

Dayah Ulema's Polygamy And Its Impact To The Society Viewed By People In Bireuen Regency, Indonesia

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Abstract: Ulema are the successors of the Prophets, until the end of time we can not escape from the ulema's fatwa. The dynamic of Dayah Ulema's polygamy because of various factors, some Dayah ulema that takes polygamy is caused by various reasons. It is because Dayah ulema want to have many good children. Islam advocates to people to have many children, Prophet Muhammad also advocates His followers to have many children, The prophet loves good and quality people. Theory to have many children is practiced by Ulema, one of applied theory is in polygamy because polygamy concept is the best concept to have many children by marrying the other women. People in Bireuen thought that polygamy can be done by Dayah ulema to preaching mission amar ma'ruf nahi mungkar.

Keywords: ulema; dayah; society; Bireuen

Date of Submission: 06-02-2018

Date of acceptance: 26-02-2018

I. INTRODUCTION

Ulema are the successors of the Prophets, until the end of time we can not escape from the ulema's fatwa. The existence of Ulema for Muslims in the world is like light, no exception to Aceh society whose earth dubbed the Veranda of Mecca, the people of Aceh are very fanatical to the ulema, in the book entitled "*Faham Wahdatul Ujud*" a work by Sheikh Prof. Dr. Tgk. H. Muhibbuddin Muhammad Waly, there are four great ulema of Aceh who are very influential in developing Islamic teachings to the Eastern Indonesia.

Polygamy has ever done by the great ulema of Aceh in Bireuen regency, Tgk Tunom, the leader of Dayah Darrul Istighamah Cureh Village at that time he has two wives, the first wife has an active role in the development of Dayah, while the second wife takes an active role in the governance of Bireuen Regency and one of the House of Representatives Bireuen members. Thus the effect and influence of polygamy from an Aceh ulema on society has been pro and contra, but it is not as good as today, so it leads to internal family conflicts and to polygamy supporters either pro or contra.

Dayah is not separated from the hands of ulema, because the position of Ulema in Aceh dominantly has a Dayah or Religious education institution, it can be said that the existence of Dayah because because of Ulema, Dayah is existed because it is born from the intelligence of Dayah Ulema or Islamic Education institution, to lead Dayah sometimes ulema is not enough with one life companion, moreover if an ulema has two, or three Dayah in a different region with the distance between one dayah and another Dayah that need very long time even for days. The conditions like this becomes an opportunity and the possibility of polygamy Dayah Ulema, it is for importance of the future religion.

The response of community about a Dayah Ulema in the past who does polygamy does not cause contradiction in the middle of society life, whether aspect of religious, social interaction of society and even polygamy of Dayah Ulema are harmonious until the end of life, ironically at this moment, if ulema has more than one wife whether he is a Dayah ulema or a modern ulema, a classical cleric or a contemporary ulema gets a warm spotlight in the heart of society both the pros and cons, even some assume that polygamy is part of the many forms of discrimination of women.

II. LITERATURE REVIEW

2.1 The Definition of Polygamy

Polygamy is a foreign language loaned by English language. Polygamy comes from the Greek words "poly" and "gamos." Poly means a lot, while gamos means marriage, polygamy is taking a lot marriage, and in the development polygamy is termed as a man who marries woman more than one. Polygamy is defined by

marriage between a man and more than one wife at the same time, it is mean that a man marries two, three and four women either at a time or at the other time. Generally the prevail understanding in society, polygamy has more than one wife. Polygamy means a marriage system that a man has or get marriage some women in certain time. The term of polygamy is used in this discussion because the term is more general. According to ulame and the expert of *fiqih Syafi'iyah* the law of polygamy is allowed by no more than four persons, if polygamy is undertaken more than four persons, it is forbidden. Polygamy in this research is the marriage that is done more than one person in the same time and no more than four persons.

In keeping the balance in household, polygamy process needs prerequisite that has been arranged by canon law, so that polygamy is in the corridor of *syarak* (canon law) or marriage law. The aim of marriage either one wife or more than one wife is to have the happy family. Therefore both wife and husband need to help and complete each otheer, so each of them can develop their personality in getting spiritual and physical prosperity. The aim of marriage both monogamy or polygamy is same. In Islamic circle many people do polygamy. Sometime polygamy allowed has prople moreover polygamy that is done because only desire. Therefore Islam decide some other prerequisites that is existed in positive law.

