



Analysis of Decision Number 40/Pdt.P/2022/PA.Tgr Concerning Good Faith In Polygamy Without Court Permission

Abdul Mujib¹, Mochamad Cholil²

^{1,2}Law Student, Jenderal Achmad Yani Yogyakarta University, Sleman.

Abstract: This study aims to analyze the application of legal provisions concerning polygamy licensing and the principle of good faith in polygamous marriages performed without court permission, specifically focusing on the legal considerations in the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr. The research employs a normative juridical methodology with statutory, case-based, historical, and conceptual approaches to evaluate primary and secondary legal materials gathered through literature review. The findings reveal that the petitioners' marriage constitutes unauthorized polygamy that violates the mandatory requirements of Law No. 16 of 2019 and the Compilation of Islamic Law, as it was conducted without judicial approval or the first wife's consent. The court's analysis determines that the parties' decision to proceed with a secret marriage despite being aware of legal impediments serves as a definitive indicator of bad faith (*malafide*). Consequently, the panel of judges rejected the petition for marriage validation to prevent the creation of a negative precedent that could encourage the abuse of illegal polygamy and undermine legal certainty. This study concludes that strict adherence to procedural requirements and the principle of good faith are essential to maintaining the integrity of the marriage institution and protecting the rights of all parties involved.

Keywords: Polygamy; Good Faith; Marriage Validation; Religious Court.

1. Introduction

The fundamental principle of marriage in Indonesia is monogamy, which dictates that a husband may only have one wife, and vice versa, unless specific, urgent, and legally justified reasons are met. Conversely, polygamy remains a highly controversial form of marriage that continuously triggers public debate. Polygamy is defined as a situation where a husband marries more than one wife simultaneously, where such a marriage should ideally be officially registered through state institutions, specifically the Religious Court or the Office of Religious Affairs (Sekoh, 2021). The most pressing issue rendering this research scientifically and practically urgent is the persistent trend of clandestine polygamy that deliberately bypasses judicial oversight, creating a direct conflict between religious practice and state law. Practically, this research is urgent because unauthorized polygamy triggers complex legal and social detriment, particularly towards the first wife and children, and threatens the stability of the national legal order.

In accordance with the 2019 amendment to the Marriage Law (Law No. 16 of 2019), specifically Article 3 Clause (2), judicial sanction for polygamy is conditional. The court is empowered to authorize a husband to enter into an additional marriage only if a mutual agreement between the involved parties has been established (Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, 2019). For Muslims, polygamy is further regulated under the Compilation of Islamic Law via Presidential Instruction Number 1 of 1991. According to Article 56 Paragraph (1) of the Compilation of Islamic Law, any man wishing to marry more than one woman is obligated to obtain permission from the Religious Court (Permatasari, 2023). While polygamy in Islam is considered *mubah*

Correspondence:

Name: Abdul Mujib

Email: Am742262@gmail.com

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(permissible), it is strictly conditional upon the absence of fear regarding the maltreatment of wives. If there is concern or anxiety regarding potential injustice or sin, it is strongly advised to refrain from polygamy (Purwaningsih et al., 2024).

Based on these regulations, it can be concluded that polygamy in Indonesia is essentially permissible as long as it is conducted in accordance with applicable laws and meets specific requirements (Permatasari, 2023). This research offers a significant theoretical contribution by introducing the "good faith" (*bona fides*) principle as a measurable parameter for evaluating the legality and ethics of polygamous unions. A key new idea presented is the classification of marriage registration as a "theological-constitutional" obligation, where compliance with state procedures (*ulul amri*) is viewed as an integral part of religious devotion. However, persistent issues arise from differing opinions among various groups regarding its permissibility, leading to stricter enforcement. Current cases of polygamy are increasingly difficult to assess from the perspective of justice; even when a husband is materially capable, he may lack the moral capacity to divide his attention and care fairly among his wives. Consequently, more profound ideas and mature reviews are required in judicial decision-making.

