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# Analysis of Polygamy Law in Indonesia: Harmony between Islamic Law and State Law

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## Abstract

Polygamy, a practice that is widely recognized and regulated in Islamic law, often raises legal and social dilemmas in the context of Indonesia's national regulations. This research uses descriptive qualitative methods to analyze the interaction between Islamic law and Law Number 1 of 1974 concerning Marriage in Indonesia, which shows the conflict between religious norms and modern legal demands that are more inclusive. The research results show a significant gap between the law and practice of polygamy, with many cases carried out without official registration, leaving wives and children vulnerable without adequate legal protection. This study emphasizes the need for policy reform and increased law enforcement to address these social and legal problems, as well as increasing harmony between religious law and positive law, with the main aim of seeking better justice and prosperity for all involved.

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## Keywords

Polygamy, Islamic law, Indonesian Marriage Law

### Abstrak

Poligami, sebuah praktik yang diakui dan diatur secara luas dalam hukum Islam, seringkali menimbulkan dilema hukum dan sosial dalam konteks peraturan nasional Indonesia. Penelitian ini menggunakan metode kualitatif deskriptif untuk menganalisis interaksi antara hukum Islam dan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan di Indonesia, yang menunjukkan adanya pertentangan antara norma-norma agama dan tuntutan hukum modern yang lebih inklusif. Hasil penelitian menunjukkan adanya kesenjangan yang signifikan antara hukum dan praktik poligami, dengan banyaknya kasus yang dilakukan tanpa pencatatan resmi, membuat istri dan anak-anak rentan tanpa perlindungan hukum yang memadai. Penelitian ini menekankan perlunya reformasi kebijakan dan peningkatan penegakan hukum untuk mengatasi masalah-masalah sosial dan hukum ini, serta meningkatkan keselarasan antara hukum agama dan hukum positif, dengan tujuan utama untuk mencari keadilan dan kesejahteraan yang lebih baik bagi semua pihak yang terlibat.

### Kata Kunci

Poligami, hukum Islam, Hukum Perkawinan Indonesia

## Introduction

In the context of religious and social life in Indonesia, polygamy often gives rise to intense discussions and prolonged controversy. Recognized in Islamic law as a legal practice with clear boundaries, polygamy is accepted as part of a religious tradition that regulates many aspects of Muslims' social and personal lives. However, when this practice is confronted with Indonesia's national legal framework, which seeks to accommodate modern social and ethical plurality, tensions and incongruities often arise. The practice of polygamy, although theoretically strictly regulated by Islamic law with requirements of justice and transparency, in practice often creates legal and ethical dilemmas in its implementation under secular state

law. Polygamy in Indonesia is a complex and multifaceted subject, regulated not only by the principles of Islamic law, but also by secular legislative regulations. Within the national legal framework, Law Number 1 of 1974 concerning Marriage plays a crucial role in providing limitations and conditions under which polygamy can be carried out. According to this law, court permission is an absolute requirement before polygamy can be implemented, where the court must believe and obtain concrete evidence that the husband has the ability to act fairly, both in material and emotional or non-material matters. The requirement to obtain consent from the first wife adds another layer of protection to women's rights, but the reality is that it is often overlooked. The practice of polygamy without official registration is an indication of non-compliance with applicable laws. This phenomenon shows that there is a gap between existing regulations and their implementation in the field. Many cases of polygamy are carried out without going through the appropriate legal process, so they are not properly documented.

This condition gives rise to various social and legal problems, ranging from unclear legal status for wives and children resulting from such marriages, to issues related to inheritance, child custody, and access to economic resources. This absence of valid documentation not only complicates the legal status of the parties involved but also places them in a vulnerable position, often without access to appropriate legal protection. These cases of unrecorded polygamy highlight the need for stricter law enforcement and procedural reform to ensure that all marriage practices comply with both Islamic law and state regulations. This will not only reduce the frequency of practicing polygamy without legal records but will also increase social and legal protection for all family members involved. By strengthening legal and supervisory mechanisms, Indonesia can more effectively bridge the gap between religious norms and national legal demands, ensuring justice and better protection for all its citizens.

