

Poligami oleh pegawai negeri sipil berdasarkan undang-undang perkawinan Nomor 1 tahun 1974 juncto Peraturan Pemerintah Nomor 10 Tahun 1983 juncto Peraturan Pemerintah Tahun 45 Tahun 1990 : Studi kasus putusan Nomor 251/Pdt.G/2003/PA.SRG

Andi Danty Patabai W., author

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Abstrak

Berdasarkan ketentuan dalam hukum perkawinan Indonesia, asas monogami tidak berlaku secara mutlak. Dalam hal ini, terhadap asas monogami masih dimungkinkan adanya pengecualian. Poligami sebagai penyimpangan asas monogami diakui oleh undang-undang perkawinan. Dalam kaitannya dengan poligami kemudian muncul dua permasalahan kesimpulan bahwa Undang-Undang Perkawinan beserta peraturan pelaksanaannya telah memberikan perlindungan hukum terhadap seorang Isteri dalam kaitannya dengan Poligami Yang Dilakukan Oleh Suami. Poligami hanya dapat dilakukan setelah mendapat izin pengadilan agama. Dalam memberikan izin, pengadilan agama akan mendengar keterangan dari isteri pertama dan juga mendapat persetujuan dari isteri pertama tersebut. Pemberian izin pengadilan yang didasarkan pada persetujuan istri merupakan wujud perlindungan nyata, dimana suami hanya boleh berpoligami jika isterinya menyetujuinya. Pemberian persetujuan isteri tersebut merupakan wujud perlindungan hukum bagi isteri. Dalam hal seorang isteri, khususnya isteri Pegawai Negeri Sipil mengalami Poligami yang tidak sesuai dengan ketentuan hukum, maka Isteri dapat mengajukan pembatalan perkawinan terhadap pernikahan kedua suaminya. Disamping pembatalan perkawinan, Isteri juga dapat meminta dijatuhkan sanksi administratif terhadap suaminya yang berstatus sebagai Pegawai Negeri sipil untuk dipecat dari jabatannya. Bahkan dari aspek pidana dapat melaporkan suaminya ke pihak yang berwajib untuk diproses secara Pidana karena melanggar Pasal 279 KUHP.

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According to Indonesian law of Marriage, monogamy is not absolute. In this matter, there still exception according monogamy. Polygamy is the exception of monogamy which ruled by the act of marriage. So, there are two problems reveal to be discussed in this paper. First, how is the law protection to a wife concerning to polygamy. Second, what kind of law effort that can be taken by the government employee first wife's if his husband polygamy not accordance with the act of marriage and government regulation number: 10 in the year 1983 as revised by government regulation number: 45 in the year 1990 concerning marriage consent and divorce to the government employee. This research is a normative law research, by using case study to the court decision. This research use secondary data by primary law sources, secondary law sources and also tertiary law sources. This is a descriptive evaluative by using qualitative analysis. According to that research we can make a conclusion for polygamy, that is: the act of marriage and it government regulation has given law protection towards a wife related to polygamy. Polygamy must be done after acquire a consent from the religion court. Before that, the court of religion will hear opinion and also permission from his first wife. The court consent based on agreement from his first wife and this is aimed to give law protection for a wife. If polygamy done by the government employee and it is not accordance with the act of marriage and it government regulation, so that his wife can claim for abortion of his second marriage, besides that his wife can also claim for administrative sanction that can cause fired

from his occupation. Even from crime aspect, she can claim his husband to proceed in criminal way according article 279 KUHP.