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POLYGAMY IN MALAYSIA: ENSURING SETTLEMENT OF THE FIRST WIFE'S MATRIMONIAL PROPERTY BEFORE REGISTERING A SUBSEQUENT MARRIAGE

^{i,*}Mardhiah Mazlan & ⁱMd Yunus Abd AzizⁱFaculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia*(Corresponding author) e-mail: mardhiahmazlan12@gmail.com

ABSTRACT

In Malaysia, the Islamic Family Law Enactments provide the legal framework for both husbands and wives to claim matrimonial property, with heirs also eligible to claim in accordance with Sharia if the rightful owner has passed away. Such claims may arise under three circumstances: death, divorce, or polygamy. In cases of polygamy, the first wife has the right to claim her share of matrimonial property from her husband. However, procedural challenges often prevent these claims from being effectively pursued, as the process requires the wife to attend court during a time of emotional strain. Consequently, many choose to forgo their rights to marital property. This study aims to examine the legal provisions governing matrimonial property claims in polygamous contexts and to analyze the adverse impacts when such claims remain unresolved. The study proposes procedural improvements to facilitate the settlement of the first wife's matrimonial property rights before the husband registers a subsequent marriage, thereby offering a more supportive legal process for affected parties.

Keywords: *polygamy, marital property, Islamic Family Law*

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Introduction

Marriage is one of the requirements in a perfect association or society. Marriage is not only a very noble way to arrange family life and descendants, but marriage can also be used to open the door of introduction between one family and another to strengthen the relationship between the two parties. Marriage is a very noble and obligatory practice in Islam (Wan Ismail et al., 2022a). The number of marriages in Malaysia is increasing every year (Sinar Harian, 2022) showing that the society sees the importance and advantages of marriage, such as being able to increase offspring, prevent adultery from happening and so on.

Even so, despite the happy image of a married couple, there are still many husbands who choose to practice polygamy, which means adding new wives (Wan Ismail et al., 2022b). Polygamy is an act that is allowed in Islam and has been mentioned in the Qur'an Surah al-Nisa' verse 3:

Translation: "And if you are afraid of not being fair to the orphans (when you marry them), then marry whomever you like of the (other) women: two, three or four. Then if you fear that there will not be justice (between your wives) then (marry) only one, or (use) the female slaves you have. That is closer (to prevent) so that you do not commit injustice".

(Al-Quran. Surah An-Nisa 4:3)

However, many of them take this marriage for granted by marrying outside the country's borders to fulfill their passions and desires (Alias, 2022). Marriage abroad is also quite synonymous with the Malaysian community who often hold wedding ceremonies abroad such as Narathiwat and Songkhla, Thailand (Mohd Shah & Meerangani, 2021) The issue of marriage outside the country's borders is becoming more contagious and increasing every year, causing many negative effects such as many first wives not getting the rights they should be given by their husbands.

Some parties take this issue for granted because marriage with a second wife does not require the consent of the first wife. However, the first wife still has the right to acquire matrimonial property from her husband. As we know, a wife or husband can claim marital property during a polygamy claim, a claim after a divorce, or a claim after the death of a husband or wife, and heirs file a claim. Even though the wife can claim marital property while the husband applies for polygamy, there is no certainty for the husband to give the property. So, the rights of the first wife cannot be guaranteed.

Therefore, to protect the rights of the first wife, the researcher will discuss the husband's obligation to settle the matrimonial property to the first wife before he can register the second marriage and suggestions for improvement in giving the matrimonial property to the first wife before registering the second marriage.

Literature Review

The research conducted by Abdul Aziz et al. (2019) discusses *Matrimonial Assets for Couples in the Dissolution of Marriage Under Section 51 of the Law Reform Act (Marriage and Divorce) Act 1976 and Islamic Family Law (Federal Territories) Act 1984*. The authors explore the concept and definition of marital property, explaining it from the perspectives of both customary law and Islamic law, and delving into the nature of company property, defined as property acquired after marriage. If both parties contribute to the acquisition of such property, it becomes joint property and is subject to division in the event of divorce. Additionally, the authors address methods of property division, types of marital property eligible for claims, and the rights of non-Muslims in Malaysia to claim marital property. However, they do not discuss potential improvements to the procedural aspects of marital property division, which could facilitate smoother processes.

