



## Government Regulations and Gender Justice: Feminist Criticism and Maqāṣid al-Sharī'ah on Polygamy Permits

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### ABSTRACT

*The government supports discrimination against feminism based on Jakarta Governor Regulation No. 2 of 2025, which regulates the procedure for granting polygamy permits to civil servants (PNS), has caused controversy because it is considered unfair to women. This study aims to critically analyze discrimination against women in regulations through a critical feminist and gender justice ethics approach. The results show that procedures such as the first wife's consent are symbolic and do not reflect a balanced power relationship, while the religious justification used ignores the principle of justice in maqashid al-shariah. It is concluded that the Governor Regulation risks perpetuating male dominance in the state structure and weakening the position of women as legal subjects. This study contributes to public policy and gender studies by placing the governor's regulation as empirical evidence rather than the main analytical source, showing that gender inequality in bureaucratic policy is rooted in structural and ideological governance frameworks. These findings offer an analytical contribution that can be applied to assess gender justice in state regulations beyond the specific case analyzed. Therefore, this study recommends that such policies be evaluated through a more participatory and gender-justice-based approach, and encourages the formulation of public regulations that prioritize the protection and equality of women's rights in the bureaucracy.*

**Key word:** Gender discrimination; Critical Feminism; Public Policy; Civil Servant Polygamy; Maqashid al-shariah.

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## 1. INTRODUCTION

Public policy is the main instrument of the state in regulating the lives of its citizens (Johnson, 2024). In the context of a democratic rule of law, policies should be formulated based on the principles of social justice, equality, and protection of vulnerable groups (Balogh & Drinóczi, 2022; Blalock & Lyu, 2023). In modern democratic systems, public policies are ideally formulated based on the principles of social justice, non-discrimination, and respect for human rights, as reflected in national and international constitutions and legal instruments (Curtin & Devere, 2006). However, in practice, public policies are often not free from ideological values that influence the direction and substance of regulations, including values related to gender.

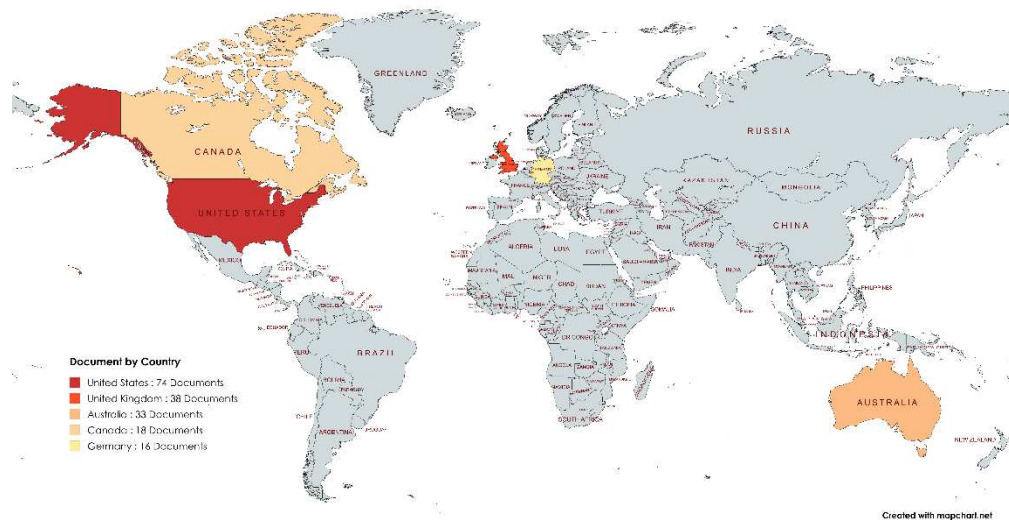


Figure 1. Most publications from 5 countries by Scopus

Source : processed by the author using MapChart, 2025

The distribution map of publications in the image shows that studies on feminism and gender justice are still highly concentrated in Western countries, particularly the United States with 74 publications, followed by the United Kingdom (38 publications), Australia (33 publications), Canada (18 publications), and Germany (16 publications). The dominance of these countries shows that academic discourse on feminism, gender equality, and gender justice is more developed in regions that have a long tradition of gender studies research, a supportive legal framework, and institutional support for critical research. Conversely, this map indirectly confirms the lack of publications from Global South countries, including Indonesia, which have not yet emerged as centers of knowledge production on this issue. This condition shows that research on feminism and gender justice in Indonesia is still relatively limited, both in terms of quantity and depth of analysis, so that local issues such as practices of gender inequality, socio-cultural dynamics, and public policies that impact women (for example, in bureaucracy, public spaces, or marriage regulations) have not received adequate academic attention.