According to data released by the Central Statistics Agency (BPS) in 2019, there has been an increase in the number of polygamy cases recorded in Indonesia every year. This data, although it records an increase, does not necessarily reflect a complete picture of the practice of polygamy in Indonesia, considering that many cases are carried out unofficially and are not recorded by the competent authorities. This situation raises serious questions regarding the

effectiveness and adequacy of the regulatory mechanisms currently in place. Social and religious research institutions have shown that the practice of polygamy often occurs without fulfilling the principles of justice emphasized by Islamic law. Many husbands fail to fulfill their obligations, both financially and emotionally, making the practice of polygamy often have a negative impact on wives and children. The principle of justice in Islam not only includes equality in providing a living, but also requires consideration of psychological well-being and harmony in the household. The tension between the principles of Islamic justice and the existing practice of polygamy is also influenced by differences in interpretation and application between Islamic law implemented by religious courts and positive state law. On the one hand, religious courts try to implement Islamic law which allows polygamy under certain conditions; on the other hand, state law, through regulations such as those contained in the Marriage Law, tries to regulate this practice more strictly to protect the rights of wives and children. These differences often produce legal and social dilemmas, and give rise to conflicts between religious values and the need for social protection provided by the state. Therefore, an in-depth analysis of the adequacy and effectiveness of polygamy regulations, as well as adjustments between religious law and positive law, is important to ensure that the practice of polygamy, if carried out, truly reflects the principles of justice and fair welfare for all parties involved.

The increasing cases of polygamy in Indonesia, as indicated by data from the Central Statistics Agency (BPS) in 2019, raises deep questions about how the principles of justice are applied in this practice, both from a material and emotional perspective. According to the views of several prominent scholars, including Yusuf Al-Qaradhawi, justice in polygamy must go beyond material aspects to include justice in the treatment, attention and affection given to all wives. This underlines the importance of understanding that justice, in the context of polygamy, is a holistic and multifaceted concept, which is not only limited to the distribution of property or physical responsibilities. Emotional and psychological justice, for example, is an aspect that is often overlooked in discussions about polygamy. In Islamic law, it is important for husbands to provide equal time, attention, and emotional support to all wives, an aspect emphasized

by Al-Qaradhawi and other scholars. This practice not only serves as a measure of justice but also as an important factor in maintaining harmony and balance in family relationships. Ironically, although this justice is affirmed in theory, its implementation in practice is often far from ideal, as reflected in religious court data showing conflict and dissatisfaction among family members involved in polygamy. Case analysis of court decisions in Indonesia reveals that there is often a discrepancy between the principles of justice advocated by Islamic law and the reality of practice. This case study shows that although sharia norms theoretically support justice and equality, in many cases, their practical application tends to fall short of these standards fully. In some situations, court decisions have shown a tendency to ignore claims of emotional and psychological justice, highlighting the need for updates or adjustments in the application of the law. This study highlights the importance of justice in polygamy not only as a sharia obligation but also as a social and psychological need. The implications of these findings have great potential in informing and shaping policies that not only respect Islamic legal norms but also encourage more just and inclusive social practices. This emphasizes the urgency of holding a dialogue between theological principles and social practice, in order to find adequate legal solutions that support the integrity and welfare of all family members in the context of polygamy in Indonesia.

## **Methods**

This research will apply descriptive qualitative methods to explore the practice and regulations of polygamy in Indonesia, highlighting the harmony between Islamic law and positive state law. The data collection process will involve document analysis, including relevant laws, fatwas and court decisions, to evaluate how polygamy is regulated and how the principles of justice are implemented in these regulations. In addition, case studies from religious court records will be analyzed to observe the practical application of the law and principles of justice in actual polygamy cases. This analytical approach aims to understand the legal and social implications of the practice of polygamy, with a focus on protecting the rights of women and children in the context of applicable law.

The data analysis methodology will use content analysis techniques to identify themes, patterns, and contradictions in the data. The codification process will categorize the data into key themes such as justice in polygamy and conflict between religious and state law, enabling thematic comparisons to draw relevant conclusions. This research will also respect strict ethical principles, including confidentiality, informed consent, and cultural sensitivity, to ensure that the research process is sensitive to social and cultural issues related to the topic of polygamy in Indonesia. The narrative developed will provide in-depth insight into legal and social dynamics, paving the way for evidence-based policy recommendations for greater fairness and effectiveness in the regulation of polygamy.