The stringent requirements often drive individuals to perform polygamy secretly and dishonestly. Such unauthorized and clandestine polygamy results in marriages that can be annulled or deemed invalid under Indonesian law (Purwaningsih et al., 2024). Furthermore, while polygamy without the first wife's consent may be valid under certain interpretations of Sharia law, it is prohibited by the state as it cannot be officially registered and results in unregistered marriage (Purwaningsih et al., 2024). Furthermore, this study proposes a framework that utilizes subjective and objective good faith to prevent "administrative whitewashing" the use of marriage validation to legitimize intentional legal violations.

In practice, many cases of polygamy are still conducted without court authorization, leading to complex legal, social, and moral issues (Coronas et al., 2023). Unauthorized polygamy is also closely linked to the issue of marriage registration. Although registration is not a pillar or a requirement for the validity of a marriage under religious law, this administrative process serves as a crucial indicator of the parties' good faith. In contrast, unregistered marriages are often assumed to involve bad faith. This assumption may only be dismissed if there is strong evidence to the contrary or if there are urgent, emergency circumstances that are legally acceptable (Hafifi, 2025).

In Decision Number 40/Pdt.P/2022/PA Tgr, the judge's consideration determined that Petitioner I and Petitioner II were not facing an emergency situation that necessitated the marriage to be performed despite Petitioner I's failure to obtain polygamy permission. Furthermore, both parties had even been informed about the legal impediment to the marriage as long as the polygamy permit was absent, yet they proceeded with the ceremony. According to the judge, this action clearly demonstrates their bad faith towards law enforcement, which, if treated as a legitimate (legal) act, would potentially lead to legal disorder and damage the established legal order or culture in society. The urgency of this research lies in its analysis of good faith and bad faith in the implementation of polygamy without court authorization, based on the Tenggarong Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr. This analysis is crucial for strengthening the understanding and enforcement of Indonesian marriage law principles, especially regarding the practice of polygamy, which is governed by its own specific legal regulations.

The decision thus reflects the judge's assessment of a serious violation of legal norms, where both petitioners proceeded with the marriage despite knowing that court permission for polygamy had not been granted. By unilaterally continuing the marriage process, the judge deemed this a tangible manifestation of bad faith toward the applicable laws and regulations. The issues highlighted indicate that polygamy is still frequently carried out without the authorization of the Religious Court. This practice risks causing detriment to third parties, particularly the previous wife and children from the polygamous marriage. Moreover, on a broader scale, it can damage the social order,

disrupt public security, and fundamentally weaken the institution of marriage as a strong covenant (*mitsaqan ghalidzhan*).

2. Materials and Methods

Adopting a normative legal methodology, this study interprets the law as an integrated normative framework. This approach evaluates the legal landscape through a synthesis of diverse sources, including statutory instruments, judicial precedents, international conventions, and scholarly doctrines, viewing them as a cohesive system of rules and principles (Ismoyo, 2019). In line with the views of Peter Mahmud Marzuki, legal research in this study is understood as a systematic process to find legal rules, principles, and doctrines relevant to providing prescriptive answers to the legal issues encountered. The main focus of this process is to produce arguments, theories, or new concepts that function as solutions for resolving legal problems accurately and scientifically (Marzuki, 2017).

In dissecting the existing problems, the author applies four types of research approaches (Ismoyo, 2019). Initially, a statutory approach is employed to scrutinize the various legislative frameworks and regulatory instruments that govern the practice of polygamy and the specific protocols for obtaining judicial authorization. Second, the case approach is carried out through an in-depth study of court decisions related to the legal issues being researched, focusing on decisions that have permanent legal force (*inkracht*). Third, the historical approach is applied to examine the background and development of legal rules related to the issue. Fourth, the conceptual approach is conducted by reviewing doctrines and views within legal science to obtain ideas that produce legal definitions, concepts, and principles in line with the object of research.

