

Protection of a Wife’s Dignity Under Article 4, Section 2 of Law No. 1 of 1974 from the Perspective of Maqāṣid Al-Syari’ah

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Abstract

This research examines the effectiveness of Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage in protecting the dignity of wives in the practice of polygamy permits in religious courts. The focus of the research is the use of the reason for the wife's inability to serve her husband as the basis for the judge's consideration. The method used was qualitative with a sociological juridical approach through a literature study of regulations, court decisions, and related literature. The results of the study show that normatively the article is limitative and aims to limit polygamy, but in practice the judge tends to rely on the wife's confession without objective evidence. This has the potential to be influenced by power relations and psychological pressure, thereby weakening the protection of the wife's dignity. In the perspective of maqāṣid al-shari'ah, these reasons do not meet the urgent need to maintain the five main objectives of the shari'a. Therefore, the effectiveness of this article is considered low and it is necessary to tighten the conditions for polygamy to ensure justice and protection of women.

INTRODUCTION

In this contemporary era, the practice of injustice against wives tends to decrease, along with the presence of various legal instruments that provide protection for women's rights in marriage (Munajah, 2023). One of the relevant regulations is Law Number 1 of 1974 concerning Marriage, especially Article 4 paragraph (2), which strictly regulates the practice of polygamy. This provision aims to limit the possibility of a husband committing polygamy arbitrarily (Kholis et al., 2017). In this article, the court can only give permission to a husband to have more than one wife if certain conditions are met, namely: (1) the wife is unable to carry out her obligations as a wife; (2) the wife suffers from a physical disability or incurable disease; and (3) the wife cannot bear children.

Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage is a juridical norm that sets substantive conditions for the permissibility of the practice of polygamy. This provision emphasizes that a husband can only obtain permission from the court to marry more than one wife if one of the conditions that has been formulated limitively in the article is met (Muna & Bahri, 2024). Thus, the existence of these reasons is determinative in the permitting process. On the other hand, if there is no condition that meets the criteria as referred to in the provision, then the application for a polygamy license cannot legally be granted by the court.

The legal basis of polygamy in Law Number 1 of 1974 concerning Marriage is not only found in Article 4 paragraph (2), but also includes several other provisions that complement each other. Article 3 paragraph (2) opens the possibility of polygamy with the court's permission, while Article 4 paragraph (1) emphasizes that the application for permission must be submitted first to the court, and Article 5 paragraph (1) stipulates additional conditions such

as the wife's consent, the ability to act fairly, and the guarantee of alimony. This arrangement is strengthened in the Compilation of Islamic Law, especially Article 6 paragraph (1) and Articles 57 to 59 which regulate the procedures and requirements of polygamy. In addition, normative legitimacy also comes from Q.S. An-Nisa verse 3 which allows polygamy on the condition of justice (Fathoni, 2025).

Article 4 paragraph (2) of Law Number 1 of 1974 was chosen as the object of research because it has a strong relevance in judicial practice, especially as a basis for judges' considerations in deciding polygamy applications. This provision is normative as well as operational, so it not only contains abstract legal principles, but can also be directly applied in concrete cases (Hasbi et al., 2021). The formulation of the article provides clear and measurable parameters, such as the wife's inability to carry out her obligations, health conditions, and inability to bear children, which are the basis for juridical assessment for judges (Wayan & Diangsa, 2022). With these parameters, the judge has guidelines in assessing whether or not the requirements for polygamy are met objectively. In this context, judges not only play the role of textual law applicators, but also as interpreters and assessors of facts who must match the concrete conditions of the parties with applicable legal norms, so that the resulting verdict should reflect rational and contextual legal considerations.