## **Results and Discussion**

### ***Variability in Regulation and Implementation of Polygamy***

In studying the phenomenon of polygamy in Indonesia, variability in regulations and implementation is a crucial and complex aspect. This research explores how polygamy, while recognized and regulated within the framework of Islamic law, often experiences tension when faced with national legal frameworks that attempt to accommodate the principles of modernity and social plurality. Islamic law permits polygamy under strict conditions of fairness and transparency. Islamic Sharia stipulates that a husband must treat all wives fairly in terms of income, attention and time. Meanwhile, Law Number 1 of 1974 concerning Marriage in Indonesia also recognizes the possibility of polygamy, but with stricter restrictions, including requirements for court permission and approval from the first wife. This requirement is intended to protect women's rights, but the reality is often different because many cases of polygamy are carried out without official registration or without fulfilling the conditions set by law.

Analysis of documents and court decisions shows that inconsistencies between theory and practice not only occur frequently but also give rise to normative conflicts between religious values and modern regulatory needs. For example, religious courts may lean more

towards an interpretation of sharia that allows polygamy, whereas civil courts tend to prioritize protecting the rights of wives and children in accordance with national law. In practice, the implementation of polygamy often reflects significant gaps between existing laws and their implementation. Polygamy without official registration creates serious complications for the legal status of second and third wives and the children resulting from the marriage. This leads to ambiguity in matters of inheritance, custody, and access to economic resources.

A lack of valid documentation keeps many of these cases out of reach of national laws, leaving wives and children in a vulnerable position. The incongruity between Islamic legal regulations and national law not only creates legal dilemmas but also has broad social impacts. From a social perspective, the practice of polygamy is often seen as an indicator of social or religious status, but its implications for welfare and harmony in the household are often ignored. Many husbands fail to fulfill their obligation to provide emotional and material justice to all their wives and children, which reflects deep injustice and often leaves psychological scars and family conflicts. These findings emphasize the need for legal and policy reforms to bridge the gap between Islamic law and national law.

Policy recommendations could include tightening requirements for polygamy in national law, increasing legal enforcement of marriage registration, and providing more resources for wives and children in polygamous marriages to effectively protect their rights. Furthermore, the importance of dialogue between legal, religious and civil society stakeholders must be emphasized to ensure that any legal and policy changes can be widely accepted and implemented effectively, with the ultimate goal of pursuing better justice and protection for all citizens.

### ***Failure to Fulfill the Principles of Islamic Justice***

In Islamic law, the principle of justice ('adl) is the foundation that not only regulates aspects of worship but also interpersonal relationships, including marriage and family. Polygamy in Islam is permitted under certain very strict conditions, which must ensure fairness between wives in terms of maintenance, attention and emotional recognition. Surah An-Nisa [4:3] in the Qur'an emphasizes that polygamy is permissible only if the husband is able to act fairly

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towards all his wives. However, implementing this principle in real practice often encounters obstacles, especially in the legal and social context in Indonesia.

Interviews with ulama and analysis of religious court decisions in Indonesia show that there is a significant gap between Islamic legal theory and the practical implementation of polygamy. There are many cases where husbands fail to fulfill their financial and emotional obligations, causing instability in the household and harming the rights of their wives and children. According to data from related research, errors in implementing justice not only have an impact on family disharmony but also on broader legal issues such as inheritance division and child custody. Failure to comply with the principles of justice not only causes legal problems but also has a deep psychological impact on all family members. Feelings of being unappreciated and unfair in the distribution of time and resources can trigger conflict and a deep sense of dissatisfaction, which often manifests in mental health problems such as stress and depression for wives and children. This highlights the importance of emotional and psychological justice, which is often overlooked in legal discussions and practices.

Legal analysis and court decisions show a striking discrepancy between the principles of Islamic law governing polygamy and the practices that occur in the field. This research reveals that often positive laws that attempt to regulate the practice of polygamy fail to be implemented effectively, and existing regulations are not strong enough to ensure the implementation of justice in accordance with Islamic law. The main causes of this phenomenon are a lack of supervision and inadequate sanctions for violations, as well as differences in legal interpretation between religious courts and community practice. This study underlines the urgency of reform in the legal system and deeper religious education regarding the requirements for polygamy in Islam. Education for prospective husbands about their responsibilities and the consequences of injustice can help reduce cases of injustice in polygamy.