In Indonesia, specifically in DKI Jakarta, there is DKI Jakarta Governor's Regulation No. 2 of 2025 regulating the procedure for applying for polygamy permits for civil servants has raised ethical and social debates (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2025), especially regarding state-individual power relations and the position of women in the bureaucracy (Sakir, 2017), because although this policy is rooted in national legal provisions that accommodate polygamy in a limited way (Mustofa, 2017), its institutionalisation at the local

government level raises concerns about strengthening patriarchal structures and legitimising discriminatory practices against women ASNs (Rahmania & Mutimatun, 2016).

Policies that come into direct contact with ASN's personal lives have broad implications, not only for their home lives, but also for bureaucratic culture and public ethical principles. In the context of power relations within state institutions, ASN women can be the most affected by this policy. Inequality in decision-making structures, subordinate relations in marriage, and the double burden faced by women are realities that cannot be ignored in the formation of fair policies. Therefore, it is necessary to critically examine this Pergub using an ethical approach to justice and feminism.

The case of polygamy in the UK, France and Germany is highlighted in the context of failed policies of multiculturalism, where debates often revolve around the treatment of women in specific cultural practices. Feminism faces an impasse in framing issues such as polygamy, which is considered oppressive to women by Western standards, creating a conflict between gender equality and respect for cultural autonomy (Knop et al., 2012). The existence of German stereotypes of feminism and masculinity that distinguish the roles of women and men illustrates that there is a gender justice gap that occurs from the country especially in the era of modernisation (Boris & Eifert, 2010).

Polygamy is a socio-religious practice that continues to generate debate, especially when legalised in public policy by state institutions. In Jakarta, the issuance of DKI Jakarta Governor Regulation Number 2 Year 2025 on polygamy permits for State Civil Apparatus (ASN) is a new precedent in how the state positions itself towards unequal family relations. Although administratively regulated under the pretext of compliance with religious norms, this policy leaves serious problems in terms of gender justice. A feminist perspective sees polygamy not as a private or normative practice, but as part of a patriarchal structure that is reproduced through state laws and institutions. In this case, a feminist approach is used to examine how the policy reflects power relations, biased religious interpretations, and neglect of the experiences and interests of ASN women.

The novelty of this research lies in the effort to examine public policy on polygamy by integrating the theoretical frameworks of post-structuralist feminism and gender hermeneutics, which are rarely used in the study of bureaucratic regulations in Indonesia. The purpose of this research is to deeply criticise the ideological content and inequality of gender relations in the Pergub, and provide an argumentative basis for the formation of policies that are more just, equal and inclusive for women in the ASN environment.

### **Feminism and Gender Perspectives on Polygamy in Public Policy**

The issue of polygamy in public policy, such as in DKI Jakarta Governor Regulation Number 2 Year 2025, needs to be critically examined through a feminist approach. The provision that provides space for male State Civil Apparatus (ASN) to be polygamous, as long as they fulfil certain administrative requirements, reflects a policy that is not only legal-formal, but also ideologically laden, rooted in patriarchal social structures.

Gadis Arivia (2003, 2006) in her works highlights how philosophy and public policy are often built on frameworks that appear neutral but are actually masculine biased, making women invisible as autonomous subjects (Arivia, 2006, 2018). In the context of polygamy policy for ASN, this can be seen in the absence of an empathic perspective on the experiences of women who are emotionally and socially marginalised (Munawaroh & Sulistyaningsih, 2023). Gadis Arivia

considers that such a policy is not just an administrative decision, but a form of symbolic violence legalised by a legal system that does not take into account the reality of women (Arivia & Subono, 2017). In addition, Nasr Hamid Abu Zayd (2004) through his critical hermeneutics approach asserts that religious interpretations, including those on polygamy (Zayd, 2004), are never separated from the patriarchal context in which they were born and therefore need to be reviewed by placing the principle of justice above literal legality in order to produce policies that are more humanistic and contextual (Alfian, 2018; Mujahidin, 2023).