The data sources used in this research are entirely derived from secondary data, namely data obtained indirectly through document studies in libraries, laws and regulations, and relevant mass media (Tan, 2021). The data is classified into three types of legal materials. Primary legal materials, which are authoritative, include the *Burgerlijk Wetboek* (BW) or the Civil Code, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, Law Number 50 of 2009 concerning Religious Courts, Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law, and the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr (Yanova et al., 2023). In addition to official documents, this study draws upon secondary legal sources, including academic treatises, scientific periodicals, and doctrinal interpretations. Furthermore, tertiary materials are utilized as reference guides; these include legal lexicons and encyclopedic volumes that facilitate a deeper understanding of the foundational legal texts.

The data collection technique in this research is conducted through library research to study literature from various legal references that have been collected (Tan, 2021). After the data is collected, the analysis process is carried out using qualitative analysis methods to demonstrate in depth that the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr reflects the application of relevant written legal norms in polygamy cases. Through this analysis, the legal actions of the parties are evaluated based on their compliance with the provisions regarding good and bad faith from the perspectives of Islamic Law, the Marriage Law, and various derivative regulations (Ismoyo, 2019).

3. Results and Discussion

3.1. Application of Islamic Law and Marriage Statutes Regarding Polygamy Permission A Case Study of Tenggara Religious Court Decision No. 40/Pdt.P/2022/PA.Tgr

The legal essence of marriage, as defined in Article 1 of the Marriage Law, is characterized as a profound union both physical and psychological between a male and a female. This partnership is established with the specific objective of creating a lasting, harmonious domestic life that is deeply rooted in the principles of the Divine Almighty

(Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, 2019). Marriage is viewed as a religious obligation and an act of worship encouraged by religion. In Indonesia, all aspects related to marriage have been regulated in detail through various laws and regulations. This legal framework includes the Marriage Law, Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law, and the Compilation of Islamic Law.

Despite the existence of clear legal rules, many citizens in Indonesia still perform marriages outside the corridors of applicable positive law. One common example is unregistered marriage, more popularly known as unregistered marriage. Under state law, unregistered marriage is considered invalid because it does not go through the official registration process. Nevertheless, this practice continues to spark debate. Some parties argue that although it is not recognized by the state, unregistered marriage is still considered valid when viewed from the perspective of religious law (Nugroho & Martinelli, 2018).

a. Regulation of Polygamy and the Application of Islamic Legal Provisions Related to Polygamy Permits in the Case Ruling Number 40/Pdt.P/2022/PA.Tgr

The practice of polygamy is often a crucial issue that triggers prolonged debate between religious texts, social realities, and the protection of women's rights. Historically, it is important to emphasize that Islam was not the religion that initiated or pioneered the practice of polygamy. Prior to the revelation of the prophethood of Muhammad SAW, the practice of having an unlimited number of wives was a common social norm in various civilizations, ranging from the pre-Islamic Arabs (*Jahiliyah*) to nations in Europe (Ansori, 2022). Islam arrived with the spirit of limiting and regulating, rather than encouraging the practice. In the construction of Islamic law, polygamy is placed under the legal status of *mubah* (permissibility) as an emergency measure, not as a *sunnah* (recommended act) that automatically brings merit. The primary foundation is monogamy; polygamy is positioned as an "exit clause" that may only be opened when there are objective reasons justified by syariat, such as a wife's medical condition that prevents conception or chronic illnesses that hinder the fulfillment of marital obligations (Puspytasari et al., 2023).

The transformation of Sharia values into Indonesian positive law is explicitly reflected in the Compilation of Islamic Law. The Compilation of Islamic Law takes a moderate position that strictly limits this practice for the benefit of the community (*maslahah*). Articles 55 to 59 of the Compilation of Islamic Law are manifestations of the collective *ijtihad* of Indonesian scholars to guide society toward a monogamous marriage system without completely closing the possibility of polygamy in urgent conditions (Puspytasari et al., 2023). The requirement to obtain permission from the Religious Court is not merely a bureaucratic formality, but rather an instrument of "state supervision" to ensure that the rights of the first wife and children are not violated. A fundamental difference between the polygamy practiced by Prophet Muhammad SAW and contemporary practices lies in the *ratio legis* (legal reasoning) and its objectives. While the Prophet's polygamy was based on protecting war widows and strengthening missionary diplomacy, current practices are often reduced to the fulfillment of biological desires, which drifts away from the philosophical values of justice intended by the Qur'an (Puspytasari et al., 2023).

