



## Unauthorized Polygamy and Legal Protection: A Pancasila-Islamic Sociological Jurisprudence Theory Analysis of Religious Court Judgments

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**Abstract.** *This study examines the phenomenon of unauthorized polygamy in Indonesia as a reflection of the gap between legal norms and social reality, with particular attention to its implications for women's legal protection. Although Law No. 1 of 1974 requires court approval and spousal consent, such provisions are frequently bypassed, resulting in legal uncertainty and gender-based disadvantages. This research employs a normative qualitative approach using library research, analyzing statutory regulations, Religious Court decisions, and relevant scholarly literature through conceptual and case approaches. The findings reveal that unauthorized polygamy persists due to socio-cultural, economic, and religious factors, as well as weak law enforcement and inconsistent judicial reasoning. While some Religious Court decisions incorporate substantive justice considerations—such as women's conditions, children's welfare, and social impacts—others remain formalistic and procedural, leading to uneven legal protection. From the perspectives of Pancasila and Islamic Sociological Jurisprudence, this condition indicates that the law has not fully functioned as an instrument of social justice and public welfare (masalah). The study concludes that strengthening women's legal protection requires an integrated approach combining legal reform, judicial capacity development, and socio-legal awareness. Such efforts are essential to ensure that Islamic family law evolves toward a more equitable, context-sensitive, and justice-oriented system.*

**Keywords:** *Islamic Sociological Jurisprudence; Pancasila Justice Values; Religious Court Decisions; Unauthorized Polygamy; Women's Legal Protection.*

### 1. BACKGROUND

The occurrence of illegal polygamous relationships within the realm of family law in Indonesia is a multifaceted challenge that goes beyond just legal aspects, touching on issues of human rights, gender fairness, and wider societal interactions. According to Law Number 1 of 1974, polygamous unions must obtain court approval and the agreement of the current spouse, which is intended to protect the rights of women and children. However, in reality, breaches of these rules remain common, revealing a significant disparity between established legal standards and actual societal practices, as well as an inadequate enforcement of legal safeguards (Isqi Dzurriyyatus Sa'adah & Mohamad Sar'an, n.d.).

In scholarly discussions, the topic of polygamy has been analyzed from various angles, such as Islamic jurisprudence, secular law, and the ethical ideals represented in Pancasila. Mustain Nasoha points out that the implementation of polygamy in Indonesia strays from the core tenets of social justice and gender parity, largely due to ineffective legal enforcement (Nasoha et al., 2024). In addition, other research highlights that, in reality, polygamy frequently leads to unequal gender dynamics and creates major obstacles to achieving the justice outlined in Islamic legal frameworks (Muhammad

Mustain Nasoha et al., 2025). This perspective is bolstered by further studies showing a disconnect between how polygamy is practiced and the concepts of justice ('adl) and community benefit (maslahah) found in Islamic family law (Duri, 2022; Safrizal, 2023).

From a perspective focused on human rights and gender issues, the practice of unauthorized polygamy has the ability to infringe upon women's rights and disturb family dynamics. Polygamy frequently puts women in a lesser role and can even be seen as a type of systemic violence (Dozan, 2021). Additionally, feminist viewpoints in the exploration of Islamic law have critiqued polygamous practices that do not adhere to the concept of meaningful justice (Muhamad, Nasoha, Atqiya, Najib, et al., 2024). Other research highlights that the management of polygamy should prioritize safeguarding women's rights to avoid discriminatory practices (Anam, 2020). Further studies maintain that oversight of polygamy should focus on the protection of women's rights to ensure there is no discrimination in its execution (FUAD, 2020; Nurul Fadila et al., 2024).

From the viewpoint of the sociology of law, polygamy is recognized not only as a normative issue but also as a social construct influenced by cultural, economic, and power dynamics within society. Research shows that the practice of polygamy is frequently shaped by different legal interpretations and distinct social contexts in various communities (Widiani, 2022). Additionally, the legal safeguards for women engaged in polygamy continue to encounter numerous obstacles in their application. Socio-legal research also reveals that polygamy is commonly linked to power dynamics and social inequities in society, necessitating a more context-aware and socially attuned legal approach (Muhamad, Nasoha, Atqiya, Ridha, et al., 2024).

The Islamic Sociological Jurisprudence approach provides a framework for analysis that views law as a societal instrument meant to embody justice and the common good *maslahah*. Understanding how judges combine current laws with Pancasila ideals and Islamic legal norms in resolving instances of unauthorized polygamy depends critically on an analysis of the decisions taken by the Religious Courts inside this framework (Daharis et al., 2025). There is a research gap, though, as earlier studies mostly focused on normative aspects and neglected to examine court judgments properly or to simultaneously integrate Pancasila-oriented and socio-legal viewpoints (Setiyanto, 2017).