In addition, increasing supervision and strengthening existing laws needs to be carried out to ensure that the practice of polygamy is carried out in accordance with the principles of justice which are



highly prioritized in Islam. This study shows that failure to fulfill the principles of justice in polygamy is not only an individual problem but also a structural problem in the implementation of law and religious education in Indonesia. Comprehensive efforts including legal reform, better education, and strengthening oversight institutions are needed to ensure that polygamy, when practiced, truly reflects the values of justice taught by Islam.

### ***Cultural and Social Influences on Acceptance of Polygamy***

Polygamy, as a social and legal phenomenon, has deep roots in many societies around the world, including Indonesia. The recognition and practice of polygamy in Indonesian society is closely tied to the interaction between religious norms, law and cultural context. In this analysis, we will explore how cultural and social factors influence the acceptance and implementation of polygamy in various regions in Indonesia, highlighting the complexity of the social dynamics involved. Indonesia, with its rich religious and ethnic diversity, shows significant variation in the acceptance of polygamy. In some areas, polygamy has long been part of social practice and is even considered a symbol of social or religious status.

For example, in some traditional communities, polygamy is practiced not only as a right but as part of social and religious identity. On the other hand, in big cities with a stronger influence of modernization and feminism, polygamy is often viewed with a critical eye and is considered a practice that is contrary to the values of gender equality. Indonesian law, which attempts to harmonize sharia principles with national norms on marriage, creates a space where religious and secular laws meet and sometimes conflict. The acceptability of polygamy, therefore, is not only subject to legal interpretation but also to the way society views equality and justice in family relationships. Indonesia's religious courts, tasked with regulating marriages according to Islamic law, often find themselves at the crossroads between meeting religious needs and responding to social demands for justice and equality.

Globalization and modernization have brought about significant changes in attitudes towards polygamy. Media, education, and cultural exchange have promoted ideas about monogamy and gender equality, gradually changing views on polygamy. In many urban areas, polygamy is often seen as anachronistic and incompatible

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with modern principles of equality. Research shows that the younger generation, especially women, are more likely to reject polygamy as a life choice. Polygamy also has broad social implications, especially related to family structure and social dynamics in the community. In areas where polygamy is accepted, there may be stronger social support mechanisms for polygamous families. However, in areas with strong resistance, families involved in polygamy may face stigmatization and social isolation.

These implications include not only interpersonal dynamics but also access to legal and social resources. Conflicts arising from the practice of polygamy often demonstrate the challenges of managing differences between individual desires and communal norms. Efforts to align the practice of polygamy with modern laws and values of equality often require ongoing dialogue and reconciliation initiatives from both religious and civil leaders to find adequate solutions that respect both parties. In analyzing cultural and social influences on the acceptance of polygamy, it is important to understand that each community has unique values and expectations that shape how polygamy is viewed and practiced. This shows the need for a context-sensitive approach in creating policy or legal interventions, ensuring that the solutions offered are appropriate to the needs and values of the communities involved.

### ***Legal and Social Dilemmas in Polygamy Cases Without Official Registration***

Polygamy without official registration in Indonesia creates complex legal and social dilemmas and is often detrimental for the wives and children involved. The absence of legal records causes many legal problems that have the potential to threaten the social structure and integrity of the family. In the context of Indonesian law, where polygamy must obtain court approval and fulfill certain conditions as regulated in Law Number 1 of 1974 concerning Marriage, the practice of polygamy without official registration effectively falls outside the framework of this regulation, leaving the parties without protection. adequate law. One of the most significant consequences of polygamy without official registration is the unclear legal status of the wives and children resulting from the marriage. Without clear legal status, wives

often find it difficult to access legal rights such as inheritance, custody and other financial claims.

