Reinterpretation of Polygamy Verses Through Ibn ʿĀshūr 's *Maqāṣid al-Sharīʿah* Theory

Penafsiran Ulang Ayat Poligami Melalui Teori *Maqāṣid al-Sharīʿah* Ibn ʿĀshūr

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Abstract

This study reinterprets Quranic verses on polygamy (specifically QS An-Nisā':3) through Ibn ʿĀshūr's *maqāṣid al-sharīʿah* theory to address accusations of gender bias in Islam. Employing descriptive qualitative methodology and content analysis, it critically examines classical and contextual interpretations that either rigidly adhere to textualism or overemphasize socio-historical contexts, both deemed insufficient for resolving contemporary gender critiques. Ibn ʿĀshūr's approach presented as a moderate, universal framework minimizing juristic discord and blind fanaticism—reveals three key insights: First, the verse intrinsically links to preceding orphan-protection contexts, with polygamy framed as an emergency solution to prevent adultery (*zinā*) amid social vulnerabilities. Second, polygamy's permissibility carries stringent, non-negotiable conditions of material and relational justice (e.g., separate residences, equitable financial support), rendering it practically arduous and contextually restricted. Third, asymmetrical rulings—permitting polygamy but prohibiting polyandry are justified through *fiqh al-awlawiyāt* (prioritization jurisprudence): polygamy's micro-level harms (jealousy) are outweighed by its macro-level benefits (lineage preservation, disease prevention), while polyandry's irreversible harms (lineage confusion, disease proliferation) exceed its potential benefits. The study concludes that Ibn 'Āsyūr's theory offers a balanced, gender-neutral exegesis by harmonizing textual fidelity

with contextual *maṣlaḥah* (public interest), positioning polygamy as a last-resort safeguard rather than an unconditional right. This approach is advocated for reinterpretations of other contested Islamic legal verses.

Keywords: Polygamy, Ibn ʿĀshūr, Maqāṣid al-Sharīʿah, Reinterpretation, Maṣlaḥah.

Abstrak

Artikel ini menafsiri ulang ayat-ayat Al-Qur'an tentang poligami (khususnya QS An-Nisā':3) melalui teori *maqāṣid al-sharīʿah* Ibn ʿĀshūr untuk menanggapi tuduhan bias gender dalam Islam. Menggunakan metodologi kualitatif deskriptif dan analisis konten, penelitian ini secara kritis meninjau tafsir klasik dan kontekstual yang secara kaku berpegang pada tekstualisme atau terlalu menekankan konteks sosio-historis, keduanya dianggap tidak memadai untuk menyelesaikan kritik gender kontemporer. Pendekatan Ibn ʿĀshūr, yang dipresentasikan sebagai kerangka kerja moderat dan universal yang meminimalkan perselisihan yuridis dan fanatisme buta—mengungkapkan tiga wawasan kunci: Pertama, ayat tersebut secara intrinsik terkait dengan konteks perlindungan anak yatim sebelumnya, dengan poligami diframing sebagai solusi darurat untuk mencegah zina (perzinaan) di tengah kerentanan sosial. Kedua, kelayakan poligami disertai dengan syarat-syarat ketat dan tidak dapat dinegosiasikan terkait keadilan material dan relasional (misalnya, tempat tinggal terpisah, dukungan finansial yang adil), sehingga secara praktis sulit diimplementasikan dan terbatas pada konteks tertentu. Ketiga, keputusan asimetris—mengizinkan poligami tetapi melarang poliandri—dijustifikasi melalui *fiqh al-awlawiyāt* (jurisprudensi prioritas): mafsadah mikro poligami (cemburu) diimbangi oleh Maṣlaḥah makro (pelestarian keturunan, pencegahan penyakit), sementara kerugian irreversibel poliandri (kebingungan keturunan,

penyebaran penyakit) melebihi manfaat potensialnya. Studi ini menyimpulkan bahwa teori *maqāṣid al-sharīʿah* Ibn ʿĀsyūr menawarkan tafsir yang seimbang dan netral gender dengan mengintegrasikan kesetiaan teks dengan maṣlaḥah kontekstual (kepentingan umum), menempatkan poligami sebagai langkah terakhir sebagai jaminan daripada hak yang tidak bersyarat. Pendekatan ini dianjurkan untuk penafsiran ulang ayat-ayat hukum Islam yang kontroversial lainnya.