Based on the foregoing, this study is significant in strengthening legal protection for women in cases of unauthorized polygamy and in ensuring that law enforcement is aligned with the principles of justice embodied in Pancasila and Islamic law. The objective of this research is to analyze the practice of unauthorized polygamy in decisions of the Religious Courts by employing Pancasila and Islamic Sociological Jurisprudence

approaches, as well as to assess the extent to which legal protection is afforded to women within the context of family law in Indonesia (Muhamad, Nasoha, Atqiya, Arrosyida, et al., 2024).

Moreover, the continuous occurrence of unlawful polygamous partnerships shows that the efficacy of legal regulations rests not only on the clarity of the laws but also on the degree of community acceptance of these norms. Although Indonesia's legal system has established rules to regulate polygamy, the reality that unapproved acts continue suggests that these legal standards have not been totally internalized into public consciousness. This scenario emphasizes a larger socio-legal problem whereby adherence to the law is influenced by cultural acceptance, social legitimacy, and perceived need. Studies on family dynamics and social damage additionally reveal that violations of the law in domestic situations typically result from familiar patterns of behavior rather than from deliberate disregard of the laws. Therefore, investigating unlawful polygamy calls for a change from a strictly legal perspective to a socio-legal one that examines how law interacts with daily life (Bouroncle Velásquez et al., 2026).

In addition, contemporary developments in Islamic legal scholarship emphasize the need to reinterpret traditional legal doctrines in light of evolving social conditions, particularly in matters related to justice and gender equality. The principle of justice ('*adl*), which underpins the permissibility of polygamy in Islamic law, must be understood as a substantive obligation rather than a formal condition. However, in practice, this principle is often reduced to a symbolic requirement without meaningful evaluation of its implications. Recent academic discussions highlight that Islamic legal interpretation must remain responsive to contextual realities, especially when existing practices lead to inequality or harm. Consequently, unauthorized polygamy should be critically examined not only as a legal irregularity but also as a deviation from the ethical foundations of Islamic law itself (Hidayat et al., 2026).

The economic dimension of unauthorized polygamy constitutes a significant factor that influences both its occurrence and its impact on family welfare. In many instances, polygamous arrangements are undertaken without adequate financial capacity, resulting in unequal distribution of resources and the neglect of existing family members. This condition undermines the principle of fairness and raises serious concerns regarding the sustainability of such marital arrangements. Research on Muslim household economics underscores that financial responsibility is a central component of justice within family life, as it directly affects the wellbeing of women and children. Accordingly, any

comprehensive analysis of unauthorized polygamy must incorporate economic considerations as an integral element of legal and ethical evaluation (Saadeldin, 2026).

From a gender perspective, unauthorized polygamy reflects entrenched power imbalances that continue to shape familial and social relations. Women are frequently positioned as passive recipients of decisions, with limited bargaining power and restricted access to legal remedies. This structural inequality not only affects their autonomy but also perpetuates broader patterns of gender-based disadvantage within society. Feminist legal scholarship has consistently emphasized that law must actively intervene to correct such imbalances in order to achieve substantive justice. Without this intervention, legal systems risk legitimizing practices that reinforce inequality. Therefore, the analysis of unauthorized polygamy must incorporate a gender-sensitive framework that prioritizes the protection of women's rights and addresses the underlying structures of domination (Gilbert et al., 2024).

Additionally, the concept of justice in family law can be further understood through the notion of relational balance, where fairness is achieved when the rights and obligations of all parties are equitably distributed. Unauthorized polygamy disrupts this balance by allowing unilateral decision-making that excludes the meaningful participation of affected parties, particularly women. Theoretical perspectives on relational systems suggest that stability within social relationships depends on the presence of fairness, reciprocity, and mutual consideration. When these elements are absent, the resulting relationships are inherently unstable and prone to conflict. This perspective reinforces the importance of legal mechanisms, such as judicial approval, in ensuring that polygamous arrangements meet standards of fairness and do not produce harm (Baïou & Balinski, 2000).

Finally, recent interdisciplinary approaches to family law highlight the importance of integrating legal, social, and ethical considerations in addressing complex marital issues such as unauthorized polygamy. Studies on marriage stability and social dynamics indicate that justice, accountability, and mutual respect are essential components of sustainable family relationships. However, these values must be grounded in substantive fairness rather than mere tolerance of unequal conditions. In this context, tolerance should not serve as a justification for practices that undermine the rights of vulnerable parties. This study, therefore, contributes to the existing body of literature by offering an integrated analytical framework that combines Pancasila values, Islamic legal principles, and socio-legal perspectives. This approach represents a key novelty, as it bridges

normative legal analysis with empirical social realities to provide a more comprehensive understanding of legal protection in family law (Buxay et al., 2026).