From these three thoughts, it can be concluded that polygamy in ASN policy is a form of institutionalisation of unequal gender relations (Airiza et al., 2024), which is legitimised through a combination of uncritical religious interpretations and a formalistic legal framework (Kurniansyah, 2025; Nas, 2024). This policy not only regulates private relationships, but also reflects women's position in the state bureaucratic system (Kurniansyah, 2025). Therefore, feminist approaches and progressive hermeneutics offer an important framework to encourage revision and re-reading of policies to create substantive justice for women ASNs, both as wives, workers, and citizens (Anggi Tondi Martaon, 2025).

### **Ethics of Justice in Gender Equality**

The concept of justice in classical philosophy arises from the human condition and its relationship with other individuals and the natural environment (B. J. Nasution, 2014). Plato viewed justice as the ability of individuals to manage their own affairs without interfering with the affairs of others (Nas, 2024), which is closely related to justice in the state (Fadhilah, 2013), where harmony between the elements of society is the main basis; each individual plays a role according to his talent and expertise (E. R. Nasution et al., 2024). Aristotle, on the other hand, divided justice into distributive which emphasises the fair allocation of goods and services in proportion and corrective (ANWAR, S et al., 2022; Suryo Febyanti, 2022), which regulates balance in private law transactions, making the principle of justice a moral guideline in social life (Vieru, 2010).

In recent years, public discourse on the link between gender equality and women's traditional roles in childcare has become increasingly prominent (Johnson, 2024; Nossiff, 2007), suggesting that women's dual roles in the domestic and public spheres often create structural inequalities that inhibit their full participation in the public sphere (Gribble et al., 2025; Lambert & Scribner, 2023). Hirschmann's social construction theory approach is relevant to understanding how social norms shape or limit women's freedom (Markovits & Bickford, 2014).

One tangible impact of this inequality is seen in the food security sector (Wyant, 2021), where research shows that gender equality contributes positively to household welfare as women play a major role in food resource management (Khasbulatova & Smirnova, 2020; Lahey, 2010; Omidakhsh et al., 2020; Sukti et al., 2023). Nonetheless, there is still a gap between national gender policies and practices at the household level (Morondo Taramundi, 2016; Mount, 2014). In this context, the women's movement acts as a civil society force that encourages the state to adopt inclusive policies and oversees their implementation, although challenges such as economic inequality throughout women's life cycles remain a systemic issue in public policy, including in the fiscal sector (Htun, 2022).

Canada's ratification of the Convention on the Elimination of All Forms of Discrimination against Women in 1982, as well as its integration of the Beijing Declaration and Beijing Plan of Action into federal policy in 1995, can serve as examples of good practice (Rodríguez-Galvis & a,

2023; Woodroffe, 2015). The Declaration and Action Plan offer an overarching framework to identify and eliminate discrimination against women, including in critical areas such as taxation, spending, and government budgets (Lahey, 2010; Shade, 2013). Through this framework, countries are encouraged to not only recognise, but also change policy structures that systemically disadvantage women (Made, 2000).

### **The Phenomenon of Polygamy in Social Context and Population Administration**

The term polygamy, derived from the Greek "*poly*" (many) and "*gamein*" (mate) (Setiawan et al., 2023), literally means marriage with multiple partners, but in practice it more often refers to the polygyny of men who marry multiple women who are dominant in various traditions and teachings of certain religions (Raudho, 2023). Although socio-anthropologically polygamy does not differentiate between genders (Andressa Muthi' Latansa, 2023), the practice is widely debated, between those who consider it a gender injustice and those who defend it as part of culture or religion (Arbie & Milhan, 2023). As found in Middle Eastern and African communities, as well as indigenous groups in Indonesia (Andrian et al., 2021; Sugitanata et al., 2024), the term polygamy remains more popular in public discourse than the academic term polygyny, especially in debates surrounding its impact on women's rights, gender equality, and family structure (Merina & Muhaimin, 2023).