Kata kunci: *Poligami, Ibn ʿĀshūr, Maqāṣid al-Sharīʿah, Penafsiran Ulang, Maṣlaḥah.*

Introduction

Accusations of gender bias against Islam regarding polygamy have intensified alongside relentless campaigns by feminist groups claiming to pursue gender equality.[1] Among the causes of these accusations are the textualist interpretations of polygamy verses by classical scholars.[2] Subsequently, contextualist interpretations emerged to address these accusations, yet they appear to impose conformity between Islam and the critics' demands overemphasizing context while neglecting the text, which serves as the representative vessel for Allah's message to humanity.[3] [4] From this, the author argues for the necessity of reinterpreting polygamy verses through a more moderate approach. By applying Ibn ʿĀshūr's *maqāṣid* theory claimed to be a moderate

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[1] Menggugat Bias and Gender Para, "M . Quraish Shihab" 2, no. 2 (2013): 189–208.

[2] Shinta Nurani, "Implikasi Tafsir Klasik Terhadap Subordinasi Gender: Perempuan Sebagai Makhluk Kedua," *Muwazah* 7, no. 2 (2016): 131–45, https://doi.org/10.28918/muwazah.v7i2.518.

[3] Eni, "Telaah Kritis Poligami Dalam Islam Perspektif Hermeneutika Feminisme Amina Wadud," *Angewandte Chemie International Edition, 6(11), 951–952.,* 1967.

[4] Burhanuddin Burhanuddin, "Poligami Perspektif Hermeneutika Fazlur Rahman," *As-Sabiqun* 1, no. 2 (2019): 71–88, https://doi.org/10.36088/assabiqun.v1i2.355.

methodology minimizing juristic differences and rejecting blind fanaticism this study aims to yield a progressive and balanced interpretation of polygamy.[5]

This research seeks to address accusations of gender bias against Islam concerning polygamy by reinterpreting *Qur'an Surah An-Nisā'* (4):3 through Ibn ʿĀshūr's *maqāṣid* framework. Utilizing a theory positioned to minimize interpretive divergence and blind dogmatism, it aims to produce a moderate exegesis that transcends textual or contextual exclusivity, thereby resolving doubts (*syubuhāt*) about gender bias in polygamy. The study addresses two critical questions: How is *An-Nisā'* (4):3 interpreted through Ibn ʿĀshūr's *maqāṣid* theory?, and How does this interpretation counter gender-bias accusations regarding polygamy?.

Research Method

This study employs a descriptive qualitative design, reinterpreting *An-Nisā'* (4):3 using content analysis through Ibn ʿĀshūr's *maqāṣid* theory. Supporting data were drawn from exegetical literature (*tafsīr*) and journals. The research follows three steps: firstly, Briefly outlining Ibn ʿĀshūr's biography and his work *Maqāṣid al-Sharīʿah*. Second, Presenting and critically analyzing interpretations of *An-Nisā'* (4):3 via Ibn ʿĀshūr's *maqāṣid* theory. Third, Addressing accusations of gender bias against Islamic polygamy using research findings.

Literatur review

Brief Profile of Ibn 'Āshūr and His Work *Maqāṣid al-Sharīʿah*

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[5] Muhammad thahir Ibn ʿĀsyūr, *Maqasid Al-Syariah Al-Islamiyah* (Tunis: Dar al-salam, 2020).