## 2. THEORETICAL FRAMEWORK

The theoretical framework of this study is grounded in Islamic family law and positive law in Indonesia governing the practice of polygamy. From the perspective of Islamic law, polygamy is permitted under the condition of justice, as stipulated in Qur'an Surah An-Nisa, which emphasizes the husband's obligation to fulfill the rights of wives in a fair and equitable manner. However, in practice, this principle of justice is often distorted, resulting in various forms of inequality within family life. Empirical studies indicate that the implementation of polygamy does not always reflect substantive justice, particularly when it is carried out without adherence to established legal procedures. This condition is further highlighted in both Islamic legal scholarship and Indonesian positive law, which reveal a gap between normative provisions and their application in practice (Isqi Dzurriyyatus Sa'adah & Mohamad Sar'an, n.d.).

Within the framework of positive law, the practice of polygamy in Indonesia is strictly regulated under Law No. 1 of 1974 on Marriage, which requires court authorization and the consent of the existing wife or wives. The theory of legal protection emphasizes that the law must guarantee the rights of individuals, particularly women and children as vulnerable groups. However, various studies indicate that unauthorized polygamy continues to occur, suggesting weak law enforcement and the ineffectiveness of existing regulations. This condition reflects a persistent gap between legal norms and their implementation in society (Miranti Orista, 2025). Other studies also underscore the importance of protecting women's rights in the practice of polygamy in order to prevent structural discrimination (Ni et al., 2025).

Furthermore, this study employs the Islamic Sociological Jurisprudence approach, which conceptualizes law as a dynamic social phenomenon that is responsive to societal change. This theory emphasizes that law is not merely normative in nature but must also be capable of producing substantive justice grounded in social realities. In the context of polygamy, this approach is relevant for analyzing how decisions of the Religious Courts reflect the values of social justice, public welfare (*maslahah*), and the principles of Pancasila. From gender and socio-legal perspectives, the practice of polygamy often contributes to unequal power relations within the family, domestic conflict, and social instability. Therefore, an interdisciplinary approach that integrates Islamic law, positive

law, and the values of social justice is necessary to comprehensively understand this phenomenon.(Ni et al., 2025)

### **3. RESEARCH METHODOLOGY**

This study employs a library research approach with a normative qualitative design, focusing on the analysis of primary, secondary, and tertiary legal materials related to the practice of unauthorized polygamy. Primary legal materials include statutory regulations and decisions of the Religious Courts, while secondary materials consist of scholarly journals and relevant literature, which are systematically analyzed through documentation techniques. The research instrument is the researcher, utilizing techniques of data recording and classification based on the thematic scope of the study. Data analysis is conducted using a descriptive-analytical method, encompassing stages of data reduction, data presentation, and conclusion drawing. The study applies both conceptual and case approaches to examine the consistency between legal norms, judicial practices, and the values of Pancasila and Islamic Sociological Jurisprudence. This method is considered effective in legal research as it enables an in-depth and comprehensive examination of phenomena through systematic literature review (Argyrou, 2017).

### **4. RESULTS AND DISCUSSION**

#### **Unauthorized Polygamy as a Form of Inconsistency between Legal Norms and Social Reality**

This part looks into illegal polygamy as a significant example of the mismatch between laws and everyday life in Indonesia. Even though there are clear laws about polygamy, how they are put into practice frequently differs from what happens in real life. This difference leads to important questions about how well the law works to control people's actions and to provide fairness, especially regarding Islamic family law. By exploring this topic, the research aims to discover the reasons why illegal polygamy continues and to assess what it means for legal clarity and social fairness (Sofiandi et al., 2024).

The findings of this study indicate that the practice of unauthorized polygamy represents a phenomenon reflecting a discrepancy between prevailing legal norms and social realities within society. Normatively, positive law in Indonesia has clearly regulated the requirements for polygamy through Law No. 1 of 1974 on Marriage, which mandates prior court authorization and the consent of the existing wife or wives(Turatmiyah et al., 2024). However, in practice, these provisions are frequently

disregarded, resulting in polygamous marriages being conducted without adherence to lawful procedures (Ahmad Muhammad Mustain Nasoha et al., 2023). This condition indicates that the law has not yet been fully effective in regulating social behavior, particularly within the context of Islamic family law. (Budimansyah & Arabiyah, 2018)

Additionally, the research suggests that the occurrence of unauthorized polygamy is not only due to a lack of legal understanding but is also shaped by social, cultural, and economic influences. In certain instances, polygamy is defended on religious bases, yet it frequently occurs without consideration for the fairness principle, which is essential in Islamic law. This indicates a misunderstanding of the proper concept of polygamy within Islam. Furthermore, insufficient oversight and enforcement of laws contribute to the continuation of these practices, thereby weakening the enforcement of legal standards in society (Nurdin et al., 2024).

