

## WHO ARE THE BREADWINNERS? Status, Rights and Responsibilities in Unregistered Polygamous Marriage in Indonesia

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### Abstract

*Polygamy is a highly controversial topic and the object of serious political contestation in Indonesia. Although all major Muslim organizations consider polygamy is allowed under Islamic Law, the practice is not without stigma. In 1974 when Indonesia adopted its current Marriage Law, the Indonesian parliament decided to tie polygamy to strict conditions. This law however failed to prevent the practice of unregistered polygamous marriages. Women in unregistered polygamous marriages formally hold no rights as lawful wife in case of a divorce or death of the husband. The question is what arrangements the second, third or fourth wife in unregistered polygamous marriages have made with their husband in view of the lack of legal recognition of their rights as wife. What are the consequences of non-recognition of their marriage for these women? Does legal insecurity in practice also mean economic and social insecurity? Does the husband fulfill his obligations and responsibilities towards his wives and their families? This article aims at answering those questions by looking in-depth at a selection of three case studies, which were collected during a total of nine months of research in Jakarta in 2015 and 2016. This article is part of the socio-*



*legal domain, combining legal analysis with anthropological approaches. The starting point of the research is a legal one: the disadvantaged legal position of women whose polygamous marriage has not been registered, but a large part of the research is based on anthropological methods. Through the experiences of these women the paper reveals a range of personal reasons and underlying causes for unregistered Islamic polygamous marriages as well as their consequences—including legal ones. The paper depicts a great diversity in the ways husbands and wives view and organize their responsibilities within their polygamous households.*

*[Poligami adalah topik yang sangat kontroversial dan menjadi objek serius dalam kontestasi politik di Indonesia. Meskipun semua organisasi Muslim besar melegitimasi poligami di bawah payung Hukum Islam, akan tetapi praktik tersebut bukan tanpa stigma. Pada tahun 1974 ketika Indonesia mengadopsi Undang-Undang Perkawinan saat ini, pemerintah Indonesia memutuskan untuk mengikat poligami dengan persyaratan yang ketat. Namun undang-undang ini gagal mencegah praktik perkawinan poligami yang tidak dicatatkan. Perempuan dalam perkawinan poligami yang tidak tercatat secara formal tidak memiliki hak sebagai istri yang sah jika terjadi perceraian atau kematian suaminya. Pertanyaannya adalah bagaimana pengaturan tanggung jawab suami dengan istri kedua, ketiga, keempat dalam pernikahan poligami yang tidak terdaftar, karena di hadapan hukum mereka bukanlah istri yang sah? Apa konsekuensi dari tidak diakuinya pernikahan tersebut bagi para istri? Apakah kerawanan hukum dalam praktik poligami juga berarti kerawanan ekonomi dan sosial? Apakah suami memenuhi kewajiban dan tanggung jawabnya terhadap istri dan keluarganya? Artikel ini bertujuan untuk menjawab pertanyaan-pertanyaan tersebut dengan menelisik secara mendalam pada tiga studi kasus pilihan, yang dikumpulkan selama sembilan bulan di Jakarta sejak tahun 2015 sampai 2016. Artikel ini berada pada ranah kajian sosio-legal yang menggabungkan pendekatan doktrinal dan antropologi. Artikel ini berangkat dari sebuah masalah hukum: posisi hukum perempuan yang rentan dalam pernikahan poligami yang tidak terdaftar. Berkaca dari pengalaman yang dialami oleh para perempuan tersebut, artikel ini mengungkap alasan, penyebab dan dampak dari pernikahan yang tidak didaftarkan. Artikel ini juga menggambarkan ragam pola pembagian tanggung-jawab antara suami dan istri dalam pernikahan poligami mereka.]*

**Keywords:** *Polygamy, Marriage Law, Law and Society, Women and Law*

## **Introduction**

Polygamy is a highly controversial topic and object of serious political

contestation and public debates in the Muslim world. Polygamy has become an important symbol in the battle over Islamic family law after the influential nineteenth century when Muslim reformists Qasim Amin and Muhamad Abduh gave their alternative interpretation of the Qur'anic polygamy verses in the Sura an-Nisa, inferring a meaning that justice and equality among wives is impossible to reach within a polygamous marriage. Their opinion is very influential among those Muslims who want to restrict or prohibit the practice of polygamy. On the other side of the spectrum are Muslim movements that support polygamy and use "polygamy" as an Islamic symbol of Muslimness and piety—for women and men.<sup>1</sup>

Today's rediscovery in the Near East of travelers' marriages (*misyar*) and temporary marriages (*mut'a*) as a means for married men to engage in temporary sexual relationships that lack the full commitment of a traditional Islamic marriage—has added a new dimension to the polygamy debate. These types of Islamic marriages are not only avenues for men and women to circumvent state regulations, but also violate traditional social and cultural conventions about who you can marry and how a proper Muslim marriage should look like.<sup>2</sup> Previous research on Indonesia has shown that many men and women deliberately circumvent state regulations on polygamy by making use of the possibility to marry religiously according to the *rukun nikah*—the religious requirements for a valid Islamic marriage without registering their marriage at Offices for Islamic Affairs.<sup>3</sup>

In Indonesia, like in the rest of the Muslim world, opposition against the practice of polygamy has been regularly aired since the early twentieth century. In the early 2000s the debate flared up once again, among others sparked by a counter-legal draft law that would ban polygamy. Strong opposition by all

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<sup>1</sup> Sonja Van Wichelen, "Polygamy Talk and the Politics of Feminism: Contestations Over Masculinity in a New Muslim Indonesia," *Journal of International Women's Studies*, Vol. 11 No. 1, 2009, pp. 173-188.

<sup>2</sup> Mona Abaza, "Perceptions of 'Urfi Marriage in the Egyptian Press," *ISIM Newsletter*, No. 7, 2001. pp. 20-21.