Muhammad Ṭāhir Ibn ʿĀshūr (commonly known as Ibn ʿĀshūr) was born in Tunis in 1879 into a distinguished family renowned for its scholarship and piety. From childhood, he exhibited profound interest in religious sciences, studying at various madrasas in Tunis. He memorized the Qur'an and mastered Islamic disciplines, including exegesis (*tafsīr*), Arabic language and literature, Hadith, jurisprudence (*fiqh*), and legal theory (*uṣūl al-fiqh*).[6]

In 1892, Ibn ʿĀshūr enrolled at Zitouna University—one of the oldest and most prestigious institutions in the Islamic world—where he studied under eminent scholars (including Shaykh Ibrāhīm Marāghnī, Shaykh Sālim Būhājib, and Shaykh ʿUmar bin Shaykh). He graduated with top honors in 1896.[7]

Appointed as a lecturer at Zitouna University in 1899, he taught *tafsīr*, Hadith, *fiqh*, and *uṣūl al-fiqh*. By 1904, he represented the state at the university, and in 1913, he was elevated to a Mālikī judge, automatically joining its board of directors. Honored as *Shaykh al-Islām al-Mālikī* (1932) and Grand Shaykh of Zitouna University and its branches, he retired from these positions in 1951.[8]

A leading 20th-century Tunisian scholar, Ibn ʿĀshūr was recognized for his moderate and progressive thought. His seminal work, *Maqāṣid al-Sharīʿah al-Islāmiyyah* (The Objectives of Islamic Law), revitalized Islamic scholarship and civilization after periods of intellectual stagnation, particularly in legal derivation (*istinbāṭ al-aḥkām*).

In this work, Ibn ʿĀshūr stated that his primary goal in systematizing the theory of *maqāṣid* was to address the void left by

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[6] Muhammad thahir Ibn ʿĀsyūr.

[7] Muhammad thahir Ibn ʿĀsyūr.

[8] Muhammad thahir Ibn ʿĀsyūr.

classical *uṣūl al-fiqh*, which could no longer resolve the increasingly complex challenges facing the Muslim community. He claimed his *maqāṣid* theory characterized as universal (*kullī*) and definitive (*qaṭʿī*, or *ẓannī* approximating *qaṭʿī*) offered solutions to issues unresolvable through scriptural texts (*nuṣūṣ*) or analogical reasoning (*qiyās*).[9]

   Furthermore, he asserted that this theory minimized juristic differences and blind fanaticism by virtue of its definitive nature, contrasting it with mainstream *uṣūl al-fiqh* theories that are predominantly speculative (*ẓannī*) and thus prone to discord.[10]

Ibn ʿĀshūr's Theory of *Maqāṣid*

   Ibn ʿĀshūr divided *ijtihād* (independent reasoning) into five types and asserted that each type requires a consideration of *maqāṣid* (higher objectives of Islamic law). First, understanding the *sharʿī* texts and extracting their meanings using linguistic theories found in *uṣūl al-fiqh*. Second, identifying other dalīls or texts that might contradict the primary text. If contradictions arise, they should be reconciled—if possible—through specification (takhsīs), restriction (*taqyīd*), or other methods. If reconciliation is not possible, the later text abrogates the earlier one. Third, applying qiyās (analogy) to issues not explicitly addressed by the texts, by identifying a shared effective cause (*ʿillah*) between the new issue and a known ruling. Fourth, establishing rulings for entirely new cases where no sharʿī text exists, nor any precedent for analogy. Fifth, the realization by the mujtahid (jurist) of his own inability to grasp the *ʿillah* or wisdom behind established rulings.[11]

   According to Ibn ʿĀshūr, there are three methods to establish universal (*kullīyah*) and definitive (*qaṭʿīyah*) or near-definitive

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[9] Muhammad thahir Ibn ʿĀsyūr.

[10] Muhammad thahir Ibn ʿĀsyūr.

Muhammad thahir Ibn ʿĀsyūr.