An analysis of decisions issued by the Religious Courts reveals variations in judicial reasoning. Some judges continue to adopt a formal legal approach, emphasizing administrative and procedural aspects, while others have begun to consider substantive justice, including the condition of women and the social impacts arising from polygamy. However, this substantive approach has not yet become dominant, resulting in suboptimal protection for women in cases of unauthorized polygamy. This condition indicates that the judicial system remains in a transitional phase between a predominantly normative approach and a more contextual, socially responsive approach (Indayani et al., 2025).

Building on these insights, it is crucial to acknowledge that the ongoing issue of unapproved polygamy mirrors a wider gap between legal standards and actual social conditions. While the regulations regarding polygamy are explicitly documented in Indonesia's legal framework, their effectiveness in real-life situations is often limited when they do not align with the daily realities and beliefs of the people. Many times, individuals view legal processes such as obtaining court approval and receiving consent from partners not as essential to validating a marriage, but as bureaucratic hurdles that can be avoided. This suggests that the power of law is not solely based on its formal recognition but also on its ability to be embraced by the community's social awareness. Therefore, when legal principles are not fully integrated into the cultural and ethical landscape of society, their ability to regulate behavior becomes considerably diminished (Bouroncle Velásquez et al., 2026).

Moreover, the acceptance of unauthorized polygamy in some communities indicates that following the law is often influenced by conflicting sets of norms, especially those based on religious and cultural beliefs. In these situations, people might give more

weight to their personal interpretations of what is allowed by their faith than to legal requirements, leading to a separate set of norms that coexist with official laws. This mixed legal viewpoint creates confusion about what behavior is considered acceptable, ultimately weakening the consistency of the legal system. Consequently, the presence of these overlapping systems not only hinders law enforcement but also continues practices that diverge from both legal criteria and the moral foundations of Islamic law it self (Hidayat et al., 2026).

Furthermore, the economic and social aspects of unapproved polygamy significantly contribute to the continuation of this practice. Women's economic instability often hinders their capacity to oppose or question polygamous situations, especially when they rely on their partners for financial support. This reliance is further upheld by societal inequalities that limit women's opportunities in education, jobs, and legal support. Under these conditions, the choice to accept or endure unauthorized polygamy is not always a matter of free will but is often influenced by pressing economic and social pressures. Thus, the ongoing existence of this practice should be viewed not merely as a breach of law but also as an expression of wider systemic imbalances that create disadvantages for women in both familial and social contexts (Saadeldin, 2026).

Additionally, the disparity between established legal standards and actual societal behaviors reveals the limited role of law in enacting social change. Although legal systems aim to ensure fairness and govern conduct, their effectiveness hinges on the level of support they receive from institutions and the willingness of society to adhere to them. In cases of unapproved polygamy, insufficient oversight and a lack of uniform penalties have weakened the law's ability to deter such practices. This scenario demonstrates that legal change cannot simply depend on rules and regulations but must also take into account the systemic and cultural elements that shape behaviors. Without adopting a more holistic strategy, the law risks becoming a mere token effort instead of a practical tool in accomplishing its goals (Baïou & Balinski, 2000).

Furthermore, the gap between formal legal norms and real-life social actions indicates the constrained impact of law in fostering societal transformation. While legal frameworks strive to promote justice and regulate behavior, their success relies on the backing they receive from organizations and the readiness of the community to follow them. In instances of disallowed polygamy, inadequate monitoring and inconsistent punishments have diminished the law's capacity to prevent such actions. This situation illustrates that legal reform cannot rely solely on statutes and rules but must also consider the underlying systemic and cultural factors that influence behavior. Without embracing

a more comprehensive approach, the law risks turning into a mere symbolic gesture rather than an effective instrument for achieving its objectives (Buxay et al., 2026).

Lastly, these circumstances highlight the pressing need to improve the coherence between legal standards, court practices, and social conditions. To achieve this coherence, a comprehensive approach is essential, combining legal reforms, enhancing the capabilities of the judiciary, and raising public awareness regarding legal rights and duties. Specifically, there should be a focus on empowering judges to apply social and legal viewpoints, as well as gender-aware considerations in their rulings. Concurrently, community initiatives are vital to foster a better understanding of the legal and religious principles related to polygamy. If these collective initiatives are not implemented, the law will continue to face challenges in serving as a means for delivering justice and safeguarding vulnerable populations, particularly women, within the realm of family law (Laing, 2017).

