

Prisoners Polygamy In Rutan Pekalongan

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Abstract

A convict is a person who must serve a criminal term within a certain period of time in accordance with the court's decision in kracht. Prisoners serving their sentences must be physically separated from their families. Apart from that, in reality there are prisoners who practice polygamous marriages. This research discusses the life of polygamous marriages carried out by prisoners who are separated by iron bars from their wives and children. This research is empirical legal research using rational choice theory. The approach taken is a qualitative approach using observation and interview data collection techniques conducted on 1 (one) inmate informant at the Rutan Pekalongan. The research results showed that a prisoner with the initials MS practiced polygamous marriage with his wives, namely R and F. Even though he was in prison, MS and his wives and children were still able to maintain harmony in their household.

Keywords: Polygamy, Prisoners, Rational Choice Theory

A. Introduction

The article entitled Implementation of Polygamy based on Law Number 1 of 1974 concerning Marriage by Rahmat Fauzi, et al in the El-Ahli Journal describes the implementation of polygamy based on Law Number 1 of 1974 concerning Marriage in Batu Payuang, Lareh Sago Halaban District. This research uses empirical research, with a sociological juridical approach. The results of the research show that the polygamy practiced in Batu Payuang, Lareh Sago Halaban District is polygamy by means of betel marriage or not with the permission of the first wife.

M. Kamaluddin Aljauhar, et al from Hasyim Asy'ari University Tebuireng Jombang discussed an article entitled Varieties of Polygamy in Society. The case of polygamy that occurs in some people in Gununganyar Tambak sub-district, Surabaya city is not the same as the case of polygamy that usually occurs in various regions in Indonesia. Polygamy that occurs in general is the thing that is most hated by the first wife, which is usually motivated by the lack of satisfaction felt by the first wife. the husband for his wife's service, or because the wife cannot produce offspring who can continue the couple's lineage, but in this case polygamy is motivated by the second wife's request to the first wife to be willing to make her her husband's second wife, so the uniqueness of this discussion lies. regarding the cause of polygamy, which does not occur in polygamy in general, this is motivated by the second wife being a woman who is old enough but has not yet found the desired mate, so she has not married at an old enough age, so as not to become a disgrace. and does not close the family lineage.

Marital life will always face various tests, just like a sailing ship will always face waves and storms on its journey across the sea. Likewise, the marital life experienced by prisoners. At the Class IIA Pekalongan State Detention Center (Rutan Pekalongan) there

are inmates who practice polygamous marriages. Inmate polygamous marriages are an interesting phenomenon to research. Polygamous marriages definitely have many challenges. Especially if polygamy is carried out by a prisoner who in fact has problems with the law.

B. Method

This paper is empirical legal research using rational choice theory. The focus of the research study is polygamous marriages carried out by Pekalongan Prison inmates. The approach taken is a qualitative approach using observation and interview data collection techniques. There is 1 (one) prisoner who is in a polygamous marriage. The informant had committed polygamy before he was sent to prison. Until now, the wives of prisoners still "take care" of their husbands who are in prison.

C. Results

Since the issuance of Presidential Decree Number 17 of 2023 concerning Determining the End of the Corona Virus Disease 2019 (COVID-19) Pandemic Status in Indonesia, the Pekalongan Detention Center has reopened face-to-face visits for families of detainees and inmates. This is stated in the Decree of the Director General of Corrections Number PAS.36.OT.02.02 of 2023 concerning the Implementation of Correctional Services after the end of the Corona Virus Disease 2019 (COVID-19) Pandemic status in the Community Corrections Work Unit. In fact, the regulations allow family or colleagues to visit prisoners. During the implementation of the visiting service, it was revealed that there were prisoners who had more than one wife, aka polygamists.

1 (one) prisoner who practices polygamy, namely MS MS, has a wife in a legal marriage and is registered with the KUA. And MS also has a wife in a serial marriage which is not registered with the KUA. All marriages took place before MS was sentenced to prison at the Pekalongan Detention Center.