<sup>3</sup> M. Platt, *Marriage, Gender and Islam in Indonesia* (New York: Routledge, 2017).

major Muslim organizations lead to the shelving of the counter-legal draft.<sup>4</sup> Proponents and opponents of polygamy invoke various norms and principles to support their position that have their basis in religious, customary and state law normative frameworks. The activists associated with the Liberal Muslim Network (*Jaringan Islam Liberal*/JIL) campaign against polygamy, arguing that such practices represent patriarchal readings of Islamic doctrine such while such patriarchal readings are out of line with Indonesian culture and bilateral kinship patterns.<sup>5</sup> On the other hand, proponents pose the counterargument that the practice of polygamy cannot be prohibited since it is one of the matters that is considered certain in Islam as polygamy and the lawful grounds for polygamy are clearly discussed in the Qur'an.<sup>6</sup>

The current 1974 Marriage Law (which has been amended by Law No. 16/2019) takes a middle ground position by not prohibiting but restricting polygamy. According to the Marriage Law, Islamic polygamous marriages may only be performed under certain specified conditions and after the parties involved have obtained prior permission from the Islamic court. The law stipulates that polygamy is allowed if the wife is not able to perform her obligations as a wife: if she suffers from physical disabilities or incurable illness causing her not being able to perform her marital duties, or if she cannot conceive. Additionally, the husband is required to demonstrate that he is financially capable of supporting more than one wife, that he will be fair to his wives, and that his current wife or wives have stated their consent to the polygamous marriage. Before a husband may take another wife, the Islamic court must rule that those legal conditions have been met, or the marriage will not be legally recognized. Civil servants – as the representatives of the state – have to first obtain approval from their superiors before they could engage in

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<sup>4</sup> M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: Institute of Southeast Asian Studies, 2008); S. M. Mulia, & M. E. Cammack, "Toward a Just Marriage Law: Empowering Indonesian Women through a Counter Legal Draft to the Indonesian Compilation of Islamic Law," *Islamic Law in Contemporary Indonesia: Ideas and Institutions*, 2007, pp. 128-145.

<sup>5</sup> M. B. Hooker, *Indonesian Syariah...*

<sup>6</sup> N. Nurmila, *Women, Islam and Everyday Life* (London, UK: Routledge, 2009).

polygamy or divorce their spouses.<sup>7</sup>

As the description above indicates, the polygamy debate in Indonesia is polarized, with one group describing polygamy as a harmful, old-fashioned practice in which most men marry a second or subsequent wife on improper grounds; while the other group defending polygamy as a religiously permitted or even sanctioned practice that protects women and children in need. A glimpse at academic studies that focus on the institution of polygamy around the world, however, reveals a much more multifaceted nature of polygamy. In these studies, the institution of polygamy (Muslim and non-Muslim) has been attributed many functions: a male status symbol,<sup>8</sup> a way to accumulate family labour,<sup>9</sup> a symbol of piety for Muslim men and women,<sup>10</sup> a way to establish familial ties and economic networks,<sup>11</sup> a threat used by men to keep their wives obedient,<sup>12</sup> and as a way for career women to conform to the expectation of marriage while being able to continuing their relatively independent life styles that do not conform with traditional role patterns.<sup>13</sup>

This article builds on a dissertation and field research,<sup>14</sup> which was conducted in December 2014 – June 2015 and June – August 2016, in the Greater Area Jakarta (Jakarta-Tangerang-Bekasi). The core analysis of this

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<sup>7</sup> Please refer to Suryakusuma 1996 for a detailed account of analysis of the effects of the marriage reforms on male civil servants and their wives, including how the family lives are regulated by the government.

<sup>8</sup> Bao J., “Denaturalizing polygyny in Bangkok Thailand,” *Ethnology*, Vol. 47, 2008, pp. 145–161; Al-Krenawi, Graham JR, Al-Krenawi S, “Social Work Practice with Polygamous Families,” *Child Adolesc Social Work J*, Vol. 14, 1997, pp. 445–458.

<sup>9</sup> Zeitzen MK, *Polygamy A Cross-cultural Analysis* (New York: Berg Publishers, 2008).

<sup>10</sup> Smith-Hefner, Nancy J., “Hypersexed Youth and the New Muslim Sexology in Java, Indonesia,” *RIMA: Review of Indonesian and Malaysian Affairs*, Vol. 43, No. 1, 2009, pp. 209–244.

<sup>11</sup> Bao J., Denaturalizing polygyny...

<sup>12</sup> Antoine Philippe, “The Complexities of Nuptiality: From Early Female Union to Male Polygamy in Africa,” in G. Caselli, J. Vallin and G. Wunsch (eds.), *Demography: Analysis and Synthesis, A Treatise in Population Studies* (Elsevier, Academic Press, 2006), p. 355–371.

<sup>13</sup> J. Cleuziou, “Polygyny in Tajikistan: Ideological Contortions, Economic Realities and Everyday Life Practices,” *Journal of Central Asian Survey*, 2016; Nadia Sonneveld, “Rethinking the Difference between Formal and Informal Marriages in Egypt,” in Maaïke Voorhoeve (ed.), *Family law in Islam: Divorce, Marriage and Women in the Muslim World* (London: I.B.Tauris, 2012), p. 77–107.

<sup>14</sup> Theresia Dyah Wirastri, “Living with Unregistered Islamic Polygamous Marriages: Cases from Greater Jakarta,” *Ph.D thesis* (Humboldt Universität zu Berlin, 2018).

research is based on empirical data collected through the in-depth interviews with women living in unregistered polygamous marriages. Below we will first provide a short background about the prevalence of polygamy in Indonesia. Then, we will discuss three individual cases of polygamy: the stories of Siska, Mugi and Titin. We then analyse the cases through looking at the women's experiences in relation to marital status, rights, obligations and responsibilities, as well as their economic realities.