Polygamy is the translation of *ta'addud al-zawjat* (a lof of wive, having more than one). In Indonesia anguage there are some terms to marriage with more than one wife/husband as follows:

1. Polyandry is marriage system that allows a woman to have more than one husband in same time.
2. Polygamy is marriage system that allows a man to have more than one wife in same time.

The controversy about polygamy is nothing new. In 1973, when the Draft bill on Marriage is submitted to the House of Representatives, the pros and cons of this issue are already on the surface. The Marriage Bill submitted by the then Minister of Justice, Marseno Aji, has sparked violent controversy especially from Muslim communities. A ban on polygamy has affected the many members of the Civil Servant, the Indonesian National Armed Forces, and Indonesian National Police who married in secret, because of the difficulty of obtaining permission from religious courts and obtained by wife. Many claim that polygamy is essentially a harassment and an affront to the dignity of women, because no woman is willing to be combined, just like men.

At prophet period, polygamy is done to protect the woman who has left her martyred husband in in the path of Lord. The polygamy carried by the Messenger of Lord himself, is also one of the efforts to avoid defamation for women, it is not because of lust. When seeing the polygamous theorem of surah *al-Nisā`* verse 3, polygamy actually has a strong reference to the legitimacy of the law that can not be changed by anti-community. Islam emphasizes the importance to have the right aim in every worship. The right aim is the key of the basicest success to be accepted someone's worship as *hadīth* narrated by Bukhari Muslim of Amirul mukminin Umar ibn Khattab RA as explained above. In taking polygamy, the basic of law about polygamy itself is needed, so the worship that is undertaken is not impressed to fabricate.

2.2 The Essence of Law about Islamic Polygamy

Every worship that is undertaken by someone can not escape from law, it means that the activity has strong theorem. The intended basic of law is guidance in taking polygamy. This case can be escaped from the main theorem of polygamy that is surah *al-Nisā`* verse 3 as mentioned above. At the age of pagan ignorance there is a gap in family life, specifically about polygamy, where at that time the community do polygamy without any limitations, depending on desire of each man. Of course this hurts women, and tends to be arbitrary in treating them. When Islam comes there are some people from Bani Tsaqif they have wives up to ten wives, then Islam limites to have just four people and no more.

Here being the basic of polygamy law is *al-Qur'ān*, Sunnah of prohheth, and *Ijma`* of ulema, Here it is explained one by one:

1. The basic of law of *al-Qur'ān*

The theorem sourced from *al-Qur'ān* is surah *al-Nisā`* verse 3:

Meaning: "If you fear that you might not treat the orphans justly, then marry the women that seem good to you: two, or three, or four. If you fear that you will not be able to treat them justly, then marry (only) one, or marry from among those whom your right hands possess. This will make it more likely that you will avoid injustice".

Regarding the *asbāb al-nuzūl* verse, Imam al-Bukhari narrates from 'Urwah ibn al-Zubir, he says that "I asks Aishah about Lord's word, Surah *al-Nisā`* verse 3. Then she replies: O my nephew, this orphaned girl is in the care of her guardian, while the orphanage's treasures are in the care of her guardian. Apparently her treasures and beauty are marvelous, so they have desire to marry her without being justly fair in giving her dowry as she gives to the other wives. Therefore they are forbidden to marry the woman, unless she is willing to be fair and give proper dowries, and is ordered to marry the women they love besides them (orphaned women who are in guardianship).

According to Hamka the meaning of this verse needs to be related to the previous verse that discusse about orphan. In the beginning of the third verse surah *al-Nisā`* it is found the the intermediate about keeping

orphan and allowed by Lord to have more than one wife until four wives. The conclusion result of Hamka's thinking about surah *al-Nisā`* verse 3 is the existence of relationship between the government keeps the orphan and someone is allowed to have more than one wife until four wives. Hamka's explanation about the verse is still about that a man is allowed to take polygamy, but until four persons only. It is different to a slave allowed to have till two wives.