Polygamy was initially practised by elites as a symbol of domination, where women were often victims of power, but over time the practice evolved with a variety of social, economic, and religious motives (Ramadhani, 2023). In the modern era, polygamy has come under sharp criticism for its impact on family stability and women's rights, eliciting varying legal responses in different countries (Aini & Abdurrahman, 2021), and exposing the ongoing tension between patriarchal values and the demands for gender equality in contemporary society (Pua et al., 2022).

## **2. METHOD**

This research uses a critical qualitative approach with a document study method to analyse the substance and structure of power in DKI Jakarta Governor Regulation Number 2 Year 2025 related to polygamy permits for State Civil Apparatus (ASN) (Johnny Ibrahim & Jonaedi Efendy, 2016). This approach was chosen because it allows researchers to examine how public policies are structured within a certain ideological framework, especially in relation to gender relations and religious interpretations. In addition, secondary data was collected from other relevant legal documents, such as the Marriage Law and Government Regulation No. 45 of 1990, as well as institutional statements such as Komnas Perempuan, PBNU, and the Ministry of Women's Empowerment and Child Protection. The analysis was also strengthened by tracing public discourse through online media coverage as social context.

The analysis process was carried out using the framework of critical feminism and the hermeneutics of gender justice. Critical feminism, as formulated by Gadis Arivia, is used to examine patriarchal bias in the policy formulation process and its impact on ASN women as legal subjects. Meanwhile, the hermeneutics developed by Nasr Hamid Abu Zayd helps dissect how religious interpretations are used normatively in public policy, and how these interpretations need to be recontextualised to align with the principles of substantive justice. By combining these two approaches, this research not only analyses the content of legal texts, but also reveals the ideological and structural dimensions underlying the regulation of polygamy in public bureaucracy.

## **3. FINDINGS AND DISCUSSION**

### **Institutionalisation of Unequal Power Relations in Bureaucratic Policy**

DKI Jakarta Governor Regulation No. 2 Year 2025 regulates the procedures for granting marriage and divorce permits for ASNs within the DKI Jakarta Provincial Government. Provisions regarding polygamy are contained in Article 7 to Article 12, which allow male ASNs to apply for polygamy permits by fulfilling administrative requirements, such as approval from the first wife, shar'i reasons, proof of financial capability, and superior recommendations.

In practice, the consent of the first wife stipulated in Article 9 does not necessarily reflect equality, as women's position in ASN household relations and bureaucratic structures is often unequal. The statement "wife's consent" can be false, because the wife may consent not willingly, but because of psychological pressure, fear of social stigma, or worry about the fate of her children.

However, sharp criticism came from various parties. Amnesty International Indonesia considers this step discriminatory and violates human rights and gender equality under the ICCPR and CEDAW ([suara.com](https://suara.com)). Komnas Perempuan asserts that the existing mechanism is insufficient to guarantee consent free from protectionist pressures, and still has the potential to normalise nikah siri. PBNU and the Minister of PPPA also urged a review, considering that the policy prioritises the legality of polygamy over the benefits of women and children ([cna.id](https://cna.id)).

In the perspective of Gadis Arivia (2003, 2006), policies that do not consider structural inequality and women's empirical experiences are a form of symbolic violence legalised by the state (Arivia, 2006). This Pergub appears neutral and administrative, but actually reproduces subordinate power relations towards women. In addition, there is no recovery mechanism or psychosocial supervision for the affected first wives and children.

### **Ethics of Gender Justice and Hermeneutical Critique of Religious Interpretation in Public Policy**

From the point of view of gender justice ethics, the polygamy policy in Pergub DKI No. 2 Year 2025 fails to accommodate the principle of substantive justice. Article 8 mentions legitimate reasons for polygamy such as the wife being seriously ill, unable to perform obligations, or unable to have offspring. This logic shows a structural bias that blames women's conditions as legitimate reasons for men to remarry, without considering the rights and dignity of women themselves.

