits of Allah..." This verse provides guidelines regarding the process of divorce and reconciliation, and emphasizes that divorce can occur twice, after which there is no opportunity for reconciliation except in a legal and good manner.
b) Hadith: Rasulullah SAW also explained about divorce in several hadiths, which among other things reminded that divorce is something that is very hated, but is still permitted as a final solution. In the Hadith narrated by Abu Dawud, Rasulullah SAW said, "Divorce is a halal matter, but it is most hated by Allah among the halal things." (HR. Abu Dawud). This hadith illustrates how Islam prioritizes maintaining the household, but provides a way out if the marriage can no longer be maintained.
c) Ijma' (Ulama Consensus): Scholars agree that divorce should only be permitted after all attempts to reconcile the husband and wife have failed, whether through mediation or with the assistance of a third party. Contemporary Islamic jurisprudence emphasizes the importance of divorce being conducted fairly and without harm to either party, especially women and children.

F. Contemporary Islamic Jurisprudence Views on Monogamy, Polygamy, and Divorce in Modern Society.

Contemporary fiqh is an understanding of Islamic law that has evolved to address new issues emerging in modern society, including monogamy, polygamy, and divorce. Although the basic principles of fiqh are established in classical texts, their application in a developing society requires adaptation to current social, cultural, and economic conditions. The following are contemporary fiqh perspectives on monogamy, polygamy, and divorce in the context of modern society:

1. Monogamy in Contemporary Jurisprudence

Monogamy, that is, marriage between one man and one woman, remains the primary form

of marriage in Islamic jurisprudence. Essentially, monogamy is a fundamental principle of Islamic law, and Allah SWT states in the Qur'an, Surah an-Nisa' [4:3], that if a man feels unable to act justly, it is better to marry only one woman. Furthermore, according to contemporary Islamic jurisprudence, monogamy is as follows:

a) Prioritizing Justice and the Rights of Wives: In modern society, many contemporary scholars emphasize the importance of justice within the household. Therefore, they emphasize monogamy as a form that is easier to maintain and implement fairly, especially in the context of today's more complex social dynamics.
b) Social and Economic Issues: In many countries, especially in urban and modern societies, the high cost of living and the need to fulfill the rights of wives and children make monogamy a more practical option. Therefore, in many contexts, contemporary Islamic jurisprudence considers monogamy to be a more realistic way of fulfilling family responsibilities in the modern era.

2. Polygamy in contemporary jurisprudence.

Polygamy, which allows a man to marry more than one woman, is regulated in the Qur'an, Surah An-Nisa' [4:3], with the condition that he must be fair between the wives. Polygamy is permitted but is very limited and strictly regulated. The contemporary Islamic jurisprudence view on polygamy is as follows:

a) Elusive Justice**:** Contemporary Islamic jurisprudence often warns that achieving fairness between wives in polygamy is very difficult, both emotionally, financially, and socially. Many contemporary scholars argue that polygamy is best avoided unless there is a clear justification and the ability to act justly.
b) Social welfare**:** In many modern societies, polygamy is considered problematic. Some countries, such as Indonesia, strictly regulate polygamy, requiring court permission and proof that the husband is capable of providing for his wives and providing fair treatment. Furthermore, the issue of inequality in women's rights is often cited as a reason for further restricting the practice of polygamy.
c) Social and Economic Conditions**:**Polygamy in modern society is often considered irrelevant to existing social and economic conditions, where both parties in a marriage often have to work to meet their living needs.