From the content of the verses of al-Qur'ān above it is clear that polygamy is allowed in Islam but it is limited to four wives. Regarding the law of polygamy in Islam, according to Imam Syafī'i based on the sunnah of Prophet, it is not allowed to have more than four wives. That opinion has become the *ijma'* of ulema, except for the *Shi'ah* who argue that one may have more than four women up to nine, even among those who do not limit with a number. *Shi'ah* follows the actions of the Prophet(s) who have more than four wives to nine and even eleven wives. However, the reason is rejected by the majority of Islamic ulema, with the argument that what has been done by the Prophet is a specificity for him as an Apostle.

From the description above it can be understood that according to Hamka Islam gives an opportunity to the people of Muhammad for having polygamy, whereas according to Quraish Shihab, Surah al-Nisā` verse 3 does not make the rules about polygamy and this verse does not oblige us to take polygamy or advocate it, the verse only discuss about polygamy and it is a small path that can only be passed by the people who need with prerequisite that is not light.

Quraish Shihab says if necessary, you can marry at the same time two, three or four, but not more than if you are afraid that you will not do justice both in treasures and physical treatment, not in love - if marrying more than a wife, then marry one or marry the slaves you have. That is, to marry other than orphans who cause injustice, and taking one wife is closer to non-persecution, that is to bring you to justice or to not have many children you have to bear for their life. Something interesting about the interpretation of the Quraish Shihab is the explanation of the word "fair" and word "two, three or four", for word "fair", according to Quraish Shihab, in al-Qur'ān it is used in two forms of words namely *tuqsithū* and *ta'dilū*. *Tuqsithū* means to be fair between two or more persons. *Ta'dilū* means to be fair to yourself or others. The word "two or three or four", is essentially a demand to be fair to orphans. In the previous verse, a man is not allowed to do polygamy more than four people, because the letter *waw* (و) in this verse functions as *badal*, it means marry three wives or two and four. There is opinion proposed by Imam al-Qurtubi that a man is allowed to marry nine women at once, they takes the words of Lord above by perception that the letter *waw* (و) in this verse functions to allow numbers between numerals (nine).

Marriage that has more than four wives in Islam is not justified, but it is only for Prophet (Messenger) that is justified to do so, so he has nine wives during his lifetime. The reason is allowed because he is *ma'mun* (trustworthy) and can be trusted to be fair to all his wives. Rifat Hassan proposes a different opinion. He says that from *nash al-Qur'ān* Surah *al-Nisā`* verse 3, it is understood that polygamy can only be done in an emergency. Even the verse is a theorem that polygamy can only be done by women who have been left because of death and have orphans and not for the current polygamy theorem. "He says that the ulema interpreting surah *An-Nisa'* verse 3 is a "mistake", if this verse is used as a theorem for polygamy in a conducive atmosphere.

According to al-Jaziry, in Surah al-Nisā` verse 3, there is a very explicit principle mentioned by Lord justifying for a man to do polygamy two, three to four wives, as long as he can be fair to all. If not, it is not justified and only enough with a wife, because it is easier for him fair. In this verse it is quite clear how certainty of polygamy is, by focusing on the value of justice that a husband must be able to create fair for all his wives, and this becomes the most important thing. The law of justice to wives is obligation.

Islam does not easily allow people to be polygamous, because Islam highly values the values of justice in the family, because it concerns with the dignity of women who have full right to her husband's justice, so there is no intimidation and abusive treatment. Although in the verse above contains the concept of polygamy, this does not mean Islam encourages people to be polygamist, but it is only a very narrow path that can only be done in emergency.

2. The Basic of *hadīts* Law

Sunnah that become theorem about allowance of polygamy is *hadīts* from Ibnu Umar that Ghailan bin Salamah al-Tsaqafi converted to Islam, while he has ten wives in the age of ignorance, all people converted to Islam with him, so Prophet Muhammad says:
meaning: "keep the four and divorce the other".

This *Hadīts* contains a law of polygamy, there is a statement that polygamy is an allowed thing, but no more than four wives. In the *hadīts* it is explained that Ghailan bin Salamah al-Tsaqafi who has ten wives must choose four of them.

The meaning of content of *hadīts* above is that polygamy is allowed in Islam, but it is limited to have only four wives and no more than four wives.