This creates a situation where women and children can easily be exploited or neglected, especially if the head of the family dies or breaks off ties with one or all of the wives. The absence of official documents also limits wives and children's access to legal and social resources. This includes access to the justice system to assert their rights, as well as access to social services and supports that may be necessary for their well-being. For example, children from unregistered marriages may face difficulties in obtaining birth certificates, which further impacts their ability to access education, health care, and other public services. The social impacts of polygamy without official registration include division and instability within families and wider communities.

These divisions are often exacerbated by the social stigma attached to the wives and children of such marriages, who can experience isolation and discrimination. This uncertainty and instability is not only detrimental for the individuals involved but also for social cohesion in society. This situation highlights the need for stricter law enforcement and procedural reform to ensure that all marriage practices, including polygamy, comply with both Islamic law and state regulations. This includes strengthening monitoring mechanisms for polygamy and raising awareness about the importance of marriage registration to protect all parties involved. Stronger law enforcement and more accessible registration processes can help reduce the frequency of polygamous practices without legal records and ensure better protection for wives and children.

The legal and social problems arising from polygamy without official registration require critical attention and action from various stakeholders in Indonesia. By addressing the discrepancies between religious norms and national legal requirements and addressing deficiencies in the legal and social systems, Indonesia can ensure that the practice of polygamy, when it occurs, is carried out in a fair and transparent manner, with adequate protection for all involved. This discussion points to the urgent need for ongoing dialogue and tailored policy interventions to address the complexity of these legal and social dilemmas in the Indonesian context.

### ***The Need for Policy Reform and Law Enforcement***

Polygamy, as part of religious and social practices in Indonesia, requires a balanced approach between fulfilling religious norms and national legal demands. However, existing research and data indicate a serious incongruity between Islamic legal theory and the implementation of polygamy practices within the national legal framework. This encourages the need for policy reform and more effective law enforcement. Existing regulations often do not reflect the principles of justice adhered to in Islam, especially in terms of emotional and psychological justice for all parties involved. National law, through Law Number 1 of 1974 concerning Marriage, sets strict requirements for the implementation of polygamy, but religious courts often apply different, more lenient standards. This incompatibility creates a duality in the legal system that often disappoints parties seeking justice and consistent legal protection.

The absence of official recording and monitoring of polygamous practices shows the weakness of existing monitoring mechanisms. Many cases of polygamy are carried out without legal court permission, giving rise to social and legal problems, such as problems of inheritance, child custody, and access to economic resources. This phenomenon not only shows violations of existing laws but also creates social vulnerability for the women and children involved. Data from the Central Statistics Agency (BPS) and research findings show an increase in the number of recorded cases of polygamy, but there are still many more that are not properly documented.

This underscores the urgent need for reform in policies and regulations governing polygamy, to ensure that all marriage practices comply with the law and are properly monitored. These reforms should aim to further integrate the principles of Islamic justice with national law, strengthen legal protection for all parties involved, and increase transparency and accountability in the implementation of polygamy. Law enforcement must be strengthened to overcome the practice of polygamy that is not registered or that does not meet established legal requirements.

This includes strengthening the capacity of legal institutions to monitor and audit cases of polygamy, as well as increasing cooperation between legal and religious institutions to ensure that all marriage

practices are carried out fairly and legally. Effective law enforcement must also involve education and outreach to the public about the legal requirements and consequences of polygamy. Policy reform and increased law enforcement will not only reduce the frequency of polygamous practices without legal registration, but will also strengthen the social structure by increasing social and legal protection for women and children. Additionally, it will help reconcile differences between religious norms and national legal demands, ensuring justice and better protection for all citizens.

### ***Contradiction Between Religious Law and Positive Law***

Polygamy in Indonesia is a clear example of the complex interaction between religious legal norms and positive state law. In the context of Islamic law, polygamy is recognized as a legal right that can be exercised by a husband under certain conditions, especially justice in treating his wife and dependents. Islamic Sharia limits the practice of polygamy to strict principles of justice, which must be adhered to to ensure fair treatment for all parties involved. On the other hand, Law Number 1 of 1974 concerning Marriage in Indonesia limits the practice of polygamy by establishing stricter requirements, including court permission and approval from the first wife.