3. Divorce in contemporary jurisprudence.

Divorce (talaq) is permitted in Islam as a last resort to end a marriage, but is considered extremely hateful by Allah. Divorce is often avoided and is only recommended if all attempts to reconcile the parties have failed. Contemporary Islamic jurisprudence also considers divorce as follows:

a) Divorce as the Final Solution: In modern society, divorce is often seen as a final solution when a couple can no longer maintain their marital relationship. Contemporary Islamic jurisprudence emphasizes the importance of peaceful co-existence (reconciliation) through mediation and the assistance of a third party, such as a religious court or family counselor, before resorting to divorce.
b) Women's Rights**:** Contemporary Islamic jurisprudence also places greater emphasis on women's rights in divorce. Many contemporary scholars support a woman's right to divorce if her husband fails to fulfill his obligations or causes unhappiness in the household, as in the case of khulu' (a divorce initiated by the wife in exchange for returning the dowry to her husband).
c) A Fair and Harmless Divorce**:** Many contemporary Islamic scholars advocate that divorce be conducted fairly and without prejudice to either party. For example, the wife is entitled to her rights, such as maintenance for the iddah (waiting period), child custody, and other rights related to divorce.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Monogamy is a form of marriage recognized in Islamic teachings and is exemplified in the life of the Prophet Muhammad, particularly when he lived with Khadijah for over two decades without marrying another woman. This demonstrates that marriage to one partner is not only permissible but also reflects the values of sincerity, loyalty, and long-term commitment to building a harmonious, loving, and compassionate household.

Linguistically, the word monogamy comes from a combination of Latin terms meaning marriage to one partner. Monogamy can be defined as a marriage to only one person, either for a limited time or for life. This view emphasizes the importance of an exclusive bond between husband and wife in the success of a marriage.

In real life, monogamy is preferred by many people because it is considered simpler and more stable, both emotionally and economically. Although Islam permits polygamy, Islamic law places strict restrictions on it, such as the ability to act fairly and having a justifiable reason. Therefore, monogamy is considered the ideal choice for many to maintain marital harmony.

Overall, Islamic teachings do not mandate a single form of marriage, but rather direct its followers to choose a form that aligns with their individual capacities and responsibilities. Monogamy, in a modern social context, is considered more appropriate and relevant for forming healthy, stable families that can serve as the foundation of a strong society.

B. Suggestion

Given the significant role monogamy plays in creating a peaceful and balanced family, it is fitting for Muslims to deepen their understanding of the concept of marriage within religious teachings, from a legal, moral, and social perspective. Monogamy is not simply a lifestyle choice, but also a manifestation of seriousness in building a marital relationship based on love, affection, and long-term commitment.

Therefore, the role of religious scholars, educators, and Islamic outreach institutions is crucial in providing a comprehensive understanding to the public. Comprehensive education about monogamy and polygamy will help people make marriage choices that align with their personal circumstances and Islamic values.

On the other hand, government agencies and related institutions dealing with family matters need to strengthen premarital counseling programs. The goal is to ensure prospective couples are equipped mentally, spiritually, and intellectually before entering married life. With thorough understanding and preparation, monogamy can be a conscious and responsible choice, not simply driven by cultural coercion or environmental pressure.

REFERENCE LISTAN

Abdul Halim Barkatullah dan Teguh Prasetyo. (2006). *Hukum Islam Menjawab Tantangan Zaman yang Terus Berkembang*. Yogyakarta: Pustaka Pelajar,

Feny Dyah Aprillia and Vivien Indrawati Setya. (2021). Komparasi Poligami Dan Monogami Dalam Perspektif HukumIslam, Ijlil 1, no. 1. 75–90,

Huda, Nadirsyah. (2017). *Fiqh Kontemporer: Pemikiran dan Implementasinya dalam Masyarakat Modern*. Jakarta: Pustaka Al-Kautsar

Khalaf, Abdul Wahab. (1995). *Fiqh Munakahat*, Beirut: Dar Al-fikr

Mashabudin. (2014). *Fikih Perkawinan*. Jakarta: Pustaka Al-Kautsar

Moqsith, Abd. 2015. Tafsir atas poligami. KARSA, Vol. 23 No. 1, Juni 2015

Shihab, Quraish. (2007). *Hukum Perkawinan Islam.* Jakarta: Lentera Hati