### **The Under-Registration of Polygamous Marriages in Indonesia**

The 1974 Marriage Law was intended to discourage polygamous marriages by making them subject to legal conditions (among others consent of the first wife) and permission by a religious court. The idea was that the state could check the circumstances of the marriage and better protect women against harmful polygamous practices by their husbands. An unintended result of these legal requirements, however, is that many polygamous marriages are concluded outside the radar of the state, creating many instances of unregistered polygamous marriages that lack formal legal status.<sup>15</sup> Muslim women who enter unregistered polygamous marriages have no legal rights to marital property in case of divorce or death of the husband and children born in such marriages only have a civil relationship with the mother.<sup>16</sup>

No reliable statistics exist about the occurrence of unregistered polygamy and this study was too small-scale to conduct such a demographic survey. Indonesia's national population survey (*Sensus Penduduk*, released every ten years) does not collect data on polygamous marriages and no other surveys on the occurrence of polygamy have been conducted.<sup>17</sup> Yet, there is data

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<sup>15</sup> Nina Nurmila, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia* (London and New York: Routledge, 2009); Julia I, "Suryakusuma, The State and Sexuality in New Order Indonesia," in L.J. Sears (ed.), *Fantasizing the Feminine in Indonesia* (Durham-London: Duke University Press, 1996), p. 92-119.

<sup>16</sup> Marital property is any form of capital earned by husband and wife together in their marriage, e.g. savings, land, and a house.

<sup>17</sup> Susan Blackburn, *Women and the State in Modern Indonesia* (Cambridge: Cambridge University Press, 2004) p. 144.

about cases in which the Islamic courts granted permission to a polygamous marriage. According to the Office of Religious Courts of the Supreme Court the religious courts in 2015 granted 888 polygamy requests nationwide of which 22 in Jakarta.<sup>18</sup> When divided with the total of 1.96 million Muslim marriages that were registered in Indonesia that same year this results in a percentage of 0.05 percent polygamous marriages in 2015. In Jakarta (DKI), where 56 thousand Muslim marriages were conducted that year, meaning that the percentage of polygamous marriages is even lower: 0.04 percent.<sup>19</sup> These polygamy permission figures of the Islamic courts are an indication of the number of formal polygamous marriages that are concluded today, but cannot capture the number of unregistered polygamous marriages that have been concluded without prior court permission.

In view of past estimations on polygamy practices, it is very likely that the real number of polygamous marriages in Indonesia is many times higher than the religious courts' statistics about the number of issued permissions for polygamy suggests. Estimates in the past, have put the occurrence of polygamy on 2 – 5 percent of all marriages. Vreede-de Stuers concluded based on the 1953 census that the incidence of polygamy in Java was about 2 percent of all marriages (namely 163.362 out of 8.230.788 marriages or 2% in 1953.<sup>20</sup> That is a forty times higher percentage compared to the 0.05% polygamy permission granted by religious courts in 2015. Moreover, researchers have estimated that prior to the enactment of the 1974 Marriage Law about 5% of all marriages were polygamous<sup>21</sup> a figure 100 times higher than the above percentage of

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<sup>18</sup> Statistics taken from the website of the Office of Religious Courts of the Supreme Court (*Badan Peradilan Agama Mahkamah Agung/Badilag*), <https://badilag.mahkamahagung.go.id>, last accessed 6 February 2018.

<sup>19</sup> Figures from the website of the National Bureau of Statistics (Badan Pusat Statistik), last accessed 6 February 2018. <https://www.bps.go.id/linkTableDinamis/view/id/893>.

<sup>20</sup> Nina Nurmila, *Women, Islam and Everyday Life...*, p. 2.

<sup>21</sup> Azyumardi Azra and Arskal Salim (eds.), *Shari'a and Politics in Modern Indonesia* (Singapore: ISEAS Publishing, 2003), p. 76-95; John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003).



polygamy permissions registered by the religious courts in 2015. Occurrence of polygamy indeed seems to have decreased somewhat after the introduction of the 1974 Marriage Law,<sup>22</sup> but no researcher on Islamic marriage in Indonesia has ever mentioned a spectacular decrease of polygamy in terms of a 40 – 100 times lower percentage of polygamous marriages following the introduction of the Marriage Law. We believe, therefore, that it is very likely that a large majority of polygamy cases in Indonesia are concluded informally, without prior court permission.

Anthropological research by Suryakusuma during the heydays of Soeharto's regime (1996) reveals that it indeed was not unusual among the Jakarta's elite to have a "secret" second wife. More recently, Kurnia has also indicated that most polygamous marriages in Indonesia involve considerable amounts of secrecy. She distinguishes between two types of secret polygamous marriages: *kawin siri* (unregistered religious marriages) and *kawin diam-diam* (secret marriages).<sup>23</sup>

Kurnia considers polygamous *kawin siri* marriages to be religious marriages that are conducted without court permission, in which the second wife has been told that the marriage is a polygamous one, whereas *kawin diam-diam* refers to a situation in which a married man deceives the second wife and for instance registers himself as resident of a second district and proclaims to be single or a widower. Such fraud is relatively easy to do in Indonesia as Indonesia still lacks a working national marriage registration system.<sup>24</sup> According to Kurnia,

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<sup>22</sup> The demographer Gavin Jones suggested that the number of polygamous marriages in the 1990s was slowly decreasing, which he considered rather unexpected given the lively debates about the issue. He gave three explanations for this decrease: higher level of education, the influence of ideas promoted by the women's organizations and better economic opportunities for women (Jones 1994: 280-281). Azra gave an additional reason for such a decrease, namely the legal restrictions on polygamy in the 1974 Marriage Law (Azra 2003: 89). The decrease of the practice both researchers mentioned was a gradual decrease and not the spectacular decrease the figures of the Islamic courts may suggest.

