

THE ABUSE OF POLYGAMY IN MALAYSIA

AN ANALYSIS FROM ISLAMIC PERSPECTIVE



RAUDLOTUL FIRDAUS FATAH YASIN
MOHD SHAH JANI



IIUM
Press

THE ABUSE OF POLYGAMY IN MALAYSIA

THE ABUSE OF POLYGAMY IN MALAYSIA
AN ANALYSIS FROM ISLAMIC PERSPECTIVE

RAUDLOTUL FIRDAUS FATAH YASIN
MOHD SHAH JANI



IIUM
Press
Gombak • 2017

First Print, 2017
©IIUM Press, 2017

IIUM Press is a member of the Majlis Penerbitan Ilmiah Malaysia - MAPIM
(Malaysian Scholarly Publishing Council)

All rights reserved. No Part of this publication may be reproduced,
stored in retrieval system, or transmitted in any form or by any means,
electronic, mechanical, photocopying, recording, or otherwise,
without any prior written permission of the publisher.

Perpustakaan Negara Malaysia

Cataloguing-in-Publication Data

Raudlotul Firdaus Fatah Yasin

THE ABUSE OF POLYGAMY IN MALAYSIA : AN ANALYSIS
FROM ISLAMIC PERSPECTIVE / BY RAUDLOTUL FIRDAUS
FATAH YASIN, MOHD SHAH JANI.

ISBN 978-967-418-597-8

1. Polygamy--Religious aspects--Islam.
 2. Marriage--Religious aspects--Islam.
 3. Polygamy (Islamic law).
 4. Government publications--Malaysia.
- I. Mohd Shah Jani. II. Title.

297.577

Published & Printed in Malaysia by
IIUM Press
International Islamic University Malaysia
P.O. Box 10, 50728 Kuala Lumpur, Malaysia

CONTENTS

PREFACE	vii
ABBREVIATIONS	ix
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: POLYGAMY FROM AN ISLAMIC PERSPECTIVE	46
CHAPTER 3: THE ABUSE OF POLYGAMY IN MALAYSIA	144
CHAPTER 4: SOLUTION OF THE ABUSE OF POLYGAMY IN MALAYSIA; ANALYTICAL STUDY FROM ISLAMIC PERSPECTIVE	236
CHAPTER 5: CURBING THE ABUSE OF POLYGAMY; INSTITUTIONAL REFORM	302

PREFACE

This book aims at identifying the qualification, according to the Qur'ān and Sunnah of the Prophet (PBUH), which allows Muslims to practice polygamy and determining the consistency of reasons stated in polygamy applications at Shariah Courts, based on the original intents of Sharī'ah legislation on polygamy. The book also analyzes the effectiveness of the existing Sharī'ah Law as preventive measurement to curb the abuse of polygamy, so as to propose practical means including institutional reforms derived from the Qur'ān and the living example of the Prophet's Sunnah. This book uses the inductive method to organise all the Qur'anic verses and *aḥadīth* that enumerate the reasons for polygamy, the envisage problems and their solutions, coupled with traditional and modern scholars' interpretations and commentaries. Field research and interviews were applied to gain the latest statistical records on polygamy applications from the year 2007 until 2009 which were obtained from the Kuala Lumpur and Selangor Shariah Courts. Library research was also used to analyze the accuracy of Islamic Family Law Act in comparison with the Qur'ān and Sunnah legislation. Analytical and comparison methodologies were used to analyze the reasons for the abuse, followed by a critical methodology to criticize the negative and abusive elements in the practice. The research concludes that the assumption that polygamy constitutes a general rule of Sharī'ah has resulted in misconceptions on the ideal polygamous practice. It is therefore absolutely imperative for those who are put in charge of administrating the Sharī'ah law on polygamy, including scholars and law makers, to address these anomalies, so that no groups within the Muslim community would continue to suffer various forms of human rights violation resulting from the irresponsible actions of those who have abused polygamy for their own vested interests and objectives, contrary to the general intents (*maqāṣid*) and spirit of Qur'ānic legislations.