(*ẓannīyah*) *maqāṣid al-sharīʿah*: First, Inductive reasoning (*istiqrāʾ*), which is further divided into: *Istiqrāʾ* of legal rulings whose effective causes are known and *Istiqrāʾ* of texts that share the same effective cause, leading to the conviction that this cause is a valid *maqsad sharʿī*. Second, Clear Qur'anic evidences whose meanings are explicit and unlikely to suggest anything beyond their apparent meanings. Third, Indications found in *mutawātir* hadiths, those reported by numerous chains of reliable narrators.[12]

Ibn ʿĀshūr emphasized in his book that the primary purpose of formulating and establishing the theory of maqāṣid or definitive universal maṣlaḥah is not to understand the objectives behind rulings that already have textual basis. Nor is it meant for applying analogy (qiyās) to new issues based on partial maṣāliḥ. Rather, the true purpose is for those cases in which no sharʿī text exists and no similar issue can be found for analogy—here, the issue should be incorporated into the framework of definitive universal *maqāṣid* to derive a ruling.[13]

a. *Maqṣad ʿĀm min al-Tashrīʿ* (**Universal Objectives of the Sharīʿah**)

bn ʿĀshūr concluded that the foremost and most significant characteristic of Islamic law is moderation (*tawassuṭ*). By this, he meant a balance between *tasdīd/tadyīq* (excessive restriction) and *tasāhul/mujāwazat al-ḥadd* (negligent leniency). Islam is thus described as a religion of moderation, ease, and balance—not burdensome, but also not lax. This objective of moderation and ease is both universal (*kullī*) and definitive (*qaṭʿī*), derived inductively *(istiqrāʾ)* from various scriptural texts

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[12] Muhammad thahir Ibn ʿĀsyūr.

[13] Muhammad thahir Ibn ʿĀsyūr.

such as: Qur'an 2:185, Qur'an 22:78, Qur'an 5:6, Qur'an 2:286, and *ṣaḥīḥ* hadiths that indicate the ease and moderation of Islam.[14]

Ibn ʿĀshūr also stated that the universal objective (*maqṣad ʿām*) of the *sharī'ah* is to preserve the continuity and order of human society, which is actualized through repelling harm (*darʾ al-mafāsid*) and securing benefit (*jalb al-maṣāliḥ*). This objective, too, is derived from an inductive survey of numerous *sharʿī* texts and forms the basis of a universal and definitive theory of *maqāṣid*.[15]

b. Definition of Maṣlaḥah, *Mafsadah*, and Their Limits

According to Ibn ʿĀshūr, *maṣlaḥah* is a quality of an action that yields either universal or partial benefit, which is either perpetual or, in most cases, long-lasting. Conversely, *mafsadah* is the opposite—something harmful. From this definition, *maṣlaḥah* is categorized into two types: first, Universal (*kullīyah*), applying to all of humanity. Second, Partial (*juzʾīyah*), applying only to individuals or specific groups..[16]

Maṣlaḥah or *mafsadah* can be found in one of five conditions, ranked by strength: first, *Muḥaqqaqan muṭṭaridan*: a confirmed, consistent, and pure benefit or harm, unaffected by external factors. This is meant to refute claims by scholars like al-Shāṭibī and Ibn ʿAbd al-Salām who denied the existence of pure *maṣāliḥ* or *mafāsid*..[17]

Second, *Gāliban waḍīḥan*: majority-based benefits or harms that may include minor elements of the opposite. Third, When a single act presents both *maṣlaḥah* and *mafsadah* in opposition, preference is given to the one that cannot be

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[14] Muhammad thahir Ibn ʿĀsyūr.

[15] Muhammad thahir Ibn ʿĀsyūr.

[16] Muhammad thahir Ibn ʿĀsyūr.