<sup>23</sup> Novi Kurnia, "Berbagi Suami (Love for the Share): The discourse of Polygamy in a recent Indonesian Film," in *Intersections: Gender and Sexuality in Asia and the Pacific*, 19, 2009.

<sup>24</sup> Indonesia is in the process of introducing a national civil registration system through the electronic identity card (*elektronik kartu tanda penduduk*; E-KTP), which will make this kind of fraud much more difficult. However its implementation is slow and marked with problems. See e.g. <https://en.tempo.co/read/news/2017/03/09/314854349/The-E-KTP-Mess>.



the secrecy of the marriages demonstrates the asymmetric power between men and women in Indonesia in which men are the ones with the power to “decide the form of polygamy and take advantage of polygamy.” This article will look at secrecy and power asymmetries between husband and the first wife, husband and second, third or fourth wife, as well as power asymmetries between the first (legally recognized) wife and the other, unregistered wives and relate this to their realization of marital rights – under the state law and Islamic law frameworks.

### **Case Studies**

To better understand the everyday practice of unregistered polygamous unregistered we have analysed polygamy practices from two perspectives: a social scientific one that mainly focuses on how marriage life is experienced by women living in unregistered polygamous marriages, and a more legal centralist one which focuses on the differences and similarities (the “gap”) between state rules concerning polygamy (Law) and social and legal practices of polygamy. Both components are placed in the context of social and political discourses in Indonesia about the place of women in marriage and society.

The legally disadvantaged position of second, third and fourth wives in unregistered polygamous marriages raises the question to what extent women were aware of the polygamous nature of the marriage and the potentially insecure situation of such marriages. Through a thorough description of four life stories of women living in polygamy, we will delve into the socio-economical aspects of second wives when examining the realization or non-realization of their marital rights. With respect to marital rights, we will especially focus on the issues of maintenance, economic dependency and own income, and how these women negotiate their sexual relationships with their husband.

#### ***The Case of Siska***

Siska, a 23-year-old woman, and second wife in a polygamous marriage, comes from a relatively poor family in Cikarang, a satellite city

of Jakarta in the Bekasi district, Province of West Java. Together with her two-year-old daughter, Rina, she lives with her parents and her younger brother in a small house rented by her parents. Her husband, who is from a well-off family, mainly lives with his first wife and their children. Siska is currently unemployed and financially dependent on her husband. Her parents are not in a position to fully provide for their daughter and granddaughter. Siska's father is an irregular unskilled labourer while her mother works as a washing lady at her neighbour's house. During the interview Siska was worried because her husband, Arno, had stopped visiting her and her daughter for more than a week and left them waiting in vain. According to Siska, up to that time Arno had been a very responsible husband. He did not only provide maintenance to Siska and Rina, but he often gave Siska's parents some money as well – a considerable amount of money according to her mother.

The interview was initially planned to be held outside her house as she did not feel comfortable enough to take me to her home with her parents present. However, we finally had to go back to Siska's house because her daughter Rina was crying the whole time and Siska was not able to calm her down. When we arrived at Siska's house, her mother welcomed us warmly and ordered Siska immediately to buy two bottles of mineral water as she would not let me drink the cooked water from her water pump. We sat together on the porch while Siska's mother was on the watch to make sure that Siska would be able to tell her stories without being interrupted by Rina. There were moments when Siska's mother would join the conversation and gave her opinion about Siska's and Arno's current situation, something which really concerned her lately. Siska's mother clearly stated what she thinks is best for her daughter and her granddaughter: a responsible husband and father. "Poor people like us do not have the time to think about complicated stuff. We just wish for a responsible husband for Siska, someone who takes care of her and her children!"

Siska married with Arno in February 2012 in her parents' house. The wedding ceremony, which was conducted by the local *amil* (village-level Islamic

official) was kept modest as only several family members were present. Arno came with his uncle, instead of his parents, but according to Siska's mother this does not mean that his parents disapproved of the marriage [yet this would never happen with a marriage between economically equal families]. Not long after the marriage, Siska became pregnant and she gave birth to Rina in November 2012.

According to Siska, they deliberately chose not to get married by a marriage registrar (*penghulu*) because a village *amil* is much cheaper. Siska understands that, since she and her husband do not have a marriage certificate (*buku nikah*) their marriage may not be considered legal according to state law. But she does not worry about it, since many people in her village are married by the *amil*<sup>25</sup> without formally registering it and encounter no problems. Important to them is the fact that the neighbours know that Arno is Siska's husband, and they will not be accused of committing adultery if they see him stay in her house.

If we would have been married by the *penghulu* than we had to pay almost 2.000.000 (two million) rupiahs for the wedding ceremony, but the *amil* only cost us 700.000 (seven hundred thousand) rupiahs. As long as the neighbours know that we are married, it is all right for us.

Siska's decision to accept Arno's marriage proposal was not contested by her parents. Her mother defended her daughter's marriage by pointing out that there is nothing abnormal about being a second wife in a polygamous household since several women in their neighbourhood are living in the same situation. They considered it as Siska's fate (*nasib*) and she should live through her path (*sudah jalannya*) no matter how difficult it might be. According to Siska, after their marriage they also managed to get full blessings and support from Arno's parents. Even though Arno and his family are much wealthier, they do not look down on Siska's parents. Arno treats Siska's family well and often gives them money to help them out financially.

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<sup>25</sup> An Amil is a village religious official and often also have the position of assistant marriage registrar (*Pembantu Pencatat Pernikahan/P3N*). This amil did not provide the couple with a marriage certificate, probably because it concerned a polygamous marriage which violated the legal requirements of the Marriage Law. Please see also Nurlaclawati (2010), Irianto (2016).

