



Permission For Polygamy Because Teaching Islam To Converts From Maslahah Perspective: Study Decision No. 3728/PDT.G/2017/PA.DPK

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ABSTRACT

This article discusses the considerations of the Depok religious court judge in granting permission for polygamy in case No. 3728/Pdt.G/2017/PA.Dpk. In this case, the applicant asked for permission to marry his partner, whom he married in an unregistered marriage in 2014. Previously, in 2003, this couple had been blessed with a child. they face legal problems to obtain their children's birth certificates; and this is one of the reasons the applicant applied for a polygamy permit. Even though this application does not meet the provisions of marriage law in Indonesia regarding the requirements for polygamy (Article 4 paragraph (2) Marriage Law No. 1/1974), the panel of judges in this case still granted permission for polygamy to the applicant. The consideration of the panel of judges was that the permission granted was of greater benefit than complying with the provisions of marriage law: legalizing unregistered marriages and the welfare of the child. This case once again shows that religious court judges are not only fixated on the provisions of positive law in Indonesia but also explore the laws that exist in society, including here the principles of sharia and fiqh.

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INTRODUCTION

Polygamy is defined as the practice of having more than one partner, which is a common phenomenon that is widely spread and socially and culturally accepted in society. Many people still debate the issue of polygamy to this day without stopping. The campaign for polygamy is considered as an alternative solution to the phenomenon of prostitution and infidelity which has a firm normative basis. Among the Islamic community it is also something phenomenal because there is a verse in the Koran which is understood as the basis for the goodness of polygamy.

Provisions regarding polygamy are regulated in articles 4 and 5 of Marriage Law No.1. Number 1 of 1974. Regulations for implementation are determined by PP No. No. 9 of 1975, especially Article 40 and so on. Procedurally, polygamists are required to submit in writing accompanied by cumulative reasons, meaning that all must be present and fulfilled, as well as alternative reasons, meaning that these conditions do not have to be met, but only one of them is considered to be fulfilled.

The decisions found were based on research conducted at the Depok Religious Court. No. 3728/Pdt.G/2017/PA.Dpk concerning Polygamy Licensing, where the panel of judges granted the applicant's request for polygamy permission to marry a prospective second wife. This decision seems very strange, because the author did not find sufficient reasons or sufficient legal basis for making this decision, especially regarding article 4, second paragraph, which can be understood as saying that the court facilitates the practice

of polygamy because it does not meet the cumulative and alternative requirements. In this decision, there is no normative legal basis used by the panel of judges to decide the case.

Several literature reviews and the results obtained include: Isro explained that the granting of permission for polygamy was due to encouragement from barren wives; Azni explained that permission for polygamy from a religious court is a necessity in order to have legal consequences in the form of legal force; Rijal explained that granting permission for polygamy from prospective wives who had been married to sirri and who had been blessed with children, was because they saw the greater benefits of legalizing sirri marriage and the welfare of children; Abdul explained that infertility, the desires of the first wife and attraction to other women are the general basis for polygamy and that most of the impacts of polygamy are disharmonious families; Khairil explained that granting permission for polygamy was due to pregnancy out of wedlock to avoid more mudhorot; Izzah and Lily explained that the provisions for polygamy permits were based on arguments and evidence from the applicant based on Islamic law and Law no. 1 in 1974; Aliyun explained that granting permission for polygamy because she was pregnant out of wedlock was for the benefit of the unborn child. Based on the literature review of several studies above, this research has research that has similarities in discussing permission for polygamy, but there is a slight difference, namely permission for polygamy for the reason that the prospective wife is a convert. Therefore, this research attempts to fill the gaps in previous research

METHOD

This type of research uses normative juridical research which is based on facts or reality in the field, namely carried out by examining library materials and secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. The data sources in this research can be divided into two; primary and secondary. Primary data is data obtained directly from research subjects, while primary data related to this research was obtained from the Judge's Decision regarding polygamy permits at the Depok Religious Court. Meanwhile, secondary data is data obtained not directly from research subject sources but obtained from other parties.

RESULTS AND DISCUSSION

Polygamy

Polygamy in Indonesia

Polygamy is a term to articulate the marriage relationship of a man with several wives. In terms of terminology, polygamy comes from the Greek language and is the formation of two words, namely "polus" and "gomes". "Polus" means many and "gomes" means married. In Indonesian terms, polygamy is a marriage system in which one party marries several members of the opposite sex at the same time.