Overall, the ongoing presence of unapproved polygamy highlights a major disconnect between established legal standards and actual social practices, showing that the law has not completely managed to influence behavior in the community. This situation is made worse by the interplay of cultural, economic, and religious elements, along with discrepancies in legal interpretations. Consequently, unapproved polygamy not only weakens the rule of law but also brings about real hardships, especially for women, who frequently find themselves in precarious situations within imbalanced family dynamics. Consequently, this challenge should not be seen only as a legal issue, but rather as a larger concern regarding social justice. Building on this observation, it is important to delve deeper into how these circumstances impact the safeguarding of women's rights, especially through the frameworks of Pancasila and Islamic Sociological Jurisprudence (Nashih, 2025).

### **Legal Protection for Women from the Perspective of Pancasila and Islamic Sociological Jurisprudence**

Building upon the identification of the gap between legal norms and social reality in cases of unauthorized polygamy, it is necessary to further examine how this condition affects the protection of women's rights. The inconsistency between normative provisions and actual practices not only reflects weak legal enforcement but also raises fundamental questions regarding the extent to which the law fulfills its function in ensuring justice. Therefore, the following section analyzes the issue from the perspective of women's legal protection through the frameworks of Pancasila and Islamic Sociological Jurisprudence (Qibtiyah et al., 2025).

From the perspective of Pancasila, the practice of unauthorized polygamy that fails to uphold justice for women is inconsistent with the fundamental values of the state, particularly the second principle (just and civilized humanity) and the fifth principle (social justice for all Indonesian people). The findings of this study indicate that, in many cases, women are the most adversely affected, economically, psychologically, and socially. This condition suggests that the practice of unauthorized polygamy has not reflected the value of social justice that underpins the national legal system. Accordingly, a legal approach is required that is not only oriented toward formal compliance but also toward the realization of substantive justice (Mustafa et al., 2025).

When examining the issue through the lens of Islamic Sociological Jurisprudence, it becomes evident that laws have not effectively served as a mechanism for social change concerning unauthorized polygamy. Ideally, laws should guide societal behavior toward justice; however, they frequently remain influenced by existing social and cultural norms. In this scenario, the rulings of Religious Courts play a crucial role in the evolution of Islamic family law toward a more equitable and socially aware structure. Yet, this study uncovers that not every legal decision consistently embodies this outlook (Muhamad Mustain Nasoha et al., 2025).

Additionally, from a gender standpoint, unauthorized polygamy often perpetuates imbalanced power dynamics between men and women. Many times, women find themselves in lower-status roles, lacking adequate influence in family decisions. Therefore, ensuring legal protections for women should be a fundamental focus in every policy and judicial ruling concerning polygamy. This aligns with multiple studies that highlight the necessity of combining Islamic law, statutory law, and sociological methods to create a more equitable and responsive legal system (Mala et al., 2025).

Overall, the findings of this study indicate that the practice of unauthorized polygamy constitutes a multidimensional issue that requires a comprehensive approach to its resolution. The integration of Pancasila values, the principles of justice in Islamic law, and a socio-legal approach is essential to achieving more effective legal protection for women. Accordingly, this study contributes to the development of Islamic family law that is more contextual, just, and oriented toward public welfare (*maslahah*) (Majid, 2025).

The legal protection of women in situations involving illicit polygamy should not only be seen as a matter of adhering to legal protocols, but also as a means to mitigate broader types of harm within family dynamics. When polygamy occurs without judicial approval and the genuine consent of the current spouse, women may face financial

neglect, emotional strain, and social exclusion. This situation illustrates that lacking legal permission is not simply a bureaucratic infraction, but a scenario that could lead to unequal and potentially damaging familial relationships. Research on domestic abuse highlights that violence and harm within family settings are frequently influenced by a variety of interrelated personal, familial, and cultural factors; hence, legal discussions must take into account the broader societal context that contributes to women's vulnerability. In this regard, unauthorized polygamy can be seen as part of a larger trend of gender-based injustice, as it places women in a disadvantaged situation and fails to uphold their dignity, safety, and well-being (Bouroncle Velásquez et al., 2026).