However, there are a number of court rulings that show problematic tendencies in granting polygamy licenses. In several decisions, such as Number 1697/Pdt.G/2023/PA. Btg, 308/Pdt.G/2020/PA. Mtr, and 104/Pdt.G/2021/PA. Bitg, although the judge granted the polygamy permit because there were other considerations, the judge's most dominant consideration was the statement of the wife's inability to serve her husband, even though it was not supported by objective reasons such as health conditions (Batang Religious Court, 2023; Mataram Religious Court, 2020; Bitung Religious Court, 2021). The wife's statement about the inability to serve her husband has the potential to be influenced by pressure or power relations in the household (Hazmi, 2021). In addition, sociologically, the tendency suggests that in conditions of disharmony, such as emotional exhaustion or loss of love, the wife prefers divorce to accepting the practice of polygamy (Grace & Syahrui, 2023). If the reason for the wife's inability to serve her husband has the potential to cause injustice to the wife, is Article 4 paragraph (2) of Law Number 1 of 1974 still relevant in protecting the dignity of the wife? This study aims to examine the effectiveness of the article in protecting the dignity of wives from the perspective of *maqāṣid al-syarī'ah*, so that the results are expected to be a basis for consideration in efforts to increase the effectiveness of protection of the dignity of the wife.

Research on polygamy permits based on Article 4 paragraph (2) of Law Number 1 of 1974 has not specifically examined the reasons for "the wife's inability to serve her husband" in religious court decisions by linking it to potential power relations, and has been comprehensively analyzed from the perspective of *maqāṣid al-syarī'ah*. Indeed, there are studies that have a close theme, such as the work of Siti Musdah Mulia in various articles in the journals *Al-Ahkam*, *Ahwal*, and *Al-Manahij*, but these studies are generally still normative, limited to the perspective of Islamic law and positive law, and have not specifically examined Article 4 paragraph (2) of Law Number 1 of 1974. Therefore, this study is focused on examining more deeply the provisions of Article 4 paragraph (2) in the context of judicial practice and analysis of *maqāṣid al-syarī'ah* because this approach is able to assess the law not

only at the normative-formal level, but also on the substance of its purpose and impact on the protection of the dignity of the wife.

Based on the background and research gaps that have been identified, this study aims to examine the effectiveness of Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage in protecting the dignity of wives in the practice of granting polygamy licenses in religious courts, focusing on the use of the reasons for the wife's inability to carry out her obligations as the basis for judge's consideration, and analyzed from the perspective of *maqāṣid al-syarī'ah*. This research is expected to provide benefits both theoretically and practically. Theoretically, this research enriches the scientific treasures in the field of Islamic family law and positive law in Indonesia, especially related to the effectiveness of polygamy regulation and the protection of the dignity of wives. This research also integrates the *maqāṣid al-syarī'ah* approach as an analytical framework in assessing the goals and impacts of law, thereby contributing to the development of legal research methodologies that combine normative and sociological aspects. Practically, this research is expected to be an input and consideration for judges in religious courts in deciding on polygamy license applications, so that they are more careful in assessing the reason for the wife's inability as the basis for granting permission. For lawmakers, the results of this study can be a recommendation to reformulate or tighten the requirements for polygamy in the future to increase the effectiveness of protecting the rights and dignity of wives. For the general public, this study provides a more comprehensive understanding of the provisions of polygamy in Indonesia's positive law and the importance of protecting women's dignity in marriage institutions.

Research Method

The type of research applied was qualitative research (descriptive-analytical) which involves collecting data by means of literature *review*. The method used is the sociological juridical method. Sociological juridical is legal research that examines the effectiveness of law in society by examining laws and regulations (normative) and their implementation in real life (*in action*) in the field. The approaches used are a case approach and a conceptual approach. The case approach is an approach that examines court decisions to see the application of the law and the judge's considerations. A conceptual approach is an approach that analyzes legal concepts, principles, and doctrines from the literature to build a framework of thought. Primary data was obtained from laws, court decisions and the results of previous research. Secondary data were obtained from books and journals. Data collection techniques include *library research*. Data analysis is carried out qualitatively through three stages: data reduction, data presentation, and conclusion drawn. Data reduction was carried out by selecting and grouping data from literature studies into the categories of normative construction, the practice of polygamy decisions, the impact on the dignity of the wife, and the analysis of *maqāṣid al-syarī'ah*. The presentation of data was carried out in the form of a descriptive-analytical narrative accompanied by excerpts from court decisions and laws and regulations. Conclusions are drawn inductively from empirical facts and legal norms towards a general conclusion about the effectiveness of Article 4 paragraph (2). This research also uses a case approach to analyze religious court decisions and a conceptual approach to analyze the concepts of legal effectiveness, protection of the dignity of the wife, and *maqāṣid al-syarī'ah*. The validity of the data is guaranteed by triangulating sources through the comparison of information from laws and regulations, court decisions, and legal literature.