According to Tapah (2003), the author provides an interpretation of marital property according to Islamic family law across various Malaysian states. The author identifies the parties entitled to make claims on marital property and the procedural methods to do so. Specifically, claims can be made in three situations: upon the death of one party, during divorce, or in cases of polygamy. The author also examines cases involving jointly acquired property, where contributions are made by both husband and

wife either directly through capital or assets outside the home, or indirectly by managing the home and caring for children. Additionally, the author discusses contributions to the Employee Provident Fund (EPF) and whether EPF savings should be included as marital property or personal property. However, the author does not address the need to improve the procedures for division of marital property, particularly in cases of polygamy, to protect the rights of the first wife.

Mohamad Ahmad (2021) explores *The Issues of Jointly Acquired Property Claims in the Division of Estates*. This study defines marital property based on the Islamic Family Law Enactment and case law in which judges have interpreted the term. The author identifies various types of property that can be claimed as marital property, including both movable and immovable assets. Furthermore, the study discusses marital property division within inheritance cases, rights to claims, and challenges that arise in inheritance distribution. The author explains procedures to claim marital property following the death of a spouse, as well as in cases of divorce, death, or polygamy. Although the study addresses the extent of contributions and the division rate of marital property, it does not discuss procedural weaknesses when claiming marital property in cases of polygamy, nor does it suggest improvements to facilitate smoother processes for the benefit of the first wife.

Mochammad Sahid et al. (2020) examine *The Concept of 'Uruf and Maslahah as Sources of Reference: A Study on Matrimonial Property in the Malaysian Islamic Legal System*. This study explains the rights that should be granted to a wife by her husband and discusses the rights of divorced women under Islamic law, including maintenance, residence, mut'ah (consolation), dowry, inheritance, financial support, custody, and breastfeeding allowances. The author also explores women's rights to conjugal property, supported by 'uruf (custom) and the principle that custom can become law, referring to a relevant hadith and Quranic verse (An-Nisa: 2). Additionally, the study examines the perspectives of the Malaysian Fatwa Council, including rulings from the National Fatwa Muzakarah Majlis Committee, the Jamaah Ulama' Majlis of Islamic Religion and Malay Customs in Kelantan, and the State Fatwa Councils of Perlis and Selangor. The author addresses rates, procedures, and timelines for claiming matrimonial property in Shariah court. However, no suggestions are provided on improving procedures for quicker and more efficient matrimonial property claims.

Lastly, the research by Tajul Urus (2017) discusses *Asset Protection and Financial Planning for Muslim Women: Focus on Marital Assets Under the Enactment of Islamic Family Law in Malaysia*. The author defines marital property according to Islamic family law and judicial interpretations. Additionally, the study identifies parties with claim rights over marital property in cases of divorce, death, or polygamy. The author presents various methods for settling marital property, including *sulh* (amicable settlement), mutual agreement, and court proceedings. The study suggests establishing comprehensive procedures for Muslim women to secure their rights and ensure financial stability. However, it does not propose procedural improvements for claims of marital property, particularly when the husband practices polygamy, to safeguard the welfare of the first wife.

Methodology

The researcher used qualitative methods in this study. Qualitative studies are studies that do not require numbered data but are explanatory or descriptive (Nicholas, 2011). Qualitative studies also provide a good description of a process for the issues that the researcher wants to study. Qualitative studies are also more deductive which is theory than logic (Ranjit, 2011). Therefore, to ensure that the studies conducted by the researcher can be done well and can produce good results, the researcher have used several types of qualitative study methods, namely case studies and historical studies.

A case study is a study of the process of an issue and its relevance to the study discussed by the researcher (Kothari, 1990). In this study, the researcher used case studies to analyse the meaning of matrimonial property (harta sepencarian) that decided by the judge in case of *Yang Chik v Abdul Jamal* [1985] 6 JH 146.