Implementation of the Pergub is also problematic in terms of supervision and practical justice. While Articles 11 and 12 authorise civil service officials to monitor and grant permits, there is no article that guarantees a psychosocial evaluation or complaint mechanism for affected ASN women. Komnas Perempuan has demanded that the provincial government provide a fair and transparent tracking system-including strict sanctions if permission is granted without the consent of the first wife ([antaranews.com](https://antaranews.com)).

Nasr Hamid Abu Zayd's (2004) approach offers a critique of the way the state uses religious interpretations as a basis for policy without considering the context of justice and maqashid sharia (Zayd, 2004). He emphasises that the substance of justice is more important than literal adherence to the text, especially if interpretation is used to justify social domination of women (Mujahidin, 2023). In this context, regulations that legalise polygamy in the name of religion, but without protection mechanisms for the affected parties, are a form of misuse of religious interpretations to maintain patriarchal structures.

Furthermore, when compared to the policy in West Java Province, there is no governor-level regulation that explicitly regulates polygamy among ASN. The polygamy permit application is still

regulated by Government Regulation No. 45/1990, but not in the form of a regional head regulation. This shows that Jakarta is the region with an affirmative policy towards legalising polygamy, while other regions choose not to formulate it in regional regulations. Thus, Pergub No. 2 Year 2025 can be read as a form of state intervention that strengthens men's social dominance, not as a protection of the family institution.

### **Gendered Inequality in Bureaucratic Policy: Structural, Interpretive, and Impact-Based Analysis**

To comprehensively understand how DKI Jakarta Governor Regulation No. 2 Year 2025 legitimises gender-biased practices, a more in-depth examination of key elements of the policy is required. This study details four main dimensions: the administrative legal framework, the approval mechanism, the use of religious interpretations, and the socio-psychological impact on women ASNs. Each aspect is analysed using the lens of critical feminism and the hermeneutics of gender justice, as developed by Gadis Arivia and Nasr Hamid Abu Zayd.

#### **Legal-Administrative Dimension: Non-Gender Neutral Bureaucratic Mechanisms**

Pergub DKI Jakarta Number 2 Year 2025 in the article 4 to Article 12 stipulates that male ASNs who wish to be polygamous must submit an application with various administrative documents, such as religious reasons, wife's consent, and guarantee of financial capability. Procedurally, this mechanism appears strict and legally valid.

However, from a feminist perspective, legality does not guarantee justice. Gadis Arivia (2003) emphasises that legal systems are often built within a masculine framework, which equates "legal objectivity" with justice, even though laws can contain structural biases that normalise unequal power relations. In this case, the presence of Pergub actually turns patriarchal social practices (polygamy) into formal policies legalised by the state, without questioning the value of substantial justice to the affected ASN women. The state in this case is not neutral, but actively takes an ideological position by justifying the practice of polygamy within a rigid legal framework.

#### **Wife's Consent: Legal Formalities without Substantial Protection**

Pergub DKI Jakarta Number 2 Year 2025 in the article 9 requires the "written consent of the first wife" as part of the polygamy application procedure. In practice, this requirement appears to provide some protection for women, but within the structure of household power relations, such consent is often symbolic or even forced. In patriarchal societies, first wives can feel psychologically and socially pressurised to agree to polygamy requests in order to maintain family relationships, children, or even their social position in the community and work environment.

Komnas Perempuan has highlighted that this agreement may not be authentic and actually opens up space for symbolic violence within state institutions. Arivia (2006) states that policies that do not consider women's lived experiences are a form of marginalisation of legal subjects who should be equal. Without impact evaluation or psychosocial counselling for wives, this policy reinforces women's subordination under a false narrative of procedural justice.

#### **Religious Interpretation: Traditional Legitimation of Social Inequality**

This Pergub stems from a reading of national law and religious interpretations of the permissibility of polygamy. Article 4 paragraph (1) lists religious requirements as the basis for whether an ASN can apply for polygamy. However, this approach relies on textual and literal interpretations of certain verses (especially QS. An-Nisa: 3) without taking into account the



development of modern interpretations that are more progressive and humanistic (Mustofa, 2017; Nas, 2024).