3. The basic of *ijma'* law

The Muslims have done agree about whether polygamy is allowed, they express it through oral or attitude or

practice in their daily life. Polygamy has prevailed since the age of the Prophet(s) to right now. So the Prophet himself and his close friends do polygamy, for example Umar bin Khatab, 'Ali bin' Abi Talib, Muawiyah bin Abi Sufyan, and Muaz bin Jabal (may Allah bless their lives). Polygamy is also carried out by the next generation after the generation of friends is in the *tabi'in* period, and also other communities also take polygamy. Therefore it can be concluded that polygamy has been done by various circles of Muslims both past and present, because they hold the opinion that polygamy is allowed to do. According to Jalaluddin al-Mahally, al-Nawawi say that " it is allowed for a man to have four wives while a slave is only allowed to have two wives. Based on theorems that has been discussed above that polygamy is allowed in Islam, but it need to be paid attention that polygamy is not allowed easily but it needs prerequisites that should be done first, then polygamy may be taken.

2.3 Ulema's Opinion about Polygamy

In carrying out Islamic law in various directions, Ulema is as model because ulema is the heir of prophets who understands about religion issue and Islamic law decision, however ulema have their own opinions about the law of polygamy. Here some ulema's opinions are proposed about polygamy.

1. Rashid Ridha argues that polygamy is allowed, if the husband is unlikely to hold *mudharat* (hold lust) and if his wife is barren. One of the teachings in Islam, if one can not hold lust, then he may fast, because by fasting he can muffle the lust.

2. Khurshid Ahmad states that polygamy is limited to be allowed with fair terms against the responsibilities. Another reason is that when a man has problem in his family, he has two choices they are marrying again or do sin. That is why polygamy is allowed. The reason given by Khurshid Ahmad feels less right, if a husband has a problem in the family where the problem is found from the wife, then the husband can do polygamy or divorce her, so not to do sin or immoral to Lord.

3. Al-Jashshash argues that polygamy is allowed (*mubah*), but a husband should be able to do justice between wives. He thinks the size of fair here includes material, such as shelter, livelihood, clothing and the others while justice in love, tendency of the heart and such is very heavy.

4. Yusuf Qaradawi states that by emphasizing on human interest, both individually and socially, Islam allows marrying more than a wife, but on condition that he can be fair to all his wives, whether about food, drink, clothing, home, bed and livelihood. If he (a husband) is not able to carry out this justice, it is not allowed to marry more than a wife.

5. Al-Qasimi argues that, being able to marry more than one woman depends on the breadth of the husband's way of thinking that is the ability to control the household and maturity in all things in the community (*mu'amalah*).

Based on ulema's opinion that has been described above, it can be understood that polygamy is understood in religion if he can do fair to all wife both physical and spiritual, and he can do fair to his children in all need of household. The core is that ulema do agree about polygamy, but the expression or the way of interpreting is different. Lord allows a husband to have two, three and four wife, as long as he can do fair to all of his wife, but if he ca not, he is not allowed and only one wife is enough because it is easy for him in doing fair.

2.4 Prerequisites of Polygamy in Islam

Prerequisite for polygamy is the element that must be done by a *mukallaf* who want to do polygamy. The findings in some of the references in the previous explanation there are various requirements for polygamy which the essence is able to be fair and have the ability to give a physical and spiritual living to the wives.

The following will describe the prerequisite of polygamy that must be fulfilled by the husband in the opinion of Abu Malik Kamal bin Sayyid Salim in his book *Fikih Sunnah For Women* which mentions the three prerequisites of polygamy in Islam that must be taken as follows:

1. Being able to do justice to all wives, The theorem is the word of Lord, "If you fear that you will not be able to treat them justly, then marry (only) one" (*al-Nisā'* ayat 3)

2. Being able to keep themselves for not to be deceived by wife and abandon the right of Lord because their existence. Lord says "O you who have believed, indeed, among your wives and your children are enemies to you, so beware of them (At Taghabun 14). This case aims so that wives are avoided from the shame and destruction because Lord does not like the damage. In a Hadist, Prophet Muhammad says "O youth, who among you marry, marry them "*Muttafaq'Alaih*)

3. Having the ability to provide living for them, Lord says "But let them who find not [the means for] marriage, abstain [from sexual relations] until Allah enriches them from His bounty" (*an Nūr*: 33).