Theologically, the argument for polygamy stems from Surah An-Nisa verse 3, which contextually (*asbabun nuzul*) is closely related to the protection of orphans and the fairness of the dowry (*mahr*). The verse contains a stern warning: "If you fear that you will not be able to deal justly, then (marry) only one." This phrase indicates that the requirement of "justice" is an absolute condition (*conditio sine qua non*) that carries significant weight. Justice in polygamy, according to classical jurisprudence (*fiqh*) and positive law, encompasses both material and immaterial aspects. A husband is obliged

to guarantee equality in material maintenance (*nafaqah*), the provision of separate decent housing for each wife, and the proportional division of time (overnight stays) (Zulkarnain, 2020). Although it is recognized that justice in the aspect of feelings (love) is something beyond human control (*fitrah*), legally, the outward manifestation of the husband's treatment must not show clear discrimination between one wife and another (Asmu'i et al., 2024).

In Indonesian judicial practice, the stringency of these requirements is tested through the examination process in court. The case in the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr provides a very valuable legal lesson. In that case, the petition for marriage validation was rejected because it was discovered that the second marriage was performed without court permission and without the first wife's consent while the first marriage status was still legally binding (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022). The Panel of Judges argued that validating polygamy without court permission would create a bad precedent that undermines the structure of marriage law in Indonesia. This reflects that court permission functions as an ethical and sociological filter to prevent "covert violence" against women. If polygamy without legal procedures were easily legalized, the principle of justice for law-abiding citizens would be compromised. Therefore, Islamic law in Indonesia views obedience to state procedures as part of obedience to religion (*ulul amri*), ensuring that marriage is not merely a biological contract, but a sacred covenant (*misaqan ghalizian*) that protects human dignity as a whole (Instruksi Presiden (Inpres) Nomor 1 Tahun 1991 Tentang Penyebarluasan Kompilasi Hukum Islam, 1991).

b. The Regulation of Polygamy and the Application of Marriage Law Regarding Polygamy Permission: An Analysis of Court Decision Number 40/Pdt.P/2022/PA.Tgr

The marriage system in Indonesia, as mandated by Law Number 1 of 1974, updated by Law Number 16 of 2019 concerning Marriage, principally establishes monogamy as the fundamental basis of national marriage. Article 3, Paragraph (1) affirms that a man may only have one wife, a philosophical reflection of the singular structure of the original human family. However, Indonesian positive law does not adopt the principle of absolute monogamy, but rather "open monogamy." This term refers to a juridical flexibility where the state provides space for the practice of polygamy; however, this space is restricted by highly rigid requirements and state intervention through judicial institutions. This flexibility is not a legal loophole but an accommodative effort toward the sociological and religious realities of society, with the caveat that court permission is the sole instrument legitimizing a change in status from monogamy to polygamy (Ansori, 2022).

In the perspective of positive law, the mechanism for polygamy permission is built upon two pillars of requirements: alternative requirements and cumulative requirements. As stipulated in Article 4, Paragraph (2), alternative requirements focus on the objective conditions of the wife, such as the inability to perform marital obligations, physical defects or incurable diseases, and infertility. This requirement serves as the first threshold that must be materially proven before the court through medical evidence or competent witnesses. The absence of these objective reasons automatically invalidates the legality of a polygamy petition, as the state maintains that without such emergency reasons, the goal of marriage to form a harmonious (*sakinah*) family will be difficult to achieve amidst forced polygamous practices (Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, 2019). This legal filter functions to ensure that polygamy is not conducted solely based on biological impulses, but rather on genuine and legally accountable socio-medical needs.

Furthermore, the second pillar, serving as an absolute prerequisite, is the cumulative requirements in Article 5, Paragraph (1), which include the wife's consent, the husband's financial capability, and a guarantee of justice. The provision regarding the wife's

consent is a manifestation of the protection of women's human rights within the domestic sphere; without such consent, a petition for polygamy permission normatively lacks a foundation. This consent must be verified orally or in writing before the court to avoid elements of coercion or intimidation. Moreover, the aspect of financial capability, as regulated in Article 41, requires authentic proof of income, such as an income statement certified by a treasurer or financial official (Muhadi et al., 2023). This emphasizes that the Marriage Law views polygamy not merely as a sacred-religious event, but as a legal contract carrying ongoing economic consequences. The state, through the judiciary, bears the responsibility to ensure that the expansion of the family size does not implicate the economic neglect of the first wife and existing children (Nopitasari & Nugraheni, 2024).

The implementation of this procedural rigor is clearly reflected in the *ratio decidendi* of the judges in the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr. In this case, the judges rejected the petition for the validation of a polygamous marriage performed through *siri* or unregistered means. This rejection was based on the argument that the parties intentionally ignored the juridical obligation to obtain court permission as regulated in Article 4 of the Marriage Law. The petitioners' action in conducting a second marriage without court involvement was deemed an unlawful act (*onrechtmatige daad*) against the Indonesian family law order. The judges emphasized that although the status of the first marriage was divorced when the petition was filed, it did not erase the procedural defect committed at the beginning of the second marriage. Polygamy without permission is a violation of the material and formal requirements regulated by the state, and validating it through marriage validation would only weaken the authority of the law and undermine the principle of legal certainty (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022).

From the perspective of legal sociology, granting marriage validation for unauthorized Unregistered polygamy would create a legal anomaly that offends the sense of justice for law-abiding citizens. If the court easily legalizes marriages that violate procedures, society will be encouraged to perform polygamy secretly and only approach the court for administrative "whitewashing" at a later date. This situation would directly nullify the judicial supervision function held by the Religious Courts under Law No. 50 of 2009 concerning Religious Courts (Azni, 2015). Therefore, the rejection of marriage validation in this context is a conscious effort by judges to protect the public interest (*al-maslahah al-ammah*) and prevent the creation of a bad precedent where legal violations gain legality. The protection of the national legal system is a much higher priority than fulfilling individual interests that disregard state procedures in practicing polygamy (Azni, 2015).

The Marriage Law in Indonesia has established a harmonious system between individual freedom and public supervision. Polygamy is recognized as a conditional right, the fulfillment of which depends entirely on the proof of alternative and cumulative requirements in court. Court permission is not just a bureaucratic formality, but a legal protection instrument for the rights of wives and children to ensure they are not neglected within a polygamous family structure. Consistent law enforcement through the rejection of marriage validation for illegal polygamy is a crucial step in maintaining the integrity of the open monogamy principle, ensuring that every marriage in Indonesia is subject to the principles of legal certainty, transparency, and substantive justice, which are the ideals of (Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, 2019). The practical implication for policy development is the urgent need for more integrated administrative oversight between the Office of Religious Affairs and the Religious Courts to effectively detect and prevent clandestine polygamy before it occurs. For judicial practice, this finding reinforces the role of judges not merely as administrative implementers but as guardians of distributive justice who must prioritize the protection of the existing family's rights over the individual desires of the petitioners.

3.2 The Implementation of the Good Faith Principle in Marriage under Islamic Law and the Marriage Law, Specifically in the Context of Polygamy Without Court Authorization

The principle of good faith (*itikad baik*) is a fundamental and crucial element in various legal aspects, particularly in the execution of contracts, and is even more paramount within the bond of marriage. According to Djaja S. Meliala, the role of good faith is vital in civil law. This applies within the contexts of property rights (Book II of the *Burgerlijk Wetboek* or BW), personal rights (Book III of the BW), as well as in the fields of family and personal law (Book I of the BW). Nevertheless, the reality of building a household often diverges from the ideal objectives of marriage mandated by law namely, forming a harmonious and lasting family based on the principles of faith and divine values. A variety of complexities and obstacles can manifest during the course of a marital union, potentially testing the stability of the domestic partnership (Putra et al., 2021).

a. Good Faith in Islamic Law and Positive Law

Discussions regarding marriage registration in Islamic law in Indonesia have undergone a paradigmatic transformation, evolving from mere administrative fulfillment into a theological-constitutional obligation. Although explicit mandates for registration are not found in classical *fiqh* literature during the prophetic era, the essence of the Qur'anic command in Surah Al-Baqarah verse 282 regarding the documentation of *muamalah* (civil transactions) provides a strong analogical foundation. Given that marriage is categorized as *mitsaqan ghalizan* a sacred covenant whose status transcends ordinary civil transactions registration by the Marriage Registrar (*Pegawai Pencatat Nikah* or PPN) becomes a vital instrument for achieving legal certainty (Musthafa, 2022). In the context of polygamy, the urgency of this registration intersects directly with the protection of women's rights, where the state intervenes administratively to ensure that the practice does not disregard the principles of justice mandated by both syariat and positive law.

The validity of polygamous practices in Indonesia relies not only on the fulfillment of traditional marriage pillars (*rukun nikah*) but also depends heavily on the existence of "good faith" (*bona fides*) from the husband. Good faith in polygamy is the manifestation of a sincere intention to simultaneously comply with all syar'i boundaries and state regulations. Specifically, this good faith manifests in the husband's actual ability to uphold distributive justice toward both the previous wife and the wife to be (Aprillia & Setya, 2019). This element encompasses the obligation of measurable material maintenance (*nafaqah lahiriyah*), balanced immaterial maintenance (*nafaqah batiniyah*), the provision of equal living facilities, and proportional time distribution. Polygamy conducted without the goal of benefit (*masalahah*) such as seeking offspring or protecting women's dignity and oriented solely toward personal gratification is substantially considered to have violated the doctrine of good faith serves as the foundational essence and moral core upon which the legality of polygamous unions is predicated.

Theoretically, the principle of good faith has long historical roots in the Roman legal tradition as good faith, which was later widely adopted into the Civil Code (*Burgerlijk Wetboek*). In civil law doctrine, this principle is divided into two main dimensions highly relevant to dissecting a husband's motivation in polygamy. First, subjective good faith refers to the internal state or personal honesty in acting. This is closely related to the husband's moral awareness of whether he is truly capable of acting justly or is merely performing legal formalities (Puji, 2007). Second, objective good faith emphasizes the standard of behavior or propriety in the execution of an agreement. Article 1338(3) of the Civil Code dictates that the execution of an accord must be governed by *bona fides*. Such a requirement implies that the parties involved must adhere to the prevailing codes of conduct and moral values that characterize their social environment (Fitrianto, 2023).

These two dimensions indicate that subjective good faith demands internal honesty from the husband not to conceal important facts from the first wife or the court. The

husband must transparently state his financial condition and objective motivations without any element of misinformation. Meanwhile, objective good faith requires the husband to fulfill his household role in accordance with public morality standards and applicable law. In the context of unregistered marriage polygamy (without court permission), such an act is automatically categorized as a violation of the principle of objective good faith because it disregards positive legal norms aimed at protecting social order (Kitab Undang-Undang Hukum Perdata Nomor 23 Tahun 1847, 1847). Sincerity and transparency in the process of transitioning from monogamy to polygamy are absolute requirements for the marriage to be not only theologically valid but also legally integral.

Consequently, the integration of the good faith principle into polygamy law functions as an ethical parameter that controls the abuse of rights by men. A polygamous marriage is not merely a biological event but a legal act that carries broad civil consequences for wives and children. A husband's failure to meet the standards of good faith, both subjectively and objectively, results in injustice (*zalim*), which is strictly forbidden by religion and rejected by the state's principle of legal justice. Therefore, the synergy between marriage registration and the verification of good faith through the court serves as a legal defense mechanism to guarantee that family welfare remains the primary goal, aligned with the objectives of Indonesian national law that seeks to realize order and social justice within the domestic sphere (Musthafa, 2022).

3.3 Judicial Considerations on the Application of Good Faith in Polygamy Without Court Authorization Based on Case Decision Number 40/Pdt.P/2022/PA.Tgr

An analysis of the ruling in Case Number 40/Pdt.P/2022/PA.Tgr reveals a crucial legal fact regarding the marital status of the petitioners. During the trial, it was clearly disclosed that at the time of the marriage to Petitioner II, Petitioner I was still bound in a valid marriage with his previous wife. This condition automatically classifies the marriage as polygamy performed outside the legal channels provided by the Marriage Law. The action of Petitioner I, who proceeded with an unregistered marriage before a local village imam despite having received an official rejection from the Marriage Registrar (PPN), demonstrates a deliberate legal intent to circumvent strict polygamy requirements. The PPN's rejection should have served as a juridical warning that a permanent impediment existed, necessitating either court permission or the formal dissolution of the first marriage through legal divorce before entering into a new union (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022).

This non-compliance was further aggravated by the manipulation of facts during the unregistered marriage process, wherein the petitioners provided false statements regarding their status by claiming to be divorced. This practice of data falsification serves as a strong indicator of a conscious legal morality defect intended to facilitate the second marriage. Normatively, Article 7 Paragraph (3) point 5 of the Compilation of Islamic Law stipulates that marriage validation can only be granted if the parties have no marriage impediments under national regulations. Since Petitioner I was clearly still the husband of another woman when the second contract (*akad*) occurred, the petition for validation automatically lost its legal basis. In their consideration, the judges viewed that validating a marriage founded on status deception would only desecrate the sanctity of the institution of marriage, which in Islamic teachings is regarded as *mitsaqan ghalidzan* or a very firm covenant (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022).

From the dimension of rights protection, legalizing the practice of unauthorized *siri* polygamy performed without the knowledge and consent of the first wife carries a high risk of creating uncertainty for the wife and the children born from such a union. The Panel of Judges perceived that the absence of court permission was not merely an overlooked administrative issue, but rather the loss of a state supervisory instrument designed to ensure the fulfillment of maintenance rights and justice for both the old and

new families. The rejection of this marriage validation serves as juridical protection to prevent broader social structural damage resulting from the normalization of "secret marriages." Although Petitioner I had officially divorced his first wife by the time the petition was filed, the judges remained focused on the conditions present at the time the marriage contract was executed. This affirms that marriage validation must not be utilized as a tool for "administrative whitewashing" of intentional legal violations committed in the past (Ghafur et al., 2020).

In this case, marriage registration was used by the judges as an indicator to measure the presence or absence of good faith from the couple. Although registration is technically not a pillar (*rukun*) of marriage in syariat, the petitioners' failure to follow official channels after being informed of the legal impediments reflects bad faith (*malafide*). The judges argued that no urgent emergency was found that necessitated the petitioners to marry immediately without following valid procedures. Thus, their actions were deemed a form of defiance against the national legal order aimed at protecting women's dignity. If the judiciary were to take a permissive stance toward such cases, Should the law fail to perform its function as an agent of social restructuring and administrative order, the social fabric would suffer. Such a collapse would be most evident in the erosion of legal safeguards for the civil rights of husbands, wives, and their future descendants, undermining the very goal of a modernized society (Ghafur et al., 2020).

Specifically, the judges employed the logic of distributive justice to reject this petition in order to close loopholes for other parties wishing to abuse illegal polygamous practices. This ruling conveys the message that individuals who deliberately ignore the law are not entitled to the protection of that same law at a later date. The decision to reject the marriage validation aligns with efforts to prevent negative impacts or greater harm (*mudharat*) to the order of marriage law in Indonesia. as a solution, the judges directed the petitioners to re-marry officially at the Office of Religious Affairs. This demonstrates that the court still seeks to provide a way out for the parties' religious status without sacrificing the principles of legal certainty and the sovereignty of statutory regulations governing polygamy procedures (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022).

The analysis of this case concludes that law enforcement in polygamy cases in Indonesia is highly selective and strict to guarantee a balance between individual rights and public interest. The judge acts as a gatekeeper of legal ethics, ensuring that every marriage contract is free from elements of status fraud and procedural violations. By relying on the written legal text, the judge ensures that justice is viewed not only from the perspective of the petitioners' feelings but also from the perspective of compliance with a system designed to protect all citizens. The quality of this research confirms that judicial integrity in rejecting unauthorized polygamy validation is the final bastion in maintaining the dignity of the institution of marriage as an act of worship that must be carried out in a valid, transparent, and responsible manner in accordance with the noble values of the law applicable in Indonesia (*Putusan Pengadilan Agama Tenggara Nomor 40/Pdt.P/2022/PA.Tgr*, 2022). The findings of this study provide a significant regulatory implication, suggesting that marriage validation (*itsbat nikah*) should be strictly regulated to prevent its misuse as a tool for "administrative whitewashing" of intentional legal violations. In practice, this research encourages a shift in legal culture where legal practitioners and society recognize that procedural compliance in polygamy is a fundamental safeguard against the systemic neglect of women's and children's civil rights. Ultimately, these practical implications serve as a foundation for future legal reforms aimed at strengthening the authority of the Religious Courts and ensuring that the principle of good faith remains the moral and legal cornerstone of Indonesian family law.

4 Conclusions

Based on a comprehensive analysis of the Tenggara Religious Court Decision Number 40/Pdt.P/2022/PA.Tgr and the synchronization between Islamic law and Indonesian positive law, it can be concluded that the legality of polygamy does not rest solely on the theological fulfillment of marriage pillars (*rukun nikah*), but also on absolute compliance with administrative court licensing procedures. The principle of "open monogamy" adopted in the Marriage Law and the Compilation of Islamic Law positions court permission as a judicial filtration instrument to ensure the fulfillment of both alternative and cumulative requirements, particularly regarding the guarantee of distributive justice and the husband's financial capability. The rejection of marriage validation in this case reinforces the legal standing that polygamous marriages conducted through unregistered marriage means which deliberately ignore legal impediments such as the absence of polygamy permits and the falsification of marital status constitute a clear form of bad faith (*malafide*) against national law enforcement. The judges consistently maintain that marriage validation must not be used as a means of legitimization or "whitewashing" for conscious violations of marriage law, as doing so would undermine legal certainty and desecrate the dignity of marriage as a *mitsaqan ghalidzan* (sacred covenant). This study establishes that the doctrine of *bona fides*, encompassing both its subjective and objective facets, functions as the essential criterion for evaluating the legality of a union within the state's regulatory framework. The presence of good faith acts as the definitive benchmark for judicial recognition of a marriage. Subjective good faith demands the husband's internal honesty regarding his status, while objective good faith requires compliance with administrative propriety norms through marriage registration. The petitioners' actions in proceeding with the marriage outside official procedures, despite having received explanations regarding legal impediments from the Office of Religious Affairs, prove the absence of good faith and the presence of defiance toward social order.

The Panel of Judges' decision to reject the petition, while providing a constructive solution in the form of remarriage through the Office of Religious Affairs, is an implementation of the *Sadd al-Dzari'ah* principle to prevent broader harm (*mudharat*), such as the oppression of the rights of the first wife and children. Thus, law enforcement in this case functions as a tool of social engineering to create a modern, transparent, and accountable legal culture, ensuring that every practice of polygamy in Indonesia aligns with the values of substantive justice and the protection of human rights. The scientific contribution of this research lies in its reconceptualization of marriage registration as a "theological-constitutional" obligation, bridging the gap between classical Islamic jurisprudence and modern state law. Furthermore, this study enriches the discourse on family law by positioning the principle of good faith as a measurable judicial filter to assess the moral and legal integrity of polygamous actions. Based on these findings, relevant directions for further research include empirical studies on the socio-economic impacts on wives and children when marriage validation is rejected, as well as comparative legal analyses of the "good faith" doctrine in other Muslim-majority countries. Future studies should also explore the effectiveness of criminal sanctions for unauthorized polygamy to strengthen legal compliance and the integration of digital marriage databases to prevent status manipulation.

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