[17] Muhammad thahir Ibn ʿĀsyūr.

substituted by another act. Forth, When both conflicting elements are equally strong, preference is given to the one supported by additional evidence. Fith, When the opposition lies between a clearly defined (*munḍabiṭ*) *maṣlaḥah* and a generally occurring (*muṭṭarid*) *mafsadah*, or vice versa, the clearly defined one is preferred..[18]

He further divided *maṣāliḥ* into two categories: First, benefits that are clearly recognized by human nature and pursued without divine command. Examples include eating (which ensures survival) and marriage (which preserves lineage). These benefits are so evident that no legal imposition is needed. Second, benefits that are not immediately evident to the majority, requiring divine command to encourage their practice, such as prayer, fasting, almsgiving, infrastructure development, night patrols, etc.[19]

c. **Types of *Maṣlaḥah***

As explained, the universal objective of the *sharīʿah* is the preservation of societal continuity and order, achieved through promoting benefit and preventing harm. Ibn ʿĀshūr attempted to construct various theoretical categories of valid (*muʿtabarah*) *maṣāliḥ* that are universal, to ease analogical reasoning when addressing new issues. He considered this vital because *maṣāliḥ* are numerous, varied, and not all qualify as *maqāṣid al-sharīʿah*. While every *maqṣad* entails *maṣlaḥah*, not every *maṣlaḥah* qualifies as a *maqṣad*..[20]

Based on their impact on human welfare, *maṣāliḥ* are classified into three: first, *Ḍarūriyyāt* (necessities): essential needs for human survival and societal order. Without them, life

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[18] Muhammad thahir Ibn ʿĀsyūr.

[19] Muhammad thahir Ibn ʿĀsyūr.

[20] Muhammad thahir Ibn ʿĀsyūr.

becomes chaotic. These include the protection of religion (*dīn*), life (*nafs*), intellect (*ʿaql*), wealth (*māl*), and lineage (*nasab*). Second, *Ḥājiyyāt* (needs): secondary needs that, if unmet, cause hardship but not collapse. Third, *Taḥsīniyyāt* (embellishments): needs that enhance quality of life, enabling comfort and tranquility..[21]

Based on their scope, *maṣāliḥ* are also divided into: first, Universal (*kullīyah*): affecting all of humanity. Second, Partial (*ẓannīyah*): affecting specific individuals or groups.. And based on the degree of necessity in their realization, they are divided into: Definitive (*qaṭʿīyah*), Probable (*ẓannīyah*), and Illusory (*wahmīyah*)..[22]

Result and discussion

Interpretation of the Verse on Polygamy

The discussion of polygamy in Islam, along with related matters, is primarily centered on Surah al-Nisā' (4:3), which states:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُواْ فِى ٱلْيَتَٰمَىٰ فَٱنكِحُواْ مَا طَابَ لَكُم مِّنَ ٱلنِّسَآءِ مَثْنَىٰ وَثُلَٰثَ وَرُبَٰعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُواْ فَوَٰحِدَةً أَوْ مَا مَلَكَتْ أَيْمَٰنُكُمْ ذَٰلِكَ أَدْنَىٰٓ أَلَّا تَعُولُواْ

"And if you fear that you will not deal justly with the orphan girls (when you wish to marry them), then marry those that please you of [other] women: two, three, or four. But if you fear that you will not be just, then [marry only] one or those your right hands possess. That is more suitable that you may not incline [to injustice]." (Surah al-Nisā' 4:3)

1. **Coherence of the Verse**

The mention of the word *"yatāmā"* (orphans) indicates a strong coherence (*munāsabah*) with the preceding verse.[23] Just as the previous verse conveys a message about safeguarding the wealth

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[21] Muhammad thahir Ibn ʿĀsyūr.

[22] Muhammad thahir Ibn ʿĀsyūr.

[23] Muhammad thahir Ibn ʿĀsyūr, *Al-Tahrir Wa Al-Tanwir* (Tunis: Al-Dar al-tunisiyah, n.d.).

of orphans—who are highly vulnerable to injustice—this verse continues the same concern. Orphans are often the primary victims of oppression, especially regarding their property and rights, due to the absence of parents who would otherwise protect and care for them as other children are cared for by their parents.