RESULTS AND DISCUSSION

Normative Construction of Article 4 Paragraph (2) of Law Number 1 of 1974

Article 4 paragraph (2) in Law Number 1 of 1974 concerning marriage is a provision that expressly regulates the substantive requirements that must be met by a husband to obtain a license to practice polygamy through the court. This provision emphasizes that the granting of such permits is not free, but is limited by certain reasons that have been formulated in a restrictive manner. In the article, it is stated that the court can only grant permission if one of three conditions is met, namely: the wife cannot carry out her obligations as a wife, the wife suffers from a physical disability or disease that cannot be cured, or the wife cannot bear children. This restriction shows legal prudence in regulating the practice of polygamy.

Academically, the formulation of Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage was motivated by the efforts of lawmakers to limit the practice of polygamy which previously tended to be carried out freely and arbitrarily. The provision is designed as a control mechanism through the determination of restrictive reasons, so that polygamy can only be carried out under certain conditions that can be legally justified (Azwar, 2021). Thus, philosophically, the article can be positioned as a normative instrument oriented towards the protection of the rights and maintenance of the dignity of the wife in the institution of marriage.

Normatively, the formulation of Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage shows that the reasons that can be used as the basis for applying for polygamy have been determined in a closed and restrictive manner (Mansari et al., 2023). This means that only the reasons explicitly stated in the provision can be used as a legal basis for applying for a polygamy license. Beyond the three conditions that have been formulated, the application does not have the juridical legitimacy to be granted by the court. This provision does not leave room for broad or flexible interpretation, but rather confirms the existence of strict restrictions to prevent the abuse of polygamous practices.

The provisions in Article 4 paragraph (2) cannot be understood partially, but must be interpreted systematically together with other provisions in Law Number 1 of 1974 concerning Marriage. This connection is important so that the meaning of norms is not separated from the entire legal framework. In this case, Article 3 paragraph (2) provides the possibility for a husband to have more than one wife, but expressly requires permission from the court. This shows that polygamy is not an absolute right that can be carried out unilaterally, but a legal action that is subject to the control and supervision mechanism of judicial institutions to ensure justice and legal certainty.

Furthermore, Article 5 paragraph (1) in Law Number 1 of 1974 concerning Marriage stipulates additional requirements that must be met by the husband as a prerequisite for applying for a polygamy permit. These requirements include the consent of the wife, the guarantee of the husband's ability to act fairly, and certainty about the economic ability to meet the living needs of all his wives and children. This provision shows that the granting of polygamy licenses is not solely based on substantive reasons as stipulated in Article 4 paragraph (2), but also considers aspects of justice and family welfare.

The provisions of Articles 57 to 59 in the Compilation of Islamic Law also strengthen the regulation of polygamy as stipulated in the Marriage Law. In this provision, it is regulated in more detail about the procedures and reasons that can be used as the basis for allowing the

practice of polygamy. The assertion that the reason for polygamy must be based on conditions that are objective and provable indicates an attempt to limit the space of subjectivity in the application for permission.

By paying attention to the overall construction of these norms, it can be understood that the marriage legal system in Indonesia basically adheres to the principle of open monogamy which is strictly restricted. This principle suggests that monogamy remains the main principle, while polygamy is only possible under certain pre-normatively defined conditions. Within such a framework, polygamy is not positioned as a practice that is encouraged or encouraged, but rather as a limited exception. Such exceptions can only be applied in situations that meet certain criteria, are urgent, and can be objectively measured. Thus, the existence of polygamy is under strict legal control and is not free.

The main purpose of the restriction in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage is not to legitimize the practice of polygamy freely, but to prevent arbitrary actions from the husband in domestic life. This provision is designed as a legal protection instrument that functions to protect the rights and dignity of wives from potential unfair treatment (Khiyaroh, 2022). These restrictions implicitly reflect a normative effort to create a balance of relations between husband and wife, so that there is no unilateral domination.

Thus, Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage needs to be understood as a legal instrument that has a protective function, especially in ensuring the protection of the dignity and rights of wives in marriage. This provision emphasizes the existence of strict and limiting limits on the practice of polygamy, so that it does not open space for actions based solely on the subjective will of the husband. Through this arrangement, the law seeks to ensure that every application for polygamy must be based on rational, objective, and accountable reasons both juridically and morally, so as to create justice and balance in household relations.