III. DISCUSSION

The dynamic of Dayah Ulema's polygamy because of various factors, some Dayah ulema that takes polygamy is caused by various reasons. It is because Dayah ulema want to have many good children. Islam advocates to people to have many children, Prophet Muhammad also advocates His followers to have many children, The prophet loves good and quality people. Theory to have many children is practiced by Ulema, one of applied theory is in polygamy because polygamy concept is the best concept to have many children by marrying the other women. Therefore polygamy can be done by Dayah ulema to preaching mission *amar ma'ruf nahi mungkar*. Another factor is the closeness of the emotional relationship between the Dayah Ulema and the factors influenced by the ideology of a great teacher who is very meritorious on the success of ulema to the famous and success in community both the national and international, and trustee factor of great teacher to development of a Dayah Education Institution and to avoid the occurrence future slanders in leading the Dayah Education Institution which between one institution and dayah education institution is very far away, The condition of society at that time is society that loves to religious science, it is also because a husband of the owner of Dayah Education Institution has passed away, therefore the opportunity of Dayah ulema to marry a wife of fist husband is very logic because by ulema family relation it can effect positive to society and it is possible education institution will be advanced and famous. The good aim of ulema in having many religious generation that love and obidient to Lod, devoted generation, one of them is to develop Dayah Education Institution from Sabang to Maroke and marry one of the family. Dynamic of Dayah ulema taking polygamy is because one of wives understand the condition of a ulema as public figure that is needed by society wherever and whenever, not only religious case but also social case, ulema is involved as advisor if society do mistake that make society anger to Lord. To strengthen the family economy and to live a harmonious family life can not be separated from the economic establishment and sufficient supplies for family sustainability in several years later, Ulema who have a job hajj pilgrimage or often travel to foreign country even for months, this condition can have a Dayah cleric be polygamy. Density of time and schedule of preaching to the public for the sake of religion and the responsibility of a Ulema in providing theology of religion to the society, this condition can lead the Ulema to do polygamy, because of the needs of primary and secondary.

Based on the situation, the change in the number of population makes society to do a good division of labor. The number of small population is also related to the community's ability to reform. Smaller the number of population is, fewer the social heritage society have and the situation reduces the possibility to do shyntesis from various elements left by social heritage. More shyntesis is done, more reform is done, Population growth also affects the behavioral patterns of community members. In Indonesia, big population growth especially in Aceh in Bireuen regency encourages population growth from urban areas to rural areas. This displacement causes changes in new settlement areas, both for the accepting society and newcomers. Physical habitat only gives a tendency to give more passive role in social change. This physical environment is accepted only as a limiting factor for possible human works. If physical habitat as a limitation, people can guess how big a role that is played by change in existance of social change. The role of this physical habitat in social change is acknowledged very slow and is beyond human observation. Then, the change in physical environment may be accelerated and in its turn it will be social change. Technology is a very real factor in its role in relationships with social change, but it does not lead to a sense of its true ability to bring about social change. That is wheter social change is truly a source worthy of being restored to the use of technology. Structure owner by society and the cultural structure has self close relation with social change. Although it is not as good as technology, we can think the happend of social change by ignoring both factors above. This community structure first addresses the speed of social change. The society who pay great attention to the roles and powers of the elderly do not encourage high social change, it is similar to people who emphasize the elements of commonality and who educate the members to provide a great place for community life in each of them. The factors that is being discussed relates closely with attitude and values of society members. The openness of change, thinking and new findings will provide characteristics to society that is ready to experience high social change.

IV. CONCLUSION

The explanation of the dynamic of dayah ulema's polygamy and the impact to society above can be concluded that legally in society it can be compared because comparative is the effort to know whether whether the law is universally applicable or always contextual. Does the same negative view of society cause in different punishment in the other place and time? Why is someone easy to receive information and are not others? In society the different law research can be undertaken in various regions and also research different law application for different people of same behaviour. Population development factors are commonly associated with the ability of a society to develop itself. People with small populations tend to be stable. The situation wants to be explained from the perspective of the ability of the community to do the division of working, a way to organize the commonly recognized society as a driver to the progress of society at the same time can change

society's mindset to the knowledge of religion. People in Bireuen thought that polygamy can be done by Dayah ulema to preaching mission *amar ma'ruf nahi mungkar*.

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