Basically, marriage law adheres to the principle of monogamy. This is regulated in Article 3 Paragraph (1) of Law Number 1 of 1974, which reads: "In principle, a man can only have a wife. A woman can only have one husband." However, this law provides the possibility for husbands to carry out polygamy on condition that they ask permission from the court.

Furthermore, polygamy is regulated in the Compilation of Islamic Law chapter 9, article 55, which explains that: 1) Having more than one wife at the same time, limited to four wives. 2) The main requirement for having more than one wife is that the husband must be able to treat his wives and children fairly. 3) If the main conditions mentioned in paragraph (2) cannot be fulfilled, the husband is prohibited from marrying another person.

In order for the court to grant the request for a polygamy permit, the filing of the case must fulfill the reasons as stipulated in Articles 4 and 5 of Law Number 1 of 1974, namely: 1) In the event that a husband has more than one wife, he is obliged to submit an application to the court in the area where he lives. 2) The court referred to in paragraph (1) of this article only gives permission to a husband who will marry more than one wife if, 3) The court referred to in paragraph (1) of this article only gives permission to a husband who will marry more than one wife if: 1) The wife cannot carry out her obligations as a wife. 2) The wife has a physical disability or an incurable disease. 3) The wife cannot bear children.

To submit an application to the Court, as intended in Article 4 paragraph (1) of this Law, the following conditions must be met: 1) There is consent from the wife/wives. 2) There is certainty that the husband is able to guarantee the living needs of the wife and children. 3) There is a guarantee that husbands will treat their wives and children fairly.

Meanwhile, in the Compilation of Islamic Law, article 57, it is explained that: The Religious Court only gives permission to a husband who will marry more than one wife if: 1) The wife cannot carry out her obligations as a wife. 2) The wife has a physical disability or an incurable disease. 3) The wife cannot give birth to children.

Furthermore, article 58 of the Compilation of Islamic Law states: 1) Apart from the main requirements mentioned in article 55 paragraph (2), to obtain permission from the Religious Court, the conditions specified in article 5 of Law Number 1 of 1974 must also be fulfilled, namely: 2) There is the

wife's consent. 3) There is certainty that husbands are able to guarantee the living needs of their wives and children. 4) Does not reduce the provisions of article 41 letter b Government Regulation no. 9 of 1975, the consent of the wife or wives can be given in writing or verbally, but even if there is written consent, this consent is confirmed by the wife's verbal consent at the Religious Court hearing.

The consent referred to in paragraph (1) letter a is not required for a husband if his wife or wives cannot possibly be asked for their consent and cannot be a party to the agreement or if there has been no news from the wife or wives for at least 2 years or for any reason. others that need to be assessed by a judge.

Islamic Perspective Polygamy

Islam allows polygamy, the legal basis for its permissibility is as stated by Allah SWT in Surah an-Nisa' verse 3 which reads:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثَلَىٰ ثَلَاثٍ وَرُبْعٍ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاجِدَةٌ أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَٰلِكَ آدَابُ الْإِسْلَامِ لَعَلَّكُمْ تَتَّقُونَ

Meaning: " And if you are afraid that you will not be able to do justice to (the rights of) orphaned women (if you marry them), then marry (other) women that you like: two, three or four. then if you are afraid that you will not be able to do justice, then (marry) just one person, or the slaves you have. that is closer to not committing wrongdoing".

Even though Islam allows polygamy, this permissibility is not absolute. In order to realize the goal of marriage in accordance with Islamic law, it is necessary to fulfill the conditions and several reasons, namely: 1) The number of wives in polygamy cannot exceed four women. 2) Must be able to do justice to the wives, meaning that fairness in polygamy is a matter of clothing (clothing), shelter (shelter), food (eating and drinking), and living. 3) Have sufficient assets to meet the needs of the family with an increasing wife. 4) Obtain approval from the wife for polygamy.

Al-Maragi's perspective regarding the permissibility of polygamy is due to certain conditions, including: 1) If the wife cannot give birth to children because she is barren, and the husband hopes to have children. 2) If the husband is able to provide more income than the wife, but the wife is old and has reached menopause. 3) For the sake of maintaining self-respect (not falling into adultery) because the husband's sexual capacity encourages polygamy.

Shaykh Mustafa Al-Adawi explained that there are several conditions that are met for polygamy, including: 1) A person who is capable of doing justice. 2) Do not neglect worshiping Allah. 3) Able to look after his wives. 4) Able to provide physical and spiritual support.