Arno is a nice and responsible man. Probably because he is a much older man who already has a lot of life experience. He often provides support to my parents, knowing that they do not have a fixed source of income. He really loves my family and I am just lucky that he took our relationship seriously from the beginning.

Financial stability was one of the main reasons for Siska to take Arno as her husband. Few years earlier, she had gone through a failed marriage because her previous husband was irresponsible and negligent (*tidak bertanggung jawab*). She was fifteen years old when she first got married and it did not last long.

Our marriage was not approved by his parents because I come from a poor family. Things got worse because my husband was dishonest with me about where he spent his money on. He only gave me a small amount of money and sent the rest of his income to his parents even though we were living at my parents' house.

Arno is much more responsible, and initially providing regular maintenance to both Siska and her parents. After the death of his father, however, Arno ceased supporting Siska's parents since Arno now also has the burden to financially support his mother. Nonetheless, Siska is satisfied: "Arno still gives me money every time he comes here. He will go to the supermarket with our daughter, Rina, and buy her *pampers* and ice cream."

Although Arno almost never spends a night at her place, Siska never complains. She considers it enough that he comes to see her and Rina on a regular basis – every afternoon after work. She realizes that she is 'just' a second wife and she does not want to create any conflicts with her husband or her co-wife. Her relationship with Arno's first wife has been well considering that when she found out that her husband took a second wife, she initially had been very upset.

It appeared that Arno had lied to me when he said that his first wife already gave her consent [to our marriage]. Once, she accidentally picked up Arno's mobile phone when I called him, and she instantly started interrogating me, asking who I was, why I called her husband. But I did

not say a thing and ended the call. Nowadays, we are on good terms. She often sends me text messages (SMS), asking if there is anything that Rina needs, for instance *pampers* or milk. I think she is a nice lady even if I never met her in person. I do not feel there is any need to see her in person, though. It feels awkward!

Even though Siska was quite content with her marriage, she realizes that her position as a second wife is an insecure one. When I interviewed her, it had been more than a week since Arno came to see her. Siska tried to call him, several times a day, but he did not answer her calls. “This makes me really sad - and mad as well. If anything happened to Arno, his family (his first wife) should have contacted me. I am his wife too and I am entitled to know if something bad happened to him.” Siska became really emotional because their daughter Rina was very upset that her father had not shown up for days. “She cries every day, asking for papa. She misses him, and she misses going to the supermarket with him to buy ice cream.”

Not only Siska became emotional, her mother also was very angry with the fact that Arno did not come to their house for days without prior notice. She tried to push Siska to go to his house in order to find out what was going on. Siska refused to do so since she does not want to be confronted with his first wife. “I need to be patient (*sabar*). This whole thing is not easy and all I can do is to be patient. I have Rina now and I need to think about her best interest, staying in this [polygamous] family so that Rina can have her father.” Siska’s mother did not dispute her words and put the matter in Arno’s hands. “If Arno comes home then he is her husband, if not then he is someone else’s.”

### *The Case of Mugi*

Mugi, a 59-year-old grandmother, is the second wife in a single polygamous household. She lives under one roof with her husband, Solihin, and her co-wife, Tini. Solihin, Tini and Mugi have been living under the same roof in Depok, some 30 km away from central Jakarta,

for forty-one years, with Mugi's bedroom at the left side of the house and Tini's at the right side. Solihin and his wives mainly rely on Solihin's and Mugi's irregular income to fulfil their needs. Their eight children (four children from each wife) are all married. Some of the children and their families also live at their parents' house, while others managed to become financially independent and occasionally provide financial support to their parents.

Our interview took place in the house of one of Mugi's sons, located a few hundred meters from her own house. She promised her son's wife to pay her a visit that afternoon and thought that it would be better to conduct the interview there. She wanted to be able to speak freely without her husband and her co-wife being present. Mugi assured me that everything is fine between her and Tini, her co-wife, but she did not think it would be a good idea for me to interview Tini. "Hmm, how should I put it, Tini, easily loses her temper and is very sensitive. We better not involve her, otherwise she will only be upset".

It was Mugi who had demanded to live in the same house with her husband and his first wife. She even made this a condition that her husband had to meet, if he really wanted to marry her. Mugi did not want to live in a separate house and be left out:

What would happen if I lived by myself separated from my husband and got sick? All my family were based in Java, I did not have anyone to rely on here. Who would have helped me? The neighbours? No, my husband should be the one who looks after me if I were to become sick.

According to Mugi, Tini as Solihin's first wife did not object to Mugi's request to form a single household on the conditions that Mugi promised to be cooperative and not making things between them complicated. Tini even had given her written permission as proof of her consent to the *Penghulu* so that Solihin and Mugi could have a 'proper marriage'. Proper from a social and religious perspective that is, since legally the marriage is not that proper after all, as Mugi admitted that they

had not attempted to formalize the polygamous marriage by obtaining permission from the religious court.

Mugi stated that her relationship with Tini has been pretty good from the start of their polygamous marriage. According to Mugi, Tini did not mind if her husband took her as second wife, because Tini believed that her husband was a playboy and by having Mugi near her she did not pose much of a threat.

She [Tini] said that she pitied me, probably because I lived alone in Jakarta with no relatives and family, and that she was glad that it was me who became her husband's second wife. I guess she did not really see me as a threat.

They decided to marry in Mugi's hometown in Tegal, Central Java, as Mugi had requested. She had objected to a wedding ceremony in Jakarta because she was afraid that in that case Solihin would have chosen for a secret marriage (*nikah sirri*). "I insisted to get married in Tegal in front my parents and my family. I did not want to marry secretly or in breach of the rules [state law]. I was afraid that if we got married in Jakarta, Solihin might choose for an unofficial one." In order to conform to the Marriage Law, she even falsified her age to seventeen years. She was not yet sixteen years old at that time (the legal age of marriage is sixteen for girls) and Solihin was twice her age.