This verse displays a unique and eloquent linguistic beauty in the apparent disconnect between its conditional clause (*sharṭ*) and its consequent (*jawāb*). While the conditional clause mentions "orphans," the consequent refers instead to "women" (*al-nisāʾ*) in general. Ibn ʿĀshūr, in his *tafsīr*, strongly affirms that it is impossible for a Qurʾanic verse to contain a lack of coherence between its *sharṭ* and *jawāb*. This coherence has been understood and described by early scholars of *tafsīr* in various ways, as illustrated by al-Rāzī[24] and Ibn ʿĀshūr in their respective interpretations.

First, as mentioned in a hadith narrated by Imām al-Bukhārī in his Ṣaḥīḥ, ʿUrwah ibn al-Zubayr asked ʿĀʾishah about this verse. She explained that the orphan girls referred to in the verse were those under the guardianship of their walī (male guardian). These guardians were attracted to their beauty and wealth and intended to marry them without giving them a fair dowry (mahr), as they would for other women. Hence, they were prohibited from marrying these orphans and were advised to marry other women instead, to prevent injustice.

Second, as understood by Ibn ʿAbbās, Saʿīd ibn Jubayr, and al-Suddī: the Arabs of pre-Islamic times were cautious with the wealth of orphans but not with justice toward their wives. They would marry ten or more women without concern for fairness, which led to the revelation of this verse to establish limits.

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[24] Fahrudīn Ar-Rāzī, *Mafātih Al-Ghayb* (beirut lebanon: Dar Alfikr, 1981).

Third, as interpreted by ʿIkrimah, the verse was revealed concerning the Quraysh society, where men would marry ten or more women. When they were unable to provide for them, they would seize the wealth of the orphans under their care and marry them to fulfill their financial needs.

Fourth, according to Mujāhid, the verse was revealed about people who used to be cautious regarding orphan wealth but were careless about avoiding zinā (fornication). Thus, the verse came as a warning that they should abandon all acts forbidden by Allah, particularly zinā, due to its severe consequences.

Among these different interpretations of the coherence between the sharṭ and jawāb of the verse, al-Rāzī leans toward ʿIkrimah's interpretation, where the coherence lies in limiting men to marrying a maximum of four women—thus preventing oppression of the orphan girls in their care. On the other hand, Ibn 'Āshūr favors ʿĀ'ishah's interpretation, in which the coherence is clearly illustrated as explained above.

2. The Command to Marry and to Practice Polygamy in the Verse

The command to marry in this verse does not indicate a legal prescription for marriage (whether obligatory or recommended), and even less so for polygamy. The *uṣūl al-fiqh* principle that "a command implies obligation or recommendation when supported by contextual indicators (*qarīnah*)" does not apply here, because the command serves as the consequence of a condition—namely, the fear of being unjust toward orphan girls. Moreover, the benefit (*maṣlaḥah*) of marriage is clearly evident; even without divine instruction, human nature inclines toward marriage—just as it does toward eating, drinking, bathing, and other actions whose benefits are obvious. Thus, the *Sharīʿah* sees no need to formally prescribe

such actions. Therefore, the default legal ruling (ḥukm aṣlī) for marriage is permissibility (mubāḥ).

Beyond indicating the permissibility of marriage, Qur'an 4:3 also clearly permits polygamy, with a maximum limit of four wives. This aligns with the legal maxim: "A command following a prohibition implies permissibility (ibāḥah)",[25] since the command to marry multiple women comes after a warning against injustice toward orphan girls.

This interpretation is further supported by the explanations of early exegetes such as Ibn ʿAbbās, Saʿīd ibn Jubayr, ʿIkrimah, and Mujāhid (as previously mentioned). The core maqṣad (objective) behind limiting the number of wives to four is to prevent injustice, oppression, and mistreatment of wives, which could occur if a man had more wives than he could fairly support and treat equally.

However, it is essential to understand that the permissibility of polygamy is conditional upon justice, as explicitly stated in the verse. Scholars have detailed the requirements of justice, including: The husband must provide a separate, equal-quality home for each wife (they must not live together in the same house). Then, He must provide equal financial maintenance to each wife and also must be just in his dealings, spending equal time and maintaining equal treatment in all aspects of the relationship.