From the viewpoint of Islamic Sociological Jurisprudence, safeguarding women's rights demands an understanding of Islamic legal concepts within their specific context, particularly focusing on the principle of justice in marital relationships. Islamic law does not only address the acceptability of polygamy; it also emphasizes justice as a fundamental ethical requirement. As a result, if polygamy is carried out without clarity, fairness, and legal responsibility, it fails to align with the moral goals of Islamic family law. Modern debates regarding Islamic interpretation and gender justice highlight the necessity for ongoing scrutiny of religious understanding in relation to social conditions, particularly when certain theological interpretations might perpetuate inequality. This indicates that Islamic legal thought must remain connected to the realities of women's experiences, since the aim of law transcends merely maintaining written norms and extends to upholding human dignity and social equity. Consequently, Religious Courts ought to approach polygamy cases by linking Islamic tenets, social realities, and the safeguarding of women's rights (Hidayat et al., 2026).

Moreover, unauthorized polygamous relationships commonly result in financial difficulties within a family, particularly when the husband lacks sufficient funds to support more than one household. This matter is significant because fairness in polygamous marriages goes beyond emotional consideration; it also encompasses financial obligations, management of the household, and meeting everyday needs. When a husband commits to another marriage without proper legal oversight, his first wife and children might lose reliable financial support, clarity regarding inheritance, and overall household stability. Studies concerning Muslim purchasing habits, wedding costs, and household management reveal that financial factors are crucial in the lives of Muslim families, affecting how they handle responsibilities and economic challenges. Thus, it is essential that legal protections for women include a judicial evaluation of the husband's financial capabilities and the tangible effects of polygamy on current family members.

Without such evaluations, polygamy can turn into a means of financial injustice instead of being recognized as a legitimate family setup (Saadeldin, 2026).

Additionally, the problem of unapproved polygamy must be examined through the perspective of patriarchy, since imbalanced gender dynamics often influence marriage choices. Frequently, women are not regarded as equal legal entities but rather as individuals who must comply with decisions made by men. This situation illustrates a patriarchal framework where male power is accepted as the norm while undermining women's consent, well-being, and independence. Research in feminist studies regarding patriarchy indicates that societal structures can perpetuate the subjugation of women when they do not critically assess the power dynamics present in everyday interactions. Consequently, in the realm of unauthorized polygamy, the law should act as a means to counteract patriarchal control. Legal safeguards must confirm that women are not seen solely as passive participants in marital arrangements, but as individuals with rights whose consent, dignity, and well-being need to be upheld by both the government and the judiciary (Gilbert et al., 2024).

The significance of consent and equity can be enhanced by regarding marriage as a relational framework that calls for equilibrium between those involved. While studies in mathematics concerning stable matches are not inherently legal, the idea of stable matching serves as a helpful analogy: a relationship reaches stability only when neither party is at a structural disadvantage and when their preferences or interests are duly taken into account. In cases of unauthorized polygamy, this equilibrium is frequently lacking because the current spouse may remain uninformed, may not be asked for true consent, or may lack the capability to contest the husband's choices. This illustrates the necessity for legal safeguards to prevent unilateral decision-making in marriage. The judiciary's role is vital since court approval acts as a way to assess whether the proposed polygamous union is just, stable, and poses no harm to the wife and children. Without such oversight, polygamy risks evolving into an imbalanced arrangement that favors one party while undermining the legal standing of another (Baïou & Balinski, 2000).

Ultimately, efforts to protect women in cases of unofficial polygamy should focus on creating family stability founded on justice, acceptance, and responsibility. A recent mathematical analysis regarding marriage sustainability and divorce trends indicates that acceptance might help in diminishing divorce rates and enhancing marital bonds. Still, acceptance must not be misconstrued as a requirement for women to passively endure unfairness. Within the framework of Pancasila and Islamic Sociological Jurisprudence, acceptance should be coupled with fairness, accountability, and clear legal guidelines.

Women ought not to be compelled to endure detrimental practices under the guise of family togetherness, especially when their rights are disregarded. Thus, changes in the law and judicial interpretations should foster a deeper understanding of family unity: true harmony entails justice, mutual regard, and safeguarding those in vulnerable positions rather than merely the absence of discord. This strengthens the viewpoint that unauthorized polygamy needs to be confronted with a comprehensive legal approach that integrates Pancasila principles, Islamic equity, gender awareness, and socio-legal consciousness (Buxay et al., 2026).

The analysis above demonstrates that unauthorized polygamy is not merely a legal irregularity but also a manifestation of structural injustice that disproportionately affects women. While the integration of Pancasila values and Islamic Sociological Jurisprudence provides a strong normative foundation for protecting women, the effectiveness of such protection ultimately depends on how these principles are interpreted and applied in judicial practice. In this regard, Religious Courts play a decisive role in translating normative ideals into concrete legal outcomes. Accordingly, the following section explores the implications of Religious Court decisions for strengthening substantive justice in family law (Mahdi Dahash, 2025).