MS explained that his first wife, namely his legal wife, was married in 20 and was blessed with 3 (three) children. Then he entered into a second marriage in 2010 and was blessed with 2 (two) children. Both of his wives knew that MS was polygamous. And both of them received "legowo" for their polygamy. Until now, MS is undergoing the judge's verdict, his two wives take turns visiting each other and providing moral and material support to MS. Both of them also often visit MS at the same time.

D. Discussion

1. Legal Basis for Polygamy

According to historical records, polygamy existed long before Islam existed. Even the practice of polygamy at that time could be said to be quite widespread. This can be seen from the religious teachings brought by the prophets before the Prophet. For example, the Prophet Musa did not forbid or limit the number of women a man could marry. However, it is not only in Islamic countries that polygamy has historical records, but polygamy also existed among nations that lived in ancient times, such as Greece, China, India, Babylonia, Assyria, Egypt, and others. In fact, polygamy in this society is not limited in number to up to 130 wives for one husband. A king in China actually had 30,000 wives. (Makrum, 2016)

Apart from that, Islam often tells of polygamous acts carried out by the Prophet. In fact, during his marriage to Sayyidah Khadijah, Rasulullah SAW never practiced polygamy, in fact Rasulullah was quite loyal to accompany Sayyidah Khadijah for 28

years, 17 years during the pre-apostolic period (qabla bi'tsah), and 11 years after that (ba'da bi 'tsah). Of the eleven women that the Prophet married, only Aisyah, his only wife, was still a virgin and young, while the others were older, had children, and most of them were widows of friends who were killed in the war to defend Islam. Even the eleven wives that the Prophet married, no longer had children. (Abdul Kadir, 2019)

Q.S an-Nisa verse 3 is a verse that is often used as legitimacy for the permissibility of the practice of polygamy.

وَأِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَّةَ وَرُبْعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آذَنُ أَلَّا تَعُولُوا

“If you fear you might fail to give orphan women their ‘due’ rights ‘if you were to marry them’, then marry other women of your choice—two, three, or four. But if you are afraid you will fail to maintain justice, then ‘content yourselves with’ one¹ or those ‘bondwomen’ in your possession.”

M. Quraish Shihab in interpreting this verse emphasizes that this verse contains fear, which can also mean knowing. This shows that whoever feels worried and doubts about acting fairly, then he should not practice polygamy. However, on the other hand, if he has no doubts, and is even sure that he can act fairly, then he is allowed to practice polygamy. It must be believed that the meaning of "fair" in the context of this verse is justice in material terms, not love, but at least this proves that when Islam allows polygamy, it is accompanied by heavy conditions so that good religious people will not do it unless they think carefully. . (M. Quraish Shihab, 2015)

Hadiths that can be a legal basis for allowing the practice of polygamy include the book Sahih Bukhari Number 5069

حَدَّثَنَا عَلِيُّ بْنُ الْحَكَمِ الْأَنْصَارِيُّ، حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ رَقِيبَةَ، عَنْ طَلْحَةَ الْيَامِيِّ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، قَالَ قَالَ لِي ابْنُ عَبَّاسٍ هَلْ تَزَوَّجْتَ قُلْتُ لَا. قَالَ فَتَزَوَّجْ فَإِنَّ خَيْرَ هَذِهِ الْأُمَّةِ أَكْثَرُهَا نِسَاءً.

Abbas asked me, "Are you married?" I replied, "No." He said, "Marry, for the best person of this (Muslim) nation (i.e., Muhammad) of all other Muslims, had the largest number of wives."

Regarding the rules of polygamy in Indonesia, it is regulated in written law or positive law, regulated in Law No. 1 of 1974 concerning Marriage in Article 4 paragraph (2) and Article 5 paragraph (1). Article 4 paragraph (2) states that if a man wants to marry more than one woman, he must comply with the following conditions:

1. a wife cannot carry out her obligations,
2. a wife has a disability in her body or an illness that is difficult to cure,
3. A wife cannot produce children

2. Rational Choice Theory

Coleman's rational choice theory is clear in its basic idea that individual actions lead to a goal and that goal is an action determined by values or preferences (choices). (Nila

Sastrawati) Coleman stated that a precise concept of rational actors is needed which comes from economics which sees actors choosing actions that can maximize their utility or desires and needs.