Naturally, meeting these conditions is not easy and, in fact, very difficult. This indicates that Allah, through these rigorous conditions, intends to emphasize that polygamy is only for those who truly need it. The ruling of mubāḥ (permissible) is, therefore, context-dependent—based on the level of need and benefit to society.

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[25] zakaria al-anshari, *Ghayah Al-Wusul* (beirut: dar aldeyaa, 2018).

As Ibn ʿĀshūr stated, rulings such as obligatory (*wājib*), recommended (*sunnah*), discouraged (*makrūh*), prohibited (*ḥarām*), and permissible (*mubāḥ*) are applied according to the degree of necessity and societal benefit. When a matter brings great and urgent benefit to the community, it may become obligatory—and vice versa.

The author personally disagrees with Bint al-Shāṭiʾ's interpretation of Qur'an 4:3, which she contrasts with Qur'an 4:129, which states:

وَلَن تَسْتَطِيعُوا أَن تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ ۖ فَلَا تَمِيلُوا كُلَّ الْمَيْلِ فَتَذَرُوهَا كَالْمُعَلَّقَةِ ۚ وَإِن تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا

"And you will never be able to be just between wives, even if you strive to do so. So do not incline completely [toward one] and leave another hanging. But if you make amends and fear Allah, then indeed, Allah is Forgiving and Merciful."

Based on this verse, Bint al-Shāṭiʾ concludes that Allah has commanded something whose condition is impossible to fulfill, and therefore the command itself should not be applied.[26] However, this understanding contains several flaws: first, It is impossible that Allah would command or permit an action that is inherently impossible to perform. Second, It is also inconceivable that Allah would place a condition and a consequence within His speech where the consequence is impossible but the condition is likely to occur. Third, The "impossibility" mentioned in the verse refers to emotional justice, not material or behavioral justice. As the second part of the verse indicates *"so do not incline completely"* it implies: *"Do not let emotional imbalance affect your treatment of your wives."* Forth,

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[26] Aisyah abdur Rahman, *Al-Qur'an Wa Al-Tafsir Al-Asry* (kairo: Dar al-ma'arif, n.d.).

Emotional injustice cannot be used as a reason to prohibit something that is otherwise allowed in the *Sharīʿah*. Emotional preference or bias is not limited to men with multiple wives; it also exists in many other relationships: between parents and children, children and parents, employers and employees, teachers and students. Does this mean we should avoid having children, employees, or students? Of course not.

fiftih, Zakariyā al-Anṣārī stated that legal responsibility for something inherently impossible (*taklīf bimā lā yuṭāq dhātan*) does not exist in Islamic law.[27]

3. Why Does Polygamy Need to Exist?

As previously explained, the permissibility of polygamy is accompanied by strict conditions, making it a practice limited only to those who genuinely need it. It is also known that the primary guiding principle in the establishment of Islamic legal rulings is the realization of benefit **(*maṣlaḥah*)** for humanity. This raises the question**:** What is the benefit that justifies the permissibility of polygamy?

As outlined earlier, Ibn ʿĀshūr's theory of *maqāṣid* (higher objectives of the Sharīʿah) constructs a detailed framework of various types of *maṣlaḥah*, categorized and ranked hierarchically according to their level of necessity. This hierarchy becomes essential when two *maṣāliḥ* (benefits) are in conflict, in which case the higher-ranking benefit must take precedence. Yūsuf al-Qaraḍāwī refers to this approach as *fiqh al-awlawiyyāt* (jurisprudence of priorities), while al-Būṭī calls it *qānūn sullam al-awlawiyyāt*. In Indonesian Islamic discourse, it is often referred to as *fiqh prioritas* (priority-based jurisprudence).

Using Ibn ʿĀshūr's priority-based fiqh, one can understand that polygamy may serve as a solution for a husband experiencing problems in his marriage. For instance, a man might have a high sexual drive, while his wife due to age-related

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[27] zakaria al-anshari, *Ghayah Al-Wusul*.

factors experiences a significant decline in libido. Studies indicate that most men tend to have a higher sexual drive, while women undergo menopause. A 50-year-old woman who is still menstruating may already experience reduced sexual desire. Meanwhile, a man under the age of 60 may still have regular sexual needs.