### **Implications of Religious Court Decisions for Strengthening Substantive Justice in Family Law**

The findings of this study indicate that decisions of the Religious Courts play a strategic role in shaping the development of Islamic family law in Indonesia, particularly in cases of unauthorized polygamy. The courts function not only as institutions that apply the law but also as actors in legal development through judicial interpretation and reasoning. In several decisions, there is a discernible tendency among judges to move beyond a strictly formal legal approach by incorporating considerations of substantive justice, including the condition of the wife, the impact on children, and broader social aspects. This reflects a paradigm shift in the practice of the Religious Courts toward a more humane and context-sensitive approach (Khotimah Lestari et al., 2026).

However, this shift has not occurred uniformly. There remain decisions that tend to be formalistic, emphasizing administrative aspects without thoroughly considering broader social impacts. This condition reflects an inconsistency in the application of substantive justice, resulting in suboptimal legal protection for women in cases of unauthorized polygamy. It also indicates that the capacity of judges to engage with issues of gender justice and socio-legal analysis requires further strengthening in order to

produce decisions that are more progressive and responsive to social realities.(Aliyah et al., 2025)

From a comprehensive viewpoint, enhancing substantive justice necessitates a collaboration among Islamic law, statutory law, and the principles of Pancasila. The Islamic principle of justice, which focuses on the public good (*maslahah*), along with the social justice values inherent in Pancasila, should be integrated into every legal assessment. Therefore, judicial rulings must not only be legally valid but should also genuinely reflect social justice in the community. This method is crucial when tackling the complexities of unauthorized polygamy, which is not simply a legal matter but also involves sociological and cultural factors (Anisa Ananda et al., 2025).

Furthermore, the implications of this study indicate that reform in family law is required not only at the level of regulation but also in terms of implementation and law enforcement. Strengthening judicial capacity, enhancing public legal awareness, and incorporating sociological approaches into judicial practice are essential to establishing a more just and responsive legal system. This study contributes to the development of Islamic family law that is not merely normative but also contextual and oriented toward the realization of substantive justice for all parties involved (Nawawi et al., 2025).

Function of Religious Courts in Indonesia goes beyond just resolving disputes; it also plays a role in influencing how Islamic family law is applied in real situations. Court rulings, especially regarding cases of unauthorized polygamy, demonstrate how societal legal norms are understood and enforced. When judges take into account fairness, social consequences, and the well-being of families, their rulings help create a legal system that is more just and responsive. On the other hand, if decisions focus solely on procedural legality, they may ignore the wider issues of injustice faced by women and children. Research on family structures shows that legal organizations can either help lessen or deepen inequality based on the way judges reason and make decisions (Lens, 2019).

Moreover, the variation in Religious Court rulings reveals a disconnect between normative legal standards and their actual application. While the laws regarding polygamy in Indonesia are fairly straightforward, their enforcement largely relies on how judges interpret them. Islamic Sociological Jurisprudence stresses the importance of law interacting with societal realities instead of being confined to its textual meaning. This perspective calls for judges to reflect on the real-life experiences of those impacted by legal outcomes, especially women who may find themselves in precarious situations. Modern debates in Islamic legal academia further indicate that a re-evaluation of current practices is necessary when they do not lead to justice. Thus, enhancing consistency in

judicial decisions requires the incorporation of social and legal insights into the process of making decisions (Liu et al., 2025).

Also, economic factors are significant in determining the legitimacy and sustainability of a polygamous relationship. Numerous instances of illegal polygamous arrangements show that the financial situation of the husband is not properly evaluated, causing an unfair distribution of resources and the neglect of current family members. This scenario goes against both Islamic legal guidelines and legal standards that stress the importance of duty and equity. Studies on the finances of Muslim households indicate that having financial security is crucial for supporting family well-being and reducing conflict. Decisions made by Religious Courts should include a thorough analysis of economic elements to ensure that polygamy does not lead to unfair treatment of women and children (Bakoh & Assalihee, 2025).

From a gender standpoint, the outcomes of Religious Court rulings are closely related to the acknowledgment of imbalanced power dynamics within families. Often, women are not adequately included in decision-making, which hampers their ability to claim their rights. Court rulings that overlook this disparity risk endorsing patriarchal systems that disadvantage women. On the other hand, rulings that emphasize women's rights and take into account their socio-economic situations can serve as means for social change. Feminist legal studies highlight that the law can either combat or perpetuate gender inequality, depending on its interpretation and application. Thus, it is crucial to incorporate gender-aware reasoning to attain real justice in family law (Conaghan, 2000).