The Practice of Polygamy Verdicts in Court

In judicial practice, there are various provisions that can be used as a basis for consideration by judges in deciding polygamy license cases. However, what is often the main reference is Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage, thus showing the existence of diverse interpretation dynamics in its application. This can be seen from a number of religious court decisions, including Decision Number 1697/Pdt.G/2023/PA. Btg, Decision Number 308/Pdt.G/2020/PA. Mtr, and Decision Number 104/Pdt.G/2021/PA. Bitg, as well as other similar rulings. The three rulings generally grant polygamy applications based on the wife's statement that she is unable to carry out her obligations, especially in serving her husband.

Contrary to the purpose of limitation in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, the judge's consideration in a number of decisions tends to focus on the wife's confession or statement about her inability to carry out her obligations, without being supported by adequate objective evidence, such as medical evidence. This is proven by a number of studies. First, Ni Wayan Girisawitri's research which analyzed the Mataram Religious Court Decision Number 308/Pdt.G/2020/PA.Mtr (Wayan & Diangsa, 2022). Second, the research of Rizki Lubis et al., which examined the Decision of the Padangsidempuan Religious Court Number 195/Pdt.G/2022/PA.Psp (Rizki et al., 2026). Third, Faruq Nurul's

research which examines the Decision of the Malang Religious Court Number 4877/Pdt.G/2021/PA. Kab.Mlg (Faruq, 2023). Fourth, Nurlaila Harun's research which analyzed the Bitung Religious Court Decision Number 104/Pdt.G/2021/PA. Bitg (Harun, 2022).

Although the judge also considered other aspects, such as alimony, the husband's economic ability, and the potential harm that may arise if the application is not granted, the wife's admission of her inability to serve her husband remains the most dominant factor in influencing the outcome of the verdict. This is because the recognition is considered to be in line with the provisions of Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage as the main normative basis. If the wife does not declare the incapacity, then juridically it is likely that the judge will not grant the application for a polygamy permit, considering the non-fulfillment of one of the substantive conditions that have been determined in the laws and regulations as reflected in the Palu Religious Court Decision Number 462/Pdt.G/2020/PA. Pal, the panel of judges did not grant the application for a polygamy permit because there was no acknowledgment from the wife's side who stated her inability to carry out her obligations as a wife, especially in serving her husband. The confession of the wife has the potential to cause discrimination against the wife, considering that the statement does not fully reflect free will, but can be influenced by pressure, threats, or inequality of power relations in the household.

Sociologically, in conditions of disharmony, wives are generally more likely to file for divorce than to accept polygamy. Another evidence is found in a study in Mungkid District, Magelang Regency, Central Java Province, which states that a wife prefers divorce rather than having to practice polygamy (Silvi et al., 2024). However, in certain situations, some wives do not have the courage to file for divorce due to pressure from their husbands, as shown in the research of Feti Astuti and Muhammad Haidarsyah in *the journal Psycho Aksara* (Astuti & Kasyfillah, 2025). From this, it proves that there is a potential statement of the wife's inability to serve her husband forcibly, which is then used as a basis by the court to grant the application for a polygamy license.

Thus, in judicial practice, the application of Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage shows that there is a discrepancy between the normative goals to be achieved and the empirical reality that occurs in the field. Conceptually, the provision is designed as a restrictive instrument aimed at protecting the rights and dignity of wives and preventing arbitrary polygamous practices. However, in its implementation, the tendency to use wife's recognition as the main basis for consideration has the potential to deviate from the protection of the dignity of the wife. This condition shows the weakening of the effectiveness of norms in providing protection for the dignity of wives because they are contrary to the norms that govern the protection of women's dignity.

The Impact of the Polygamy Permit Decision on Wives Dignity and Social Perception

The court decision granting polygamy permits based on Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage not only has juridical consequences, but also has significant social and psychological implications for the wife. In practice, polygamous wives often experience emotional distress, such as feelings of marginalization, reduced roles in the household, and decreased psychological well-being (Nurmayani et al., 2025). In addition, legal legitimacy through court decisions does not automatically remove negative impacts that are

non-material. These losses are mainly related to aspects of self-esteem, honor, and dignity of wives who have the potential to experience degradation in household relationships and in their social life (Nopriana et al., 2025).