In such a case, when a woman is no longer able to fulfill her husband's intimate needs, the husband is faced with three difficult choices: Be patient and endure the situation, Divorce her and seek a new partner,or Stay in the marriage but fall into adultery (*zinā*).

These options are all problematic. Divorce may not be ideal, as the fundamental purpose of marriage is continuity and tranquility, as expressed in the verse: "And He created from it its mate that he might find tranquility in her" (Qur'an 7:189).

This is especially true if the marriage has lasted many years and has resulted in children. In such situations, many men unfortunately fall into extramarital affairs or even adultery. Herein lies the function of *fiqh al-awlawiyyāt*: rather than letting the husband fall into the major harm (*mafsadah*) of adultery, Islam offers a permissible alternative through polygamy, which may have its own drawbacks, but they are significantly less harmful than those caused by *zinā*.

This issue also aligns with the legal maxim: "If two harms are in conflict, choose the lesser of the two."

Thus, polygamy, when understood and practiced within its proper legal and ethical limits, serves as a preventive mechanism against greater social and moral damage.

4. **Why Are Women Not Permitted to Practice Polyandry?**

A wife may indeed face marital difficulties with her husband, just as a husband may with his wife. However, why does Islam, with its *fiqh al-awlawiyyāt* (jurisprudence of priorities), not permit a woman to practice polyandry as it permits a man to practice polygamy?

To answer this question, let us revisit how *fiqh al-awlawiyyāt* is applied in the context of the husband. If a husband is not permitted to marry more than one wife, there is a significant risk that he may fall into adultery, which carries major social and moral harms (*mafsadah*), such as confusion of lineage, spread of sexually transmitted diseases (like HIV), and sexual promiscuity, all of which can severely damage the structure of society. On the other hand, if he is allowed to marry more than one woman, the potential harms are minor and manageable, such as jealousy or occasional tension within the household. Thus, from this perspective, polygamy is given priority.

In contrast, the situation of a wife is different. If a wife is not allowed to practice polyandry, it is true that she may potentially fall into adultery, with the same obvious harms mentioned above. However, if polyandry were allowed, the harm would be even more severe, as she would be having sexual relations with two or more men, leading directly to the confusion of lineage, increased spread of disease, and other critical consequences.

In this case, both potential harms are nearly equal in severity, and therefore, there is no viable choice between the two. Allowing one (polyandry) would not reduce the harm—it would intensify it. Applying *fiqh al-awlawiyyāt* to both the husband's and wife's context leads us to the conclusion that polygamy does not compromise lineage nor necessarily lead to the spread of diseases, whereas polyandry directly threatens both.

It is no surprise, then, that Islam forbids polyandry. However, Islam still provides alternative solutions for women who face marital problems, such as seeking *khulʿ* (a form of

divorce initiated by the wife) or filing for annulment (*ṭalāq*) through the courts. While these may not be perfect solutions, they carry less harm than adultery or polyandry.

Conclusion

The findings of this research indicate that the verse on polygamy, which is often understood and applied literally by textualist groups, does not reflect the deeper, more nuanced interpretation offered through the *maqāṣid*-based approach of Ibn ʿĀshūr. Nor does it align with the contextualist interpretations that at times seem to dismiss the Qurʾanic text itself.

The interpretation based on Ibn ʿĀshūr's *maqāṣid* theory proves to be moderate, progressive, balanced between text and context, and free from gender bias. Ibn ʿĀshūr's *maqāṣid* theory appears to be highly applicable for interpreting other verses—especially legal ones—that are often vulnerable to misinterpretation or gender bias, such as verses on inheritance, jihad, and armed struggle. This theory offers a promising option—among the many moderate interpretive approaches available—for producing balanced and thoughtful Qurʾanic interpretations.

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