The idea of justice in the rulings of Religious Courts can be viewed as the establishment of equilibrium within familial ties. An equitable verdict should guarantee that the rights and duties of everyone involved are fairly allocated, ensuring that no individual experiences a structural disadvantage. When unauthorized polygamous arrangements take place without appropriate legal and moral considerations, this equilibrium is disturbed, resulting in discord and instability within the family. Theoretical views regarding relational equilibrium indicate that fairness plays a crucial role in maintaining lasting stability. Therefore, judges need to assess whether their rulings foster fair relationships or reinforce inequality (Baïou & Balinski, 2000).

In conclusion, ensuring substantial justice in decisions made by Religious Courts necessitates a comprehensive approach that combines legal, social, and ethical factors. Reforms in the legal system should aim not only to improve existing laws but also to boost judges' abilities to apply considerations of social justice and gender issues. Cross-disciplinary research on family well-being highlights that justice, accountability, and

mutual respect are crucial for fostering healthy relationships. However, these principles must rest on the foundation of fairness and responsibility, rather than simply tolerating unequal situations. Consequently, decisions from Religious Courts ought to focus on safeguarding those who are vulnerable, advancing equality, and embodying the broader principles of justice found in both Pancasila and Islamic law (Buxay et al., 2026).

Additionally, how well Religious Court decisions achieve real justice is closely tied to various organizational factors, such as judge training, the legal environment, and the presence of social and legal guidelines. Often, judges depend heavily on written laws because there are no clear systems that promote a deeper understanding of the law within a social context. This situation can result in a limited view of justice that focuses more on following procedures than on achieving fair outcomes. Therefore, enhancing the capabilities of these institutions is crucial to ensure that judges have the right resources to handle complicated family law cases, especially those that involve gender issues and social challenges. Research comparing different legal systems shows that ongoing education for judges, particularly in gender justice and cross-disciplinary legal study, greatly enhances the quality and consistency of court rulings. Hence, reform initiatives should involve creating training programs and interpretative guidelines that merge Islamic legal concepts, values from Pancasila, and social-legal viewpoints into judicial decision-making (Bouroncle Velásquez et al., 2026).

Understanding the law and having access to legal help are very important for the overall effect of Religious Court rulings on the community. Even when courts make fair and forward-thinking decisions, their impact can be small if people do not know their legal rights or have trouble reaching the courts. Women, in particular, may face social, financial, or cultural challenges that stop them from getting legal help in situations of illegal polygamy. This shows that we need to see real justice not just as a result of court decisions, but also as a feature of a fair legal system that is open and responsive to everyone in society. Studies that look at family law and social growth suggest that how well the law works is closely linked to how much people trust the legal system, their understanding of the law, and how easy it is to access legal institutions. Therefore, initiatives to improve real justice must also tackle the barriers outside of the courtroom, making sure that legal protections are not just officially in place but also actually obtainable for those who need them the mos (Buxay et al., 2026)t.

Overall, the analysis of Religious Court decisions reveals that the realization of substantive justice in family law remains uneven and highly dependent on judicial interpretation. While some decisions reflect a progressive approach that integrates legal

norms with social realities, others continue to prioritize procedural compliance over substantive fairness. This inconsistency highlights the need for a more structured and integrated approach that combines legal, social, and ethical considerations in judicial reasoning. Consequently, a broader reflection is required to assess how legal frameworks, judicial practices, and societal conditions interact in shaping the effectiveness of law in addressing unauthorized polygamy (Mahmud, 2025).

## CONCLUSION AND RECOMMENDATIONS

Based on the findings of this study, it can be concluded that the practice of unauthorized polygamy in Indonesia reflects a discrepancy between prevailing legal norms and social realities within society. Although positive law has clearly regulated the requirements for polygamy through mechanisms such as court authorization and spousal consent, its implementation remains ineffective, as evidenced by the continued prevalence of polygamy conducted without lawful procedures. Decisions of the Religious Courts play an important role in bridging this gap; however, they have not yet consistently applied substantive justice, particularly in providing protection for women. This condition indicates that law enforcement in the context of polygamy remains in a transitional phase between a formalistic approach and a more contextual approach oriented toward social justice (Abdullah, 2018).

In line with these findings, it is recommended that the strengthening of substantive justice within the practice of Religious Courts be pursued through enhancing judges' capacity to understand gender issues, socio-legal perspectives, and Pancasila values as fundamental bases for legal reasoning. In addition, reform is required at the level of legal implementation through strengthened supervision of polygamy practices and increased public legal awareness, so that legal norms may function more effectively in society. This study is limited by its reliance on a library research approach, which does not directly examine empirical data in the field and therefore does not fully capture the factual dynamics of polygamy practices within society. Accordingly, future research is recommended to adopt empirical or socio-legal approaches in order to obtain a more comprehensive understanding of legal implementation and its impact on the parties involved, particularly women and children (Mamta Bhattacharjee, 2025).

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