Mashlahah

Kata mashlahah berasal dari bahasa arab berupa isim mashdar yaitu yang berasal dari lafazh yang The word mashlahah comes from Arabic in the form of isim mashdar, namely (مصلحة) which comes from lafazh (صَلَحٌ - يَصْلِحُ - صَلَاحٌ) which means goodness or positive. Mashlahah means benefit or work that has benefits. In terms of terms, mashlahah are the causes that bring about and give birth to ash-syari aims (goals), both intentions related to muamalah and worship.

Imam al-Ghazali defines maslahah as "maintaining the goals of the Shari'ah". The aim of the Shari'ah which must be protected consists of five basic principles or al-Ushul al-Khamsah, namely: religion, soul, reason, lineage and property. Mashlahah can be interpreted as something that brings benefits and rejects harm in order to maintain sharia goals. In other words, efforts to obtain benefits or avoid harm solely for the sake of human worldly interests without considering whether it is in accordance with the objectives of syara' or contrary to them is called mashlahah. On the contrary, it is mafsadah. Mashlahah can be defined as actions aimed at maintaining the five main objectives of Sharia. Apart from that, benefit is also referred to as the act of rejecting all types of harm related to the five main objectives of sharia. Mashlahah is transformed into a legal proposition, so it is used as a consideration for legal determination. So, the law relating to a problem is determined in such a way because the benefit requires that the law be determined on that problem.

As for al-Ghazali's opinion regarding the requirements for Mashlahah so that it can be used as evidence for hujjah: 1) The application of Mashlahah Murlah is in line with the objectives of Sharia. 2) Do not leave or contradict the Islamic texts (al-Qur'an and al-hadith). 3) Mashlahah is included in the Mashlahah Dharuri category, namely a benefit that is urgent or must be upheld as a general interest of society..

In dividing mashlahah, the majority of ulama divide it into three types, namely mashlahah mu'tabarah, mashlahah mulgha, and mashlahah mursalah: 1) Mashlahah mu'tabarah namely mashlahah which contains syara' testimony in acknowledging its existence. Benefits that are supported by sharia' either directly or indirectly. This means that the benefit has arguments that support or allow it as a basis. 2) Mashlahah mulgha namely mashlahah which contains Sharia testimony that cancels or rejects it. This benefit is rejected by the sharia because it violates the provisions of Islamic sharia. It could be said that these benefits are only considered according to reason and are in line with the principles and objectives of the Shari'a, but are contrary to clear evidence. 3) Mashlahah mursalah is a maslahah where there is no sharia testimony, whether it is sharia/stipulations that acknowledge it or shariats/stipulations that reject it in a specific form).

Thus, Maslahah Mursalah is a problem that does not have a proof base, but also has no cancellation or is not supported by syar'a nor is it canceled/rejected by syar'a through detailed proofs. If there is an event where there is no provision of Sharia and there is no illat that comes out of Sharia' that determines the clarity of the law of the event, then something is found that is in accordance with Sharia law, that is a provision based on the preservation of harm or to express a benefit, then the event called Maslahah Mursalah is a benefit; that is to protect it from harm and protect its usefulness.

Based on the content of the benefits or their relationship to certain people or individuals, ushul fiqh scholars divide two types of benefits, namely:

Al-mashlahah al-‘āmmah atau al- mashlahah al-kulliyyah, namely the public benefit which concerns the interests of many people. Examples of public benefits are protecting religion from disappearing, protecting the people from being scattered, protecting the two haram lands, namely Mecca and Madina, from being controlled by non-Muslims, protecting the Qur'an from being lost or changed by protecting the memorizers of the Qur'an. -Qur'an and mushaf, preserving the hadiths of the Prophet SAW. so that it is not mixed with false hadith, and other benefits that involve many people.

Al-mashlahah al-khâshshah atau al- mashlahah al-juz'iyah, yaitu maslahat yang bersifat individu atau kepentingan segelintir orang. Maslahat ini terdiri dari tiga pembagian, yaitu: qath'iyah, zhanniyyah, dan wahmiyyah.

Qath'iyah adalah is what is demonstrated by propositions that are absolute and cannot be interpreted further. For example, Allah says in QS Âli-Imrân/3: 97 about the obligation to perform Hajj only for people who can afford it. This includes benefits that are based on common sense guidance on matters that have huge implications for human benefit or conversely cause very dangerous damage, such as killing people who were reluctant to pay zakat during the time of the caliph Abû Bakar ra.

Zhanniyyah is indicated by a relative proposition, as shown in a hadith: لا يقضي القاضي وهي غضبان (let a judge not decide a case in a state of anger). This includes benefits that are based on the guidance of reason, as in the case of using a dog as a house guard when living in a tense situation.