Nasr Hamid Abu Zayd (2004) reminds us that all religious interpretations are formed in a particular social context (Zayd, 2004). If the old interpretations were born in patriarchal societies, then using those interpretations absolutely in state policy means importing patriarchal values into the modern legal system. He emphasises that *maqashid al-shariah* (the objectives of sharia) should be the primary reference point, especially justice and protection of the weak. Polygamy that results in injustice is contrary to the basic principles of Islam. Thus, this Pergub has failed to contextually translate the value of Islamic justice, and instead strengthens the system of religion-based domination.

#### Social and Psychological Impact on ASN Women

The imbalance of this policy is not only seen in legal procedures and religious interpretations, but also in the social and psychological implications for women ASN (Mustofa, 2017). The absence of articles or clauses that explicitly regulate the counselling mechanism, protection, or further rights of affected women indicates that women are not the main subject in the consideration of this policy (Suryo Febyanti, 2022).

Gadis Arivia refers to this condition as a form of "women's invisibility" in policy (Arivia, 2006). In a masculine bureaucracy, the double burden of women ASNs as public workers as well as wives in a polygamous system is not recognised or responded to structurally. This condition raises the potential for marginalisation and discrimination in the workplace, both in social, economic and psychological terms. This policy fails to present the ethics of social justice that should be the foundation of all state interventions.

Based on these findings, this research makes several important contributions. Theoretically, this article enriches public policy studies by integrating critical feminist approaches and gender justice hermeneutics into the analysis of bureaucratic regulations, which is still relatively rare in Indonesian government studies. This research confirms that public policy is never value-neutral, but always contains ideologies that can either reinforce or challenge gender inequality.

In terms of policy, the findings of this research contribute as an evaluative basis for local and national governments in formulating regulations that touch upon the private sphere of civil servants. This study highlights the importance of a participatory, women's experience-based approach, and the need for substantive protection mechanisms in every policy that directly impacts gender relations. Thus, this research can serve as a reference for the development of public policies that are more just, inclusive, and aligned with human rights principles and gender equality.

This study contributes to the literature on public policy and gender studies by positioning the governor regulation not as the primary analytical source, but as empirical evidence of broader structural patterns in bureaucratic governance. The analysis demonstrates that gender inequality in public policy emerges from ideological frameworks, legal-administrative design, and dominant interpretive practices, rather than from a single regulation per se. By using the regulation as a case illustration, this research advances a conceptual understanding of how patriarchal power relations are institutionalised through bureaucratic mechanisms and legitimised by legal and religious formalism.



From a policy perspective, the findings provide an analytical framework that can be applied beyond the specific case examined, enabling policymakers and scholars to identify gender-biased structures, symbolic procedural safeguards, and the absence of substantive protection mechanisms in bureaucratic regulations affecting women.

#### **4. CONCLUSION**

This research concludes that DKI Jakarta Governor Regulation Number 2 Year 2025 on procedures for granting polygamy permits for ASN reflects the institutionalisation of unequal power relations between men and women in the bureaucratic system. Although present in the framework of administrative law and based on religious provisions, this policy does not consider the empirical experience of women as affected parties, and instead strengthens the patriarchal structure that has taken root in state institutions. Provisions such as the consent of the first wife and legitimate reasons for polygamy that blame the wife's condition, show structural bias legitimised by the state. From the perspective of feminism and the ethics of gender justice, this regulation fails to realise the principle of substantive equality and does not include protection mechanisms that favour women ASNs.

The theoretical implications of these findings show that public policies are ideological and not gender neutral. The critical feminism and hermeneutics of justice approaches used in this study are the main strengths because they are able to uncover the hidden dimensions of policies that appear procedural. The shortcomings lie in the limited empirical data from ASN women who are directly affected, which is expected to be filled by further research. Therefore, it is recommended that the DKI Jakarta Provincial Government review the Pergub by involving women's groups, civil society organisations, and Komnas Perempuan. At the national level, it is important for the state to develop regulations that guarantee substantive gender equality, and encourage women's participation in all stages of public policy formulation.

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