From a social perspective, women who are polygamous, even through legally valid mechanisms, still have the potential to face stigma in society (Khaliluddin, 2022). In various social contexts, the practice of polygamy is often perceived as an indicator of domestic disharmony or the inability of wives to carry out their roles ideally (Aeni & Ashari, 2024). As a result, the wife is often the one who is indirectly blamed or negatively labeled by the social environment, even though these conditions are not completely under her control. This stigmatization can have an impact on the social and psychological position of the wife in social life. Therefore, the legal legitimacy given through court decisions is not always directly proportional to the level of social acceptance in society.

On the other hand, it can be argued that court decisions that legalize the practice of polygamy have the potential to provide formal legitimacy that can reduce negative public judgments. In this framework, polygamy carried out through legal procedures tends to be seen as more orderly, controlled, and has a clear basis of legitimacy compared to the practice of polygamy that takes place informally. However, such formal legitimacy does not automatically eliminate the social stigma that has taken root in the cultural construction of society (Kabir, 2025). As a result, polygamous wives remain in a position that is vulnerable to negative judgment, both in social relations and in the collective perception of society at large, so the social impact remains significant.

Thus, it can be concluded that the legality of a decision is not always synonymous with the realization of substantive justice in practice. Although polygamy has gained legal legitimacy through a court decision based on Law Number 1 of 1974 concerning Marriage, it does not necessarily guarantee the fulfillment of the value of justice, especially for the wife. The impact that arises, both from a psychological and social perspective, shows the potential for injustice that is still felt by the wife. In addition, the social perception of the community that tends to give a negative stigma further strengthens the vulnerable position of the wife.

Maqāsid al-Syarī'ah's Analysis of the Effectiveness of Article 4 Paragraph (2) of Law Number 1 of 1974 in Protecting the Dignity of Wives

In the context of the practice of polygamy that gains legitimacy through a court decision based on Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, there is a fundamental question that needs to be critically analyzed, namely whether the practice really reflects the protection of the dignity of the wife or has the potential to reduce it. Normatively, polygamy in Islamic law is indeed allowed as part of the provisions of sharia, but this ability is not absolute, but is limited by the principles of justice, benefit, and prevention of harm (Hikmah & Muhasim, 2025).

The analysis of the effectiveness of Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage in protecting the dignity of the wife cannot be separated from the perspective of *maqāsid al-syarī'ah* as a theoretical framework in assessing the purpose and benefits of the law. In the conception of *maqāsid al-syarī'ah*, Islamic law is essentially directed to protect and protect the five fundamental aspects of human life, namely *hifz al-dīn* (religion), *hifz al-nafs* (soul), *hifz al-'aql* (intellect), *hifz al-nasl* (descent), and *hifz al-māl* (wealth). These

five principles are the main basis for assessing whether a legal provision is in line with the goals of protection and human welfare comprehensively.

In general, religion is understood as a system of belief in God that includes aspects of faith, worship, laws, and norms that govern human relationships with God and others. Within the framework of *maqāsid al-syarī'ah*, *hifz al-dīn* (safeguarding religion) is directed at maintaining these aspects so that they are optimally maintained. In Islam, this is realized through the implementation of the pillars of Islam, namely shahada, prayer, zakat, Ramadan fasting, and Hajj (Nasution & Nasution, 2020). When associated with the practice of polygamy based on the reason of the wife's inability to serve her husband, there is no direct correlation with efforts to maintain religion. There is no guarantee that the practice will have implications for improving the quality of religion, nor can it be guaranteed to be free from the potential for degradation or disruption of religion after the implementation of polygamy (Aeni & Ashari, 2024), so polygamy cannot be categorized as an urgent need within the framework of *hifz al-dīn*.

Within the framework of *hifz al-nafs* (preservation of the soul), Islamic law shariates hudūd sanctions against the perpetrators of criminal acts or adultery as well as against the accuser without valid evidence, as an effort to preserve the dignity and honor of the individual (Putra et al., 2026). If it is associated with the practice of polygamy which is based on the reason of the wife's inability to serve her husband as stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, then this reason cannot be categorized as an urgent need in the framework of maintaining the soul. This is because the husband basically already has a legally valid partner to meet his biological needs. When there is rejection from the wife, this condition should be understood as part of the dynamics of domestic relations that require a communicative and psychological approach. Therefore, settlement through an effort to come to a counseling place or professional psychologist is more relevant than coming to court to ask for permission for polygamy.

