

ABSTRAK

Perkawinan dalam Undang-Undang Nomor 16 Tahun 2019 pada dasarnya menganut asas monogami sebagaimana tercermin dalam Pasal 3 ayat (1). Terdapat pengecualian bagi suami yang akan melaksanakan poligami. Pengadilan dapat memberikan izin poligami apabila memenuhi salah satu alasan alternatif yaitu Istri tidak dapat menjalankan kewajibannya, Istri mendapat cacat badan dan istri tidak dapat melanjutkan keturunan. Selain itu harus memenuhi syarat kumulatif yang semuanya harus terpenuhi seperti adanya persetujuan dari istri, adanya kepastian dapat memenuhi kebutuhan istri-istri dan anak-anaknya serta adanya jaminan suami akan berlaku adil.

Permasalahan yang diteliti mencakup pertimbangan hukum hakim dan akibat hukum dari dikabulkannya izin poligami dengan alasan hamil di luar nikah dalam Putusan Pengadilan Agama Kendari Nomor : 287/Pdt.G/2023/PA.Kdi. Metode penelitiannya yuridis normatif, spesifikasi penelitian preskriptif, sumber data sekunder dan metode analisis normatif kualitatif.

Majelis hakim dalam pertimbangan hukumnya menyatakan pemohon telah memenuhi alasan dan syarat mengajukan permohonan izin poligami. Berdasarkan hasil analisis ditemukan fakta bahwa alasan mengajukan permohonan izin poligami adalah kondisi calon istri kedua pemohon yang hamil di luar nikah dengan usia 7 bulan sehingga alasan mengajukan izin poligami tidak sesuai dengan alasan alternatif dalam mengajukan izin poligami dan adanya syarat kumulatif yang tidak terpenuhi yaitu tidak adanya kepastian bahwa pemohon selaku suami dapat menjamin kebutuhan hidup istri-istri serta anak-anaknya. Dapat disimpulkan bahwa majelis hakim kurang tepat dalam mengabulkan permohonan izin poligami pemohon. Berdasarkan hasil analisis akibat hukum yang ditimbulkan dalam penelitian ini diantaranya adalah para pihak dapat melangsungkan perkawinan yang sah karena mendapat izin poligami, terjadinya pemisahan harta bersama dan status anak adalah sebagai anak sah.

Kata Kunci : Poligami, Hamil Di Luar Nikah, Pertimbangan Hukum, Akibat Hukum

ABSTRACT

Marriage under Law No. 16 of 2019 fundamentally adheres to the principle of monogamy, as reflected in Article 3, paragraph (1). However, there is an exception for husbands who intend to practice polygamy. The court may grant permission for polygamy if one of the alternative reasons is met, such as the wife's inability to fulfill her duties, the wife having a disability, or the wife being unable to continue the lineage. Additionally, the cumulative requirements must be satisfied, including the wife's consent, the certainty that the husband can fulfill the needs of his wives and children, and a guarantee that the husband will act justly.

The issues explored in this study include the legal considerations of judges and the legal consequences of granting polygamy permission based on the reason of pregnancy out of wedlock, as seen in the Kendari Religious Court Decision No. 287/Pdt.G/2023/PA.Kdi. The research method employed is juridical-normative, with a prescriptive research specification, secondary data sources, and a normative qualitative analysis approach.

The panel of judges, in its legal considerations, stated that the petitioner has fulfilled the grounds and requirements for submitting a polygamy permit request. Based on the analysis, it was found that the reason for requesting the polygamy permit was the condition of the petitioner's prospective second wife, who was seven months pregnancy out of wedlock. Consequently, the reason for requesting the polygamy permit does not align with the alternative grounds for such a request, and there is a cumulative requirement that has not been met, namely the lack of certainty that the petitioner, as the husband, can ensure the livelihood of his wives and children. It can be concluded that the panel of judges was incorrect in granting the applicant's polygamy permit request. Based on the legal consequences of this analysis, among other things, the parties may enter into a valid marriage upon obtaining the polygamy permit, the joint property will be separated, and the child's status will be recognized as legitimate child.

Keywords: Polygamy, Pregnancy Out of Wedlock, Legal Considerations, Legal Consequences