The researcher also used secondary data in completing this study. Secondary data is data that does not need to be new studies or in other words, data that has been collected and analysed by others before and the researcher only needs to refer to the data (Kothari, 1990). Secondary data is divided into two, namely published data and unpublished data. Published data consists of reports, journal articles, books,

magazines and other else. Sometimes, unpublished data also consists of diaries, unpublished biographies and other else (Kothari, 1990). Therefore, in this study, the reviewers used published data, namely journal articles used to obtain information regarding the concept and application of matrimonial property (*harta sepencarian*) in Malaysia.

Results and Findings

Definitions of Polygamy and Matrimonial property

Definitions of Polygamy

Polygamy can generally be understood as a marriage bond in which one party (husband) marries more than one wife at the same time and does not exceed four people, but this same time is not during the marriage ceremony (*Ijab qabul*) but in living a family life, while monogamy means a marriage that only allows a husband to have one wife for a certain period. (Mustofa, 2017) For ancient society, polygamy was a symbol of wealth, splendor, and strength of a person because they were able to have many wives. This is because they can use the term “polygamy” to raise their image and will be looked up by others (Abdullah, 1996). As it is known, polygamy is an act that is allowed in Islam.

As mentioned in Surah An-Nisa verse 3 above, the Qur'an does not prohibit the practice of marrying more than one wife because polygamy has benefits and benefits in society, especially in solving some issues. Although polygamy is allowed but it is subject to two important conditions, the first is to be fair between the wife and the children. Second, being able to provide for their wives, children, and their dependent families. Even monogamous marriage is not encouraged if a person is unable to support himself, then even more so for polygamy. Based on this condition, polygamy is forbidden for those who feel that they are unable to do justice between their wives (Muhammad & Abdullah, 1997) In Section 23(1) of the Perak State Islamic Family Law Enactment 2004, there is mention of polygamy, which means that no man during the continuance of a marriage may, except with prior written permission from the Court, make another marriage contract with a woman. This means that a man who wants to marry more than one person must make an application in court before proceeding with his marriage.

Even so, it is society's own practice that has tarnished the good name of polygamy until the wives do not want to allow their husbands to practice polygamy and it is not because they reject the established law. There is no doubt that there are still among wives who support polygamy to help elderly women who really want to experience married life and have many children but there are no single man wants to marry her. In addition, the number of women is greater than the number of men. However, it cannot be denied that many women or wives today do not want themselves to be integrated. There are those who can accept God's destiny but are afraid that their husbands will not be fair and their rights as the first wife will be ignored based on what they see and know. Therefore, this study needs to be done to ensure that wives get their rights.

Definitions of Matrimonial Property

According to Kamus Dewan Edisi Keempat (2017), marital property can be interpreted as property obtained from the efforts of a husband and wife. Matrimonial property also has been interpreted in the Section 2 of the Enactment of Islamic family law in states in Malaysia such as Kedah, Melaka, Johor, Pahang, Selangor, Perak, Kelantan, Sabah, and Sarawak, which is property acquired jointly by husband and wife during the marriage takes effect according to the conditions determined by Hukum Syarak. There is a slight difference in the definition of matrimonial property in Negeri Sembilan's legal enactment, which is property acquired jointly by husband and wife, either directly or indirectly, during the marriage in force according to the conditions set by Hukum Syarak. This means that Negeri Sembilan alone has added the meaning of marital property, which is the word for property that is acquired directly or indirectly. (Tajul Urus, 2017:4) Marital property according to the law is mentioned in Section 122(1) of the Enactment of Islamic Family Law, the power of the court to order the division of matrimonial property, which is “*The court shall have the power when allowing the pronouncement of talaq or when making a divorce order to order that any assets acquired by the parties during the marriage with their joint efforts are divided between them or so that any of the assets are sold and the proceeds of the sale are divided between the parties*”.