Within the framework of *hifz al-'aql* (safeguarding reason), Islamic law shari'a prohibits the consumption of khamr and all forms of intoxicating substances because they have the potential to damage the function of reason, accompanied by the determination of sanctions for violators (Azhara et al., 2025). When associated with the practice of polygamy which is based on the reason of the wife's inability to serve her husband as stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, there is no guarantee that the practice will contribute to the maintenance of reason. On the other hand, psychological pressure due to social stigma and power relations in the household has the potential to cause mental disorders, such as depression (Bahari et al., 2021). These conditions in certain situations can encourage excessive use of sedatives (Dewi et al., 2025). This risks lowering the function of the central nervous system and damaging mental health (McHugh et al., 2023). Therefore, the practice cannot be categorized as an urgent need in *hifz al-'aql* (maintaining reason), and may even have the potential to cause harm to it.

In the framework of realizing *hifz al-nasl*, Islamic law shari'a marriage as a means of obtaining offspring, maintaining the continuity of generations, and ensuring the preservation of human existence in an ideal and orderly manner (Ulya et al., 2025). However, in the practice of polygamy which is based on the reason of the wife's inability to serve her husband as stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage, there is

no indication that the wife has an inability in the reproductive aspect (Susanti, 2023). Thus, the absence of polygamy will not hinder the goal of obtaining offspring. Therefore, the practice of polygamy on this basis cannot be seen as an urgent necessity within the framework of *hifz al-nasl*.

Within the framework of *hifz al-māl* (preservation of property), Islamic law prohibits theft, fraud, betrayal, and destruction of property, accompanied by the establishment of sanctions to maintain the security and sustainability of ownership (Arifyanto, 2025). There is no guarantee of increased security or the preservation of property from potential losses if the practice of polygamy is carried out based on the reason of the wife's inability to serve her husband as stipulated in Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage. If there is excess wealth, then optimization of wealth management can be carried out through religious instruments such as zakat, waqf, and alms. Therefore, the practice of polygamy on this basis cannot be categorized as an urgent necessity within the framework of *hifz al-māl*.

Thus, when analyzed from the perspective of *maqāṣid al-shariah*, the provisions of Article 4 paragraph (2) letter a in Law Number 1 of 1974 concerning Marriage which states that polygamy is allowed if the wife is unable to serve her husband, shows a low level of relevance to be used as a basis for consideration in granting polygamy licenses. This is because this reason does not correlate significantly with efforts to protect the five main goals of *maqāṣid*, namely religion, soul, intellect, heredity, and property, and even has the potential to cause harm. Therefore, the use of these provisions as a basis for juridical considerations has implications for the decline in the effectiveness of protection of the dignity of the wife in the perspective of *maqāṣid al-shari'ah*. It is necessary to tighten and add requirements in the practice of polygamy to increase the effectiveness of the application of Article 4 paragraph (2) in Law Number 1 of 1974 concerning Marriage, especially in ensuring the protection of the rights and dignity of the wife.

CONCLUSION

The practice of licensing polygamy on the grounds of the wife's inability to serve her husband has been found in a number of court decisions referring to Article 4 paragraph (2) of Law Number 1 of 1974 concerning Marriage. Normatively, this provision does provide legal legitimacy for this reason as the basis for applying for a polygamy permit. However, empirical findings show that the wife's recognition of her inability has the potential to be not entirely born from free will, but is influenced by pressure, coercion, or inequality in power relations in the household, which can actually have a negative impact on the wife's condition. In the perspective of *maqāṣid al-syarī'ah*, the use of this reason as the basis for granting polygamy permission shows a low level of effectiveness in protecting the dignity of the wife. This is because for this reason there is no significant urgency in maintaining the five main goals of *maqāṣid al-shari'ah*, namely religion, soul, intellect, descent, and property. Therefore, it is necessary to reformulate or tighten the requirements for polygamy in the future to increase the effectiveness of the implementation of these provisions in ensuring the protection of the rights and dignity of the wife.

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