According to Coleman, there are two key elements in his theory, namely actors and resources. Resources are a potential that is owned. These resources can include natural resources and human resources. Natural resources are potential that have been provided or owned by nature, while human resources are potential that exists or is formed within a person. In this case, those who are able to utilize resources are actors. Actors are considered as individuals who have goals, basic value choices using deep considerations in their consciousness. Actors here also have the power to determine the actions and choices they desire.

Social life that occurs every day cannot be separated from social action. Every action taken by an individual will always be related to the actor in determining the choice to be taken. Coleman's rational choice theory has the basic characteristic of being an action paradigm, namely the only theory that has the opportunity to produce integration of various sociological paradigms. The rational choice is used as an explanatory model of individual actions which is intended to provide a formal analysis of rational decision making with the reasons and goals achieved by the actor. (George Ritzer & Douglas J. Godman, 2009)

As stated by Coleman, actors will maximize the resources they have to produce even greater and more profitable resources. (James S. Coleman, 2008) Actors are faced with many choices so they have to choose the one that is considered the most rational. The choices they make are based on considerations that have been made and based on logical thinking.

3. Prisoners Polygamy in Rutan Pekalongan

A convict or person convicted is a person who has been sentenced for having committed a criminal offense according to law. In this research, there was 1 (one) informant, namely MS, who was a prisoner serving a sentence at the Pekalongan Detention Center. MS committed the crime of embezzlement with a sentence of 2 years and 10 months. After his status as a prisoner, he was then called a correctional resident who was placed in the Pekalongan Detention Center.

MS obtained his rights as an inmate. One of the rights obtained is the right to visiting services. The right to visiting services for inmates with prisoner status is carried out on Tuesdays and Thursdays from 09.00 to 12.00. All people who meet the requirements determined by the Pekalongan Detention Center can visit their families who are languishing behind bars.

There is the fact that MS practices polygamy. Polygamy has been carried out since MS was outside prison. MS had 2 (two) wives at the same time. However, the polygamy practiced by MS was unregistered polygamy, aka unregistered marriage.

In MS's polygamous life, his two wives knew each other that they had become the first wife and second wife. What's interesting is that wives can live in harmony and happiness without the problem of polygamy based on MS's narrative. In providing a living and justice physically and mentally, there is never any significant commotion or mutual envy. In fact, MS's two wives visited MS several times in prison together.

Judging from rational choice theory, both MS research subjects chose to maintain polygamous marriages based on:

1. Financial

Both MS can meet the needs of his wife and children even though he is in prison. The support provided comes from the assets that MS still owned before going to prison. It is not uncommon for wives to understand that their husbands are in prison, so that wives do not hesitate to take turns working to meet their household needs.

2. Emotional Support

The wives of MS consciously realize that making a fuss when their husbands are in prison will only complicate their lives. At least while MS is in prison, the wives don't want to create other problems that make life more complicated. The most important thing for wives is so that their husbands who are in prison can feel calm and have no intention of running away, let alone committing suicide.

3. Widow Label

Legal wives choose to tolerate the behavior of their husbands who practice polygamy. According to him, the second wife only had an unregistered marriage, so that in society's social view, MS's wife was still his first or legal wife. Apart from that, if you file a divorce suit, the widow label is still a despicable scourge among the people of Pekalongan City.

E. Conclusion

Polygamy is not something that has just emerged, but after Islam came, polygamy was directed and regulated with humane and noble rules, therefore this practice is not a reprehensible or negative thing as long as someone wants to practice polygamy with a clear aim and fulfills all the provisions that have been stated. regulated by religion. The wife's rational choice regarding the polygamous marriage she is in is an important factor in creating harmony and harmony in the household. The explanation given by the wife to her husband who is a prisoner deserves high appreciation, namely that the wife remains loyal to accompany and maintain the integrity of the household even though the husband is in prison and has two wives.

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