In the case of *Yang Chik v. Abdul Jamal* [1985] 6 JH 146, the judge interpreted matrimonial property as property acquired during the marriage, with each husband and wife equally contributing energy or money to obtain property. The concept of marital property is the property acquired during the marriage and through the joint efforts of both husband and wife. Although there is no word of marital property in Hukum Syarak, it is a Malay custom that has been adopted and brings benefits to women. In Islam, when '*adat*' or '*uruf*' is recognized as good and has been given legal recognition, its position is to become a rule or legislation that must be followed and enforced. In the method of *Qawaid al-Fiqhiyyah*, it states "العادة محكمة", which means that the custom is certified and given legal recognition. Marital property can be termed *mata' al-Bayt* (household goods) or *mal al-Zawjain* (marital property). (Lembut, 2007:8)

Therefore, the judges in the Syariah Court in Malaysia will use the interpretation of matrimonial property as provided in the respective state act or enactment when making judgments in these matrimonial property cases. In general, the definition of matrimonial property that is enshrined in the law, whether the act or state enactment, does not bring a significant difference in meaning. This difference exists perhaps because the concept of marital property is not found in the books of the Islamic scriptures and is not finalized through the *qati'e* texts, namely the Quran and Hadith. However, there are passages from the Quran that mention individual ownership of property (Mahmad Robbi & Mahmud, 2020). For example, in Surah An-Nisa, it is stated about property ownership for each party, whether husband or wife, who has the right to what they work for. Allah SWT said in the Holy Quran:

Translation: "Do not covet what Allah has conferred more abundantly on some of you than others. Men shall have a share according to what they have earned, and women shall have a share according to what they have earned. Do ask of Allah His bounty. Allah has full knowledge of everything".

(Al-Quran. Surah An-Nisa 4:32)

In Tafsir ibn Kathir, Imam Ahmad said that Sufyan narrated from Ibnu Abu Nujaih and from Mujahid, who narrated that Umm Salamah R.A once said, "*O Messenger of Allah, the men can join the war, while we (the women) cannot join the war, and for us only half the inheritance (received by the men)*". Therefore, Allah SWT revealed verse 32 of Surah An-Nisa. According to other opinions, what is meant by that is related to the issue of *mirath* (inheritance). In other words, each heir gets a share according to his position with the deceased. This is according to Al-Wabali, from Ibn Abbas. Then God gives them guidance to do things that are beneficial to themselves (Ismail, 1999). According to the stated interpretation, each woman and man have their share of rights.

Therefore, the states have the right to enact provisions and give their respective interpretations of matrimonial property if it does not change the original meaning of this matrimonial property as legislated (Mat Hussin & Jamaludin, 2016).

Matrimonial property in Malaysia

Matrimonial property can be understood as property, whether movable or immovable, acquired jointly by the husband and wife because of joint efforts and contributions during their marriage. It also includes the value of the property acquired before they got married (original property) that has been advanced or increased in value during marriage through the results of joint efforts (Tapah, 2003). Based on the definition of matrimonial property above, it can be understood in general that matrimonial property must include several elements of property acquisition by a couple, namely that the property is acquired during the marriage period of a couple. This means that inheritance and property acquired before marriage are not considered marital property. Second, property acquired before marriage, but the property can be developed during the marriage of a couple, such as a house and so on, is considered marital property. Third, there is a direct or indirect contribution from the husband or wife to acquiring the property (Mat Husin, 2016).

According to the Legal Aid Department, matrimonial property acquired during the marriage will be assessed from two points, namely direct contribution, and indirect contribution. Direct contribution means that both parties, the husband, and wife, have both contributed to obtaining the asset and property. Direct contribution is so easy to understand, that is, when the couple both strives and works to acquire an asset or property, for example, the purchase of a piece of land, which is shared, and it

cannot be determined who contributed to the ownership of the land and the ownership is shared. Similarly, if ownership is only held by one of the spouses while efforts and contributions are made by both parties (Tapah, 2003). For example, if a husband and wife have their own careers, they have bought a house in installments, and the husband has made an advance payment, while the monthly installments are paid by the wife. They have shared the house together and contributed to the form of money, capital, and so on directly from their joint income.