These laws reflect an effort to adapt traditional religious practices to modern social and ethical values, emphasizing the protection and well-being of all family members. The contradictions between these two legal systems create significant ethical and legal dilemmas, not only for individuals engaging in the practice of polygamy but also for courts that must navigate between these two legal norms. On the one hand, religious courts may tend to follow a more liberal interpretation of Islamic sharia, while civil courts are faced with the task of ensuring that all legal practices conform to stricter national legal standards.

Analysis of case studies conducted on court decisions in Indonesia often reveals discrepancies in the application of the principles of justice recommended by Islamic law with the reality of practice. In some cases, religious court decisions may not fully reflect the principles of justice affirmed by sharia, especially when it comes to emotional and psychological justice. This inconsistent implementation of the law creates a gap between law and practice. This not only creates potential injustice for wives and children in polygamous marriages,

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but also raises serious questions about the legitimacy and effectiveness of the legal system in protecting individual rights. The lack of comprehensive fulfillment of the principles of justice in the practice of polygamy emphasizes the need for a more integrated and uniform approach in national law.

The urgent need for harmonization between religious law and positive law is clear. Dialogue between legal institutions, including religious courts and civil courts, as well as between stakeholders in society, needs to be increased to develop a consistent legal framework that can support the principles of fairness, justice and social protection. This is not only important to ensure justice in polygamy cases, but also to strengthen the integrity of the Indonesian legal system as a whole. The contradiction between religious law and positive law in the case of polygamy in Indonesia highlights the complexity of legal interactions in a multicultural and multireligious society. Legal reform that considers both perspectives and seeks adequate solutions to legal and social dilemmas is key to achieving social justice and harmony in the practice of polygamy, as well as to increasing people's trust in their legal system.

### ***Psychological and Social Implications of Polygamy***

As recognized in Islamic law and regulated in national law, polygamy in Indonesia often results in significant psychological and social complexities. This practice, although theoretically limited by the principles of fairness and transparency, in practice often involves complex issues, especially in terms of the distribution of time, attention and resources between family members. The implications of this practice are not only limited to interpersonal conflict but also have a broader impact on social structures and family dynamics.

From a psychological perspective, the practice of polygamy often causes stress and tension in family relationships. Women in polygamous marriages may experience feelings of insecurity, jealousy, and loneliness that can seriously affect their mental health. According to several studies, wives in polygamous relationships are more likely to experience depression, anxiety, and other mental health problems compared to those in monogamous relationships. Children of such marriages may also feel the effects of marital instability, including

conflict between siblings and feelings of division between parents. Socially, polygamy can pose a number of challenges.

For example, division of inheritance, care responsibilities, and access to economic resources are becoming more complex and often controversial. These conflicts not only affect the family members directly involved but also have detrimental impacts on communities and broader social structures, often reinforcing patriarchal norms and reducing women's social status. At the domestic level, unfair distribution of time and resources can create an environment that is not conducive to children's emotional and psychological growth. Research shows that this injustice not only worsens relationships between wives and husbands but also between children and their parents, often leaving deep emotional scars.

Case analysis of court decisions and interviews with families in polygamy reveal that many families experience significant disharmony, significantly rooted in the practice of polygamy. The study found that although the principles of justice are highly emphasized in sharia theory, their application in real life is often inadequate, giving rise to clear injustices for wives and children. These findings emphasize the urgent need for social intervention and psychological support for families involved in polygamy. Education and support programs can help address the psychological problems faced by wives and children, while more effective policies and stronger law enforcement can ensure greater justice and well-being for all parties involved. Studies of the psychological and social implications of polygamy in Indonesia reveal that its impacts are much broader and more complex than is often acknowledged. Addressing these problems requires a holistic approach that takes into account not only legal justice but also emotional and psychological justice, ensuring that all family members are treated fairly and with respect in legal and social contexts.

## **Conclusion**

Polygamy in Indonesia highlights the tension between Islamic law, which permits the practice with conditions of fairness and transparency, and stricter national regulations that often result in the practice of polygamy without official registration, increasing social

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vulnerability for wives and children. In-depth analysis indicates the need for legal reform to harmonize religious norms and national law, strengthen law enforcement, and increase public education about the legal and social consequences of polygamy. This aims to ensure justice and better protection for all parties involved in the practice of polygamy in Indonesia.

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