

ABSTRACT

Akmal Adicahya, 10210057, *Justice Value in Polygamy Regulation of Indonesia and Malaysia in The view of Asghar Ali Engineer. Al-Ahwal Al-Syakhshiyyah Department, Sharia Faculty, The State Islamic University of Maulana Malik Ibrahim Malang.*

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The development of the world brings development of value. The institution of slavery was known to be practiced and accepted by society in the classic world, but today it has been treated as an illegal practice. Islam accepted this practice in the prophet era, but it also has been accepted this practice to be wrong by the time being. Several scholars consider the issue of polygamy as the same as the issue of slavery in term of the changing of its legalization. It may be legal in the classical era, but it can be illegal for the modern era. The illegality of polygamy due to its use to legitimate marriage in the shake of fulfilling desire. Because of this phenomena, polygamy did not result a good protection for member of family. In contrary, it leads to domestic violence and divorce.

Indonesia and Malaysia has regulated the practice of polygamy on their law, Indonesia has the marriage regulation number 1 year 1974, while Malaysia has the Islamic family law year 1984. Both of country want to ensure their people welfare particularly in family matter. They did not expect polygamy resulting in chaos and social injustice among citizens.

However, several sides on both of countries see those regulations have some injustice articles within. Anik Farida asserted that Marriage Law number 1 year 1974 of Indonesia does not provide the value of pluralism and women emancipation. Similarly, Roslina Che Soh thinks that Islamic Family Law year 1984 of Malaysia regulation still need to be improved to guarantee the quality of justice towards wives.

This research analyzes the justice value on both regulations in the view of Asghar Ali Engineer. He is one of International Islamic Scholar concern on justice and women emancipation. In his view, justice is an important value in Islam as important as equality in husband-wife relationship. The analysis on this research find that regulations of both countries legitimate the wife disability as one excuse for husband to practice polygamy. Those regulations did not reflect the spirit of justice by considering wife's disability as an obstacle for being equal with her husband. Therefore, it is necessary to revise the existing regulation.