Wahmiyyah is based on signs of benefit and goodness, but it turns out to bring harm. For example, smoking substances such as opium, cocaine and heroin, where there is an opinion that smoking them can be a drug, even though it does not bring good but harm.

Al-Ghazali's opinion regarding the levels of Mashlahah is divided into three level criteria: Mashlahah Dharuriyyah is mashlahah in the form of maintaining the five main elements in the Shari'a so that they remain upright, their existence is absolute and cannot be ignored. The fulfillment of benefits from maintaining these five basic elements will create balance in the lives of the people in religious and worldly terms. If the benefits in the dharuriyyah criteria are not implemented, then chaos will arise in intertwining religion and the human world.

Mashlahah Hajiyyah is something that a person needs to make it easier for him to live his life and eliminate difficulties in order to maintain the five main elements above. In other words, if this level of complementary benefit is not achieved, humans will experience difficulty maintaining their religion, soul, mind, offspring and property..

Mashlahah Tahsiniyyah is maintaining the five main elements above by achieving and establishing things that are appropriate and worthy of good living habits, as well as avoiding things that are considered contrary by common sense. These things are included in the meaning of noble morals (makarim al-akhlaq).

Description of Decision No. 3728/Pdt.G/2017/PA.Dpk.

Based on the petition letter dated 14 December 2017 which the Petitioner had registered at the Registrar's Office of the Depok Religious Court Number 3728/Pdt.G/2017/PA.Dpk dated 18 December 2017. The problem with this decision is that the Petitioner applied for a polygamy permit, according to the information provided by the Petitioner. married on December 9 1996, has two children, and lives well with his wife. The applicant and his or her spouse share property, including a house, land, rental property, vehicles, and other assets.

The applicant wanted to carry out polygamy with a 40 year old widow who had received permission from his first wife. He wanted to practice polygamy for reasons such as financial ability, his love for the second wife, permission from the first wife, and the desire to help the second wife learn about Islam. The applicant stated that he was able to meet the needs of his wife and children as a general practitioner with an average income of Rp. 20,000,000 per month. Both the first and second wives had agreed to the applicant's desire to have polygamy, and the second wife had stated that she would not claim anything from the existing joint assets.

In decision Number 3728/Pdt.G/2017/PA.Dpk, the judge considered several things as the basis for consideration, including: 1) The reason for the Petitioner's request for polygamy is to educate his future wife to continue to know Allah and teach Islam because previously the prospective wife was Catholic. 2) The Respondent has acknowledged and confirmed the reasons for the Petitioner's petition and stated that he has no objection to the Petitioner's intention to remarry the Petitioner's future wife. 3) The applicant submits

written evidence and witnesses to strengthen the arguments of his petition. 4) The evidence presented by the Applicant is recognized as valid evidence. 5) Witness statements are also recognized as valid evidence. 6) The facts found include that the Petitioner and Respondent are husband and wife who are bound by a legal marriage, the Petitioner applied for a permit for polygamy on the grounds that he wanted to teach his future wife to continue to know Allah and teach Islam, the Respondent has approved the Petitioner's request, the Petitioner has sufficient income to guarantee the living needs of their wives and children, the Petitioner is a devout person who is religious and is able to treat his wives and children fairly, the Petitioner's future wife is not married to another man, and between The applicant and his prospective second wife have no obstacles to marriage according to Islamic law. 7) The Petitioner's petition is deemed to fulfill the reasons as stipulated in Article 4 Paragraph (2) of Law Number 1 of 1974 in conjunction with Article 57 of the Compilation of Islamic Law and meets the requirements as stipulated in Article 5 Paragraph (1) of Law Number 1 of 1974 in conjunction with Article 58 Paragraph (1) Compilation of Islamic Law. 8) Between the Petitioner and his prospective second wife there are no obstacles to marriage according to the provisions of the law. 9) The Petitioner's intention to remarry is considered to be in line with Islamic law as stated by Allah SWT in the Al-Qur'an, Surah An-Nisa' verse 3. 10) The marriage between the Petitioner and his prospective second wife is seen to bring benefits not only to the Petitioner and Respondent, but also to the Petitioner's future wife because it reunites household ties that were once broken and provides happiness for the Petitioner's children and the Petitioner's future wife because his parents reunite;

Meanwhile, Number 3728/Pdt.G/2017/PA.Dpk handed down a decision which reads as follows: 1) Grant the request submitted by the requesting party, 2) Give consent to the party requesting to remarry the prospective wife, 3) Determine the joint assets between the requesting party and the party being requested, including the two houses listed in the sale and purchase deed, the rental unit consisting of four sale and purchase deeds, one car and three motorbikes, 4) Requires the requesting party to pay court costs of IDR 261,000.00.

Review of the Decision of the Depok Religious Court No. 3728/Pdt.G/2017/PA.Dpk Concerning Polygamy Permits

Panel of Judges considered that the reasons for polygamy put forward by the applicant were based on the aim of protecting the dignity of a widow and promoting the Islamic religion. Because the prospective second wife has converted to Islam and is a widow whose job is only as a housewife, and the applicant and the prospective wife are both very close and love each other. In this case, the psychology of the respondent has shaken the applicant's household, as stated by the respondent himself, that is because the respondent is worried that there might be issues of adultery or infidelity which could disrupt the harmony of the applicant and respondent's household if the applicant does not polygamize the prospective second wife or the respondent does not. permits polygamous applicants.

This reason cannot be justified, because judges as law enforcers have the main task of maintaining justice and need to judge cases wisely and carefully. A good judge's decision is one that considers legal certainty, a sense of justice, and the interests of the parties in making the decision. Therefore, the trial facts must be in accordance with applicable law.

Based on Article 5 paragraph (1) of Law no. 1 of 1974 as the legal basis for cumulative requirements. Case Number 3728/Pdt.G/2017/PA.Dpk has fulfilled the requirements for obtaining permission from the first wife to allow polygamy. This is further strengthened by the existence of a letter of evidence that the wife has expressed her willingness to carry out polygamy, which is called (Exhibit P.9). Thus, the panel of judges assessed that the first cumulative requirement had been fulfilled. However, it does not rule out the possibility that the letter issued by the respondent was not sincere or unwilling, because it was based on the ongoing marriage between the applicant and the respondent who had been living in harmony and had been blessed with two children.

Things like this are often not revealed in court, and if seen from a psychological perspective, the practice of polygamy actually creates inner anxiety in the respondent as a woman who can fulfill her wife's obligations, is without defects or incurable diseases, and can give birth to offspring. This raises the question of how the respondent is willing to allow the applicant to remarry, because it is widely known from psychology that every woman definitely does not want to be married or cheated on.

Apart from that, to fulfill the cumulative requirements contained in Article 5 paragraph (1) of Law Number 1 of 1974 concerning ensuring that the husband is able to guarantee the living needs of his wife and children as proven by the applicant's ability to guarantee the living needs of the respondent and his prospective second wife and children have been confirmed by the respondent, the applicant's prospective second wife and the applicant's witness I. Apart from that, the applicant has also provided evidence P.5, namely that the applicant's income is IDR 20,000,000 (twenty million rupiah) every month. Thus, the Panel of Judges considered that with this salary and other allowances as stated in Exhibit P.5 and based on the cost of living in Karangasem Regency or other areas in Indonesia in general, the Petitioner was deemed to have the ability to guarantee the needs of his future wives. Thus, the second cumulative requirement has been

fulfilled by the Petitioner.

Whereas in addition to the requirements above which are material and measurable regarding the Applicant's abilities, statutory provisions also require that an applicant for a polygamy permit must guarantee that they can treat their wives and children fairly in the future. Considering, that the Petitioner has submitted evidence P.8 regarding a statement of fair dealing which has been formally and materially considered previously. Regarding evidence P.8, even though this evidence is formalistic in nature, namely justice on paper and justice is something that is difficult to define, the panel of judges assessed justice based on indications that could be said to be justice.

Thus, all conditions outside the legislation which are adapted to a condition as has been considered by the panel of judges above are essentially not deviant as long as polygamy is desired by the parties concerned as stated in article 3 paragraph (1) of the Compilation of Islamic Law; "The court can give permission to a husband to have more than one wife if the parties concerned wish." Provided that the will does not conflict with the laws and regulations and the religion adhered to by these parties.

However, there are irregularities in the legal considerations, because the reason put forward by the Petitioner is that they are so close and love each other and will accompany and teach their future wife to continue to know Allah and the teachings of the Islamic religion because converting to Islam is not in accordance with the provisions of Article 4 Paragraph (2) of Law Number 1 of the Year.

However, the Panel of Judges as law applicators are obliged to understand the law by looking for laws related to the case being examined, then must be able to assess whether the law is fair, useful and provides legal certainty, because the aim of the law is justice, expediency and legal certainty. The decision still granted the Petitioner's petition by considering the Petitioner's reasons for teaching them to know God better or deepening the teachings of the Islamic religion and the relationship between the two was deemed to bring benefits not only to the Petitioner and Respondent, but also to the Petitioner's future wife because it would reunite the fabric of the house. stairs that had been broken and gave happiness to the Petitioner's children and the Petitioner's future wife because their parents were reunited. However, there is an oddity that the applicant and the prospective second wife were previously married and had children. Based on the facts from the documents and those presented by the witnesses, they did not mention the fact that they had ever been married, and that the two of them also had different religions.

And if we look at *maslahah*, it is already known that one of the conditions of *maslahah* itself is that it is for the *mashlahah* of the public interest, not for the benefit of personal interests, so that it will bring benefits to humanity and prevent harm to the public, not to reject harm that is personal or brings benefit for himself. So, according to the author of the judge's opinion, the granting of permission for polygamy was for the *maslahah* of the Petitioner's family, because it reunited the family relationship with the Petitioner's future wife which had once been severed and brought happiness to the Petitioner's children and the Petitioner's future wife because their parents were reunited, justifiable. Moreover, polygamy can provide an opportunity for the applicant's prospective wife who is a convert to Islam to become more familiar with and deepen her understanding of Islam. This is in line with polygamy during the time of the Prophet Muhammad. who practice polygamy to help and maintain the dignity of widows and orphans and marriage as a means of preaching to spread Islam. But it cannot be denied the current reality that humans are more considerate of lust and consider it only without looking at the main goal of the polygamy law.

Granting permission for polygamy on the grounds that he wants to teach his future wife to continue to know Allah and the teachings of the Islamic religion. This will also certainly have an impact on the emergence of a perception among ordinary people that polygamy permits are loose. So a man who has great lust will find it easier to find reasons to get permission for polygamy, so they will use the same method or mode to realize their goals. In conditions like this, because the benefit that arises if the religious court grants the applicant's request for permission is greater than the harm that arises if the religious court grants the applicant's request for permission, therefore giving permission to the applicant to carry out polygamy is the right solution in resolving the problem. This. This is in line with Fiqhiyah rules.

ذَرَأَ الْمَفَاسِدُ مُقَدِّمٌ عَلَى جَلْبِ الْمَصَالِحِ

Meaning: "Eliminating mafsadat takes precedence over taking benefits". This rule applies if the mafsadat and *mashlahah* are the same. If the *mashlahah* is greater than the mafsadat, then the benefit still takes priority

CONCLUSION

The application for a polygamy permit at the Bengkalis Religious Court in case number 3728/Pdt.G/2017/PA.Dpk essentially only fulfills the cumulative requirements but does not fulfill the alternative requirements. According to the provisions as stated in the provisions of the Marriage Law Number 1 of 1974 concerning marriage, the application must be rejected. However, the Depok Religious Court in this case granted the petition using the principle of *contra legem* with the consideration that the relationship between the two was deemed to bring *mashlahah* not only to the Petitioner and Respondent, but also to the Petitioner's future wife because it reunited the household ties that had been broken and brought happiness to

the Petitioner's children and the Petitioner's future wife because their parents were reunited. If viewed based on *maslahah mursalah*, judge's decision number 3728/Pdt.G/2017/PA.Dpk in the polygamy permit case is essentially based on considerations regarding the dangers and benefits that will arise as a result of granting a polygamy permit because of the benefits that arise if the religious court grants it. The applicant's request for permission is greater than the harm that would arise if the religious court granted the applicant's request for permission, which is the right solution in resolving this problem. This is in accordance with the rules of *fiqihyah*: If the *mashlahah* is greater than the *mafsadat*, then the *mashlahah* still takes priority.

RECOMMENDATIONS

The preservation of the A'matoang tradition in Jenepono needs to be carried out while ensuring alignment with Islamic values. This requires a deeper understanding of religious teachings related to the tradition. Moreover, it is crucial to maintain a balance between tradition and modern life to prevent financial exploitation and undue pressure on families. Collaboration between traditional leaders and religious figures needs to be enhanced to achieve mutual understanding and seek solutions that respect both sides.

Educating the community and conducting further research will aid in exploring the impacts, relevance, and potential changes within this tradition, enabling individuals to embrace change with better understanding. Respecting traditions while ensuring alignment with religious principles is a step towards a balanced and harmonious cultural sustainability. This also allows us to experience cultural richness without compromising our cherished values.

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