Raudlotul Firdaus Fatah Yasin
Mohd Shah Jani

ABBREVIATIONS

edn.	edition
e.g.	(<i>exempligratia</i>); for example
etc.	(<i>et cetera</i>)
ibid	(<i>ibidem</i>): at the same place
IFLA	Islamic Family Law Act
JKSS	Jabatan Kehakiman Shariah Selangor
MSWP	Mahkamah Shariah Wilayah Persekutuan
n.d.	no date
n.p.	no place/publisher
no.	Number
PBUH	Peace be upon him
r.a.	Raḍiya Allāh ‘anhu/hā
SWT	Subḥānahu wa Ta‘ālā
Trans	Translated by
Vol.	Volume

THE ABUSE OF POLYGAMY IN MALAYSIA

AN ANALYSIS FROM ISLAMIC PERSPECTIVE

This book aims at identifying the qualification, according to the Qur'ān and Sunnah of the Prophet (PBUH), which allows Muslims to practice polygamy and determining the consistency of reasons stated in polygamy applications at Shariah Courts, based on the original intents of SharĒĒah legislation on polygamy. The book also analyzes the effectiveness of the existing SharĒĒah Law as preventive measurement to curb the abuse of polygamy, so as to propose practical means including institutional reforms derived from the Qur'Ēn and the living example of the Prophet's Sunnah. This book uses the inductive method to organise all the Qur'anic verses and āladĒth that enumerate the reasons for polygamy, the envisage problems and their solutions, coupled with traditional and modern scholars' interpretations and commentaries. Field research and interviews were applied to gain the latest statistical records on polygamy applications from the year 2007 until 2009 which were obtained from the Kuala Lumpur and Selangor Shariah Courts. Library research was also used to analyze the accuracy of Islamic Family Law Act in comparison with the Qur'Ēn and Sunnah legislation. Analytical and comparison methodologies were used to analyze the reasons for the abuse, followed by a critical methodology to criticize the negative and abusive elements in the practice. The research concludes that the assumption that polygamy constitutes a general rule of SharĒĒah has resulted in misconceptions on the ideal polygamous practice. It is therefore absolutely imperative for those who are put in charge of administrating the SharĒĒah law on polygamy, including scholars and law makers, to address these anomalies, so that no groups within the Muslim community would continue to suffer various forms of human rights violation resulting from the irresponsible actions of those who have abused polygamy for their own vested interests and objectives, contrary to the general intents (maqĒĒid) and spirit of Qur'Ēnic legislations.

RAUDLOTUL FIRDAUS was born in Kuching, Sarawak, in 1980. Then she attended Sekolah Menengah Kebangsaan Agama Perempuan in Kangar for two years before she completed her secondary school in Maahad Fatayat Abbasia, Cairo, Egypt in 1997. She had her first degree in Usuluddin-Tafsir from Al-Azhar University, Egypt in 2001. She pursued her study in the same specialization and completed the Masters coursework from Kolej University Insaniah Kedah in 2003. She did her second Masters (MA) programme at International Islamic University Malaysia and graduated in 2006 in Qur'an and Sunnah Studies. In 2012, she obtained her PhD degree from the same department and University. She began her career as a teacher, than the Head of Department for Quran, Islamic Studies and Arabic (QISA), than the Head of Instructional Resources at the International Islamic School until 2009. In 2010, she started her PhD programme at International Islamic University Malaysia (IIUM) and work as a part time lecturer within the campus. Upon completing her PhD, she joined IIUM as an Assistant Professor in 2012. Beside her main career as a lecturer, she is also holding an administrative post as the Deputy Director for IIUM SHAS Mosque. The foci of her writing are mainly on Quran and Sunnah, family, social and women issues as well as Islamic education.

MOHD SHAH JANI is an Assistant Professor at the Kulliyah of Islamic Revealed Knowledge And Human Sciences of International Islamic University Malaysia. He completed his Ph.D in Theology (Islamic Studies) from University of Birmingham, Master in Theology (Islamic Studies) from University of Birmingham and Bachelor in Al-Quran & Al-Sunnah from Universiti Kebangsaan Malaysia (UKM).

ISBN 978-967-418-597-8



9 789674 185978

IIUM Press

Tel : +603 6196 5014 / 6196 5004

Fax : +603 6196 4862 / 6196 6298

Email : iiumbookshop@iium.edu.my

Website : <http://iiumpress.iium.edu.my/bookshop>