After they got married, Solihin told her to quit her job in a factory and that he would provide the livelihood of his two wives and their children. However, he did not give her a fixed amount of monthly maintenance. Mugi explained:

"If he had some extra money then he would give me some, otherwise I never felt any need to ask [for money]. We all live in the same house and I am very flexible with how things work. It does not mean that if he gives *emak* (Tini's nickname which means mother in *Betawi* language) five hundred thousand rupiahs, I should get five hundred thousand rupiahs too."



Mugi added that she can finance herself because she works as a seamstress and dressmaker. Moreover, Solihin does support all his children (from both wives).

The same standard applied to their sexual relationship. There was no fix schedule on how many days Solihin was supposed to be with Mugi or Tini. It all went naturally, and it was all up to Solihin with whom he wanted to spend his nights. “I never made any demand to Solihin to stay with me for a certain number of days in a week. After all we all live in the same house, so I was never bothered with this kind of things. So to say, if he wanted to spend a month with Tini, let it be, it is all up to him!”

After Solihin had left his job at a paper factory, when his office was moved to the other side of Jakarta and the travel distance had become too much for him to handle, a new division of labour was created in their household. Solihin decided to start small groceries shop in front of their house and to sell *batik* cloth together with Mugi in neighbouring areas. Thus, Solihin and Mugi became the breadwinners, while Tini took care of all their children and made sure that the domestic work was done properly in their polygamous household. Mugi was fast to say that this did not mean that she did not do any work inside the house. She, of course, helped Tini whenever she could.

Even though Mugi claimed that the three of them lived in a harmonious polygamous marriage, she advised her children against doing the same. She explained that polygamy entails strong emotional control: you cannot be jealous, must be very patient and understanding. In her own words: “Living in a polygamous marriage is not easy. You have to be very patient... very, very patient. Especially as the second wife – like me. I do not think that my children can be as patient as me.”

### *The Case of Titin*

My interview with Titin (59 years old) took place at her house in Rawa Badung, Jatinegara, East Jakarta. Titin was accompanied by her neighbour, Sri, whom I knew through my previous advocacy work in

their neighbourhood. When we arrived at Titin's house we were greeted shortly, and she uneasily told us to come in and sit on the floor. Titin expressed her shame about the condition of her house and about how she did not even have enough chairs for us to sit on. Her house was small, and her furniture was very basic. The only valuable goods she possessed, she said, were the TV and a video game owned by her children.

After I assured her that sitting on the floor was completely fine, she started to share her stories about her husband's second marriage and immediately became emotional. It was obvious that she was hurt and upset, although she said that things were going relatively well, and she lived on good terms with her husband and her co-wife.

Titin and her husband are married for 35 years and have five children. Even though they live under meagre conditions, she never complained. Her husband, who she calls Abeh (short from *Babeh* or father in *Betawi* language), works as craftsman making wooden cabinets. According to Titin, Abeh does not earn much and therefore her own income as labourer in a local ice factory and as washing lady in her neighbours' houses is much needed.

When Titin found out that Abeh had secretly married another woman named Ita her world fell apart. She said that she had been warned that something like this would happen through a dream she had:

I dreamt that I lost a long white dress that I used to wear for Eid Mubarak. It was flown away by the wind when it was hung outside. It was the most beautiful dress I had. You know that we are poor, so *Idul Fitri* is the only time in the year when we can afford to buy good clothing. I tried to catch the dress several times but somehow, I just could not! It was a very weird dream and it sure gave me a bad hunch. The next morning, I decided to tell Abeh about my dream, that my Eid Mubarak's dress was flown away by the wind. Abeh thought it was not a big deal because it was just a dream and I should not worry about it.

Haunted by her dream and not being satisfied by her husband's response, Titin turned to her mother and told her about the strange

dream she had. According to her mother it was a sign that something bad would happen to Titin: “My mother explained to me this dream meant that my husband will be taken by someone else!”

From that moment, Titin began to investigate her husband’s behaviour. Titin secretly followed Abeh and she found out something odd: every time her husband walked to his mother’s house; he always took a long detour while his mother does not live too far away from their home. One day she was shocked seeing that her husband’s shirts hung in front of another woman’s house not far from her mother-in laws. “I went ballistic, I pulled his arm ordering him to go home even though he just arrived there, and she had made him coffee. I just wanted Abeh to go home with me and I simply ignored that woman!” Titin finally realized why in the last couple of months her husband often asked for her permission to go away a couple of days for his work. “I did not suspect whatsoever because he always said he went with his boss. He would leave for days without me being suspicious. It turned out that he spent time with his mistress (*simpanan*).”

Titin immediately confronted her husband, asking him whether he had taken a new wife. Abeh confessed that he had taken Ita, the daughter of his boss, as his second wife from the time when Ina, their youngest daughter, was two years old. “I was devastated when I first found out about this and was terribly stressed. Things were really bad between me and Ita for the first five years.” Titin assured me that this was not the case anymore and that she now has a harmonious relationship with Ita, who even helped her when Titin married off her child. Ita, who comes from a wealthier family than Titin’s, even paid for the catering at the wedding party of Titin’s child. “I did not have enough money to organize a decent wedding party for my child. I gave all the money that I had to Abeh, but in the end Ita was the one who paid most of the things for the party.”

Nevertheless, Titin stressed that she never let her children taking advantage of the situation that Ita comes from a wealthier background.

Even though Abeh's salary as a craftsman was far from enough to provide the livelihood for his two wives and children, Titin always taught her children that they were not allowed to ask for food or anything else to Ita and her family. Nowadays her children help her out:

I am thankful for my children as they give me money regularly. Sometimes Abeh gives maintenance when he has enough money, but there are moments when I receive nothing because he simply does not have enough money for his wives and children. His father-in-law from the other side (Ita's parents) is wealthy, so this is not a problem for Ita and their child. They could still eat when Abeh could not provide for them. But things were different here! For that reason, I had to do factory work myself and work as a washing lady or seamstress.

Living in a polygamous household was not easy for Titin and her children. From her 22 years of experience, she pointed out that it is essential to learn to live with each other. Much depends also on the good will of your co-wife: "It all depends on her. If she acts aggressively towards me, then I will be much more aggressive towards her. If she is arrogant, then I will be very irritated. However, if she is being cooperative and nice than I will not bother her and her family." Titin added that there is no point to compete with Ita or not treating her well since she is very much aware that Abeh loves Ita and will not let Ita go for her. Therefore, Titin chooses to avoid conflict and to accept her fate. "There is no use to fight with her and force Abeh to stay with us because they love each other. It is best just to accept the reality and moving on with our lives. If Abeh wants to spend his time with her, so be it and if he wants to be with me and the children, he can always come whenever he wants to come." However, Titin admitted that Abeh never spends a night anymore at her place, instead he just comes during the day and leaves the house in the afternoon. "Perhaps our house is too small for everyone, since two of my children and families had to live here temporarily because they lost their jobs. Or maybe...who knows? [why he does not spend the night anymore]."

### **Case Analysis: Variety in Unregistered Polygamous Marriages Practices**

The cases above illustrate how backgrounds, arrangements, and experiences of women living in polygamous marriages may vary. In this section I will look at looking at the elements secrecy, maintenance, visiting of the wives, economic background of the wives and husbands, and economic advantages of the marriage for the second wives, in an attempt to sketch meaningful features of my interlocutors' unregistered polygamous marriages. These features correspond with national and Islamic norms concerning marriage requirements and marital duties following a marriage.

To start with secrecy, the level of secrecy varied between the cases and the marriage of Mugi was conducted with full knowledge of the first wife and her husband's family. The two other polygamous marriages took place without the consent of the first wife. This means that these marriages initially did not meet the conditions for obtaining permission from the religious court (would they have wanted to obtain permission, which they all didn't), as the wife's permission as well as a public character of the marriage (non-secrecy) are legal conditions for an Islamic polygamous marriage in Indonesia's Marriage Law and therefore essential factors for judges in their consideration to grant permission or not.

A marriage may be kept secret from the second wife and her family/environment, the first wife and her family/environment and the husband's family/environment. This poses the problem of defining secrecy and *nikah sirri*: must we consider a marriage secret only if no-one is informed about the marriage? Is a polygamous marriage still a secret marriage if the second wife's family and environment have been involved in the marriage celebration but the marriage is kept secret from the families of both the husband and the first wife? What if first wife is informed, but the husband's family is not? It is even possible that a

marriage is kept secret out of career considerations from the husband's working environment, while the families of wives and husband have been informed and participated in the celebration of the marriage. Finally, A marriage may not be secret at all – as in Mugi's case. This means that there are at least five levels of secrecy, and all levels may vary in the amount of family members that know about it and the extent to which the larger environment of each spouse know about it.

Of course, because of social control imposed by the environment, second wives need to announce their marriage to at least their neighbours to render the marital and sexual relationship socially acceptable and prevent raids by neighbours or local powerholders (*grebek*) to stop alleged immoral behaviour. To keep a marriage secret from the first wife proves to be difficult too, as the cases of Siska and Titin illustrate: in both cases the first wife eventually found out about the second marriage.

Both according to the Marriage Law and according to Islamic law after a marriage the husband must provide maintenance (*nafkah*) to his wife (or in polygamous marriages–wives) and children. If we look at the maintenance provided by the husband to the second wives, there is also variation among the three case studies. Mugi together with her husband are running a small-scale business while the first wife stays home and takes care of the household and children of both marriages. Mugi, while technically being a breadwinner herself, does not control the money flow and does not expect the same amount of maintenance that her co-wife gets, because she knows her position as second wife.

Siska, is the second wife who does not- have income of her own and lives with her parents. Her husband is much wealthier and Siska's family very much realize that they indeed are only secondary in status to the first wife's family and therefore are not entitled to similar rights on maintenance and visits (Siska's husband never stays the night) – let alone other entitlements. Siska continuously is reminded by her mother to be patient (*sabar*) and to accept her fate (*ikhlās, nrimo*). However, this

uncertainty this dependency on maintenance brings, even if her husband has showed to be “responsible” in this regards—is stressful to Siska. She always seems to have in the back of her mind that—because she only is a second wife—one day her husband may simply no longer turn up—leaving her and her family (including parents) without income and without any rights.

In the case of Titin, who is the first wife, the second wife is the daughter of her husband’s employer. As a result, the second wife doesn’t rely on her husband’s maintenance as she gets a share of her father’s business earnings. When the daughter of Titin married, the roles were even reversed, the second wife provided a large financial contribution so that Titin’s daughter could have a proper marriage celebration: the second wife providing support to the first wife. Abeh, as a husband does only irregular provide maintenance to Titin and her family. Abeh’s second wife often is supported financially by her father while Titin as the first wife mostly has to rely on her own labour to fulfil her family’s needs. Abeh also no longer stays the night with her—showing how their relationship as husband and wife has deteriorated following the second marriage. Titin, who had a dream predicting a bad turn in her marriage, believes that the polygamous turn of her marriage simply is her fate and that she must accept her new reality. The three cases indicate that maintenance is less perceived by first and second wives as a right and more as a moral responsibility of the husband. If the husband doesn’t or cannot fulfil this responsibility, they simply have no choice than generate income themselves. An exception is Siska, the second wife who has been promised and expects maintenance from her much-better-of husband. In the past he more than fulfilled his promise, but recently her husband had a downturn because of private circumstances and, hence maintenance for Siska became less in amount and more sporadic. Because Siska and her family are fully dependent on Siska’s husband’s contributions, the new reality significantly increased the uncertainty in her household.



The same variation is found in regards visiting schedules or the distribution of the nights spend with each wife. Mugi, as second wife, lives under one roof with the first wife and her husband. She does not see an equal distribution of nights as her right, but her husband does regularly spend the night with her. She acknowledges that the distribution in the past was source for tensions and jealousy – now she doesn't care so much about it anymore. In the other two cases the distribution is totally unequal: the husband only stays the night with one of his wives. Siska is only visited by her husband in the late afternoon, after he is off from work. Although they do have a sexual relationship, he never sleeps over – that is the “privilege” of the first wife. This confirms that in this case the second marriage and second wife are considered lower in status than the first wife. The case of Titin the situation is the other way around. The family of the second wife is higher in status and Titin's husband spends almost all nights there. The relationship with his first wife has deteriorated – even if Titin tries to accept her husband's second marriage.

A clear link between women's lower economic background and their willingness to marry polygamously with richer men – an image which often appears in discourses about second wives in Indonesia<sup>26</sup>, is not reflected in these three cases, as the second wives in this study come from diverse economic backgrounds and includes a relatively well-off second wife. Before marriage, Siska and Mugi worked in a factory before marriage, while Ita was the daughter of her husband's boss. Siska The economic situation of Siska improved after her marriage, since she received a satisfactory amount of maintenance from her husband, yet economically she became totally dependent on this maintenance, which causes stress when he stays a way for a while. Mugi works hand in hand with her husband to overcome their economic hardship, Ita, the second wife in Titin's case continues to be supported by her father. In this case it is the husband who married up the social latter and, perhaps, hopes to

<sup>26</sup> Nina Nurmila, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia* (London and New York: Routledge, 2009).

continue his father-in-laws business one day. For his first wife Titin this upwards upward mobility of her husband did not improve her economic situation - she had to continue to work to sustain her own family.

In terms of social roles of husbands and wives, the case studies of Mugi and Titin do not fully conform to the image presented in the state ideology of motherhood (“state ibuism”) which idealized women’s traditional roles as mothers and household managers who support their husbands’ careers.<sup>27</sup> Mugi and Titin kept working after marriage and continued to be the main or co-provider of their family. The asymmetric power-relation between husband and wife, however, remained and women continued to carry out their expected roles as obedient wives (*istri yang taat*) who have to serve their husband’s needs whenever he is around.

Two of the husbands did not fully act as the provider of their family, as stipulated in national law and Islamic doctrine: the financial and material support of the husbands of Mugi and Titin was occasional and situational. It is important to note that in social practice *nikah sirri* marriages sometimes resemble *misyar* marriages as described by Abaza<sup>28</sup> and Sonneveld<sup>29</sup>, yet there is an important difference: prior to the marriage the second wives did not relinquish their rights on maintenance and in fact are disappointed when their husbands do not or cannot fulfil their part of the marital obligations. I do not know what reasons the husbands had to withhold maintenance, because of the sensitivity of the subject my interlocutors did not want me to interview their husbands. However, among reasons mentioned were that the husband did not deem it necessary in view of the wife’s own financial capability or for reasons that the relationship had deteriorated. Future research, which

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<sup>27</sup> Julia I. Suryakusuma, “The State and Sexuality in New Order Indonesia,” in L.J. Sears (ed.), *Fantasizing the Feminine in Indonesia* (Durham-London: Duke University Press, 1996), p. 101.

<sup>28</sup> Mona Abaza, “Perceptions of ‘Urfi Marriage in the Egyptian Press,” *ISIM Newsletter*, Vol. 7, No. 01, 2001.

<sup>29</sup> Nadia Sonneveld, “Rethinking the Difference between Formal and Informal Marriages in Egypt,” in Maaïke Voorhoeve (ed.), *Family Law in Islam: Divorce, Marriage and Women in the Muslim World* (London: I.B.Tauris, 2012), p. 77-107.

would investigate the background, motives, behaviour and reasoning of husbands in polygamy would be very welcome.

## Conclusion

In Indonesia, it is often assumed that second-wives marry for economic reasons. In her research Nurmila mentioned that “additional wives are often spoken of as bees that take honey from flowers and fly away when the honey is gone.”<sup>30</sup> This expression refers to a man’s capital or wealth which attracts women who hope to become his subsequent wife. Thus, there is a perception that main motive for women to marry polygamously is economical – and marriages of second wives are portrait as “stealing men.”<sup>31</sup> For, most second wives in my study, however, economic calculation seems not to have been their main motive for their marriages. In Titin’s case, the second wife, Ita, clearly had no financial motive to marry polygamously. Mugi had to work to make ends meet. Only Siska married up, but she became financially dependent. Her income has become insecure now her husband visits her less often than he used to do.

Providing maintenance is an obligation for the husband under the Indonesian 1974 Marriage Law, the 1991 Compilation of Islamic Law (KHI) and classical *fiqh*. In practice, however, my interlocutors do not see maintenance as their legal right but as the innate and religious responsibility of a husband to provide for his wife or wives. As it is not perceived as a right, it is not something you can demand – but only kindly ask for. In the cases described, women sought the solution in creating own income and becoming breadwinners themselves.

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<sup>30</sup> Nina Nurmila, *Women, Islam and Everyday*...

<sup>31</sup> Smith-Hefner, Nancy J., “Hypersexed Youth and the New Muslim...”, pp. 209-244.

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