Then, indirect contribution is a form of contribution that is not in the form of money or things but brings and produces certain property or assets. Usually, this contribution is in the form of ideas, advice, giving encouragement, taking care of comfort, etc. to the couple who are trying directly to get the property (Tapah, 2003). For example, the husband works and has a fixed income and buys assets and property in installments, while the wife does not work but provides encouragement and enthusiasm for her husband, takes care of the family and children, and fulfills her responsibilities as a wife until the husband succeeds in owning the property for the duration of their marriage. Even if the wife does not contribute to the form of money, this contribution is considered an indirect contribution. But the question is, what type of property can be claimed, and when can this marital property be claimed?

Type of property can be claimed as matrimonial property

Before talking about what marital property can be claimed, it is better to know who has the right to claim marital property. Matrimonial property can be claimed by the heir or spouse of the deceased who is still alive (Roshidi Ahmad, 2021). This means that if the wife has died, then the husband has the right to claim marital property. Whereas if the husband dies, the wife can claim marital property in court (Tapah, 2003). This matrimonial property can not only be claimed by working wives, but this claim is the right of every wife, whether working or not, who is in a situation that allows them to claim the matrimonial property (Tajul Urus, 2017). The wife's right to make a claim for matrimonial property is stated under Section 122(1) of the Enactment of Perak State Islamic Family Law; that is, the Court has the authority when allowing the pronouncement of talaq or when making a divorce order to order that any assets acquired by the parties during the marriage with their joint efforts are divided between them or so that any assets acquired by the parties during the marriage with their joint efforts are divided between them or so that any such assets are sold and the proceeds of the sale are divided between the parties. For wives who do not work and are full-time housewives, such as managing the household and children, they have the right to make a claim for marital property as an expression of appreciation to her for having taken over the husband's duties and responsibilities in the household to enable the husband to go out to work to earn a living for the family (Abd Latiff, 2004).

Matrimonial property has a basis in syariah, which gives the heir the right to make a claim because the right will pass to the heir if the owner of the right dies. Claims like this can be made against the surviving party or against the heirs of the deceased because a person's rights do not expire unless he rejects them, and if the right still exists, it will pass to his heirs if he dies (Tajul Urus, 2017). After knowing the groups that have the right to claim matrimonial property, what type of property can be claimed by the party who is eligible to claim it?

In general, there is no clear discussion about the types of property that can be claimed as matrimonial property in Fiqh books. This is because matrimonial property originates from Malay custom only, which custom is adopted by Ulama and religious authorities in Malaysia and has been enshrined in the Islamic Family Law Act and Enactment of States in Malaysia (Ahmad, 2021). Any property, whether movable or immovable, can be claimed as marital property, such as residential houses, commercial buildings, factories, land, compensation money, vehicles, jewelry, home appliances, and money in savings accounts.

However, there are some types of property that have been decided by the Syariah Court or by the Fatwa Committee of the states not to be counted as marital property but categorized as inheritance property. Among them are savings in the Employee Provident Fund (EPF), takaful compensation money, and company shares and their interest (Sitiris & Halim, 2010). A claim related to matrimonial property as well as movable or immovable property must prove that the property was acquired during the marriage period, even if the acquisition was using his own money or the result of his hard work without any direct

contribution from the wife. Property collected by a married couple after a divorce is not considered marital property and cannot be claimed by the spouses (Tapah, 2003).

When this marital property can be claimed?

As is well known, matrimonial property can be claimed upon the death of one of the parties, namely the husband or wife. It can also be claimed by the wife when there is a divorce or when the husband wants to have polygamy. Claims for matrimonial property after death by the wife can be made before the division of the inheritance after settling the expenses of managing the remains and paying off all the debts of the deceased. Marital property claims by the wife after death are now becoming more popular, but they are quite complicated because they involve the inheritance and require the cooperation of all the heirs who are entitled to the deceased's inheritance.

Usually, when one of the spouses has died, the surviving spouse has the right to claim the marital property of either husband or wife. As for the claim of matrimonial property upon death, there is no specific legal provision regarding this claim, and it is not enshrined in any Islamic family law in Malaysia. However, it is contained in Practice Instruction No. 5 of 2003 of the Department of Syariah Justice Malaysia (JKSM), which states that *"the time to make a claim for matrimonial property is allowed either during the divorce claim, after the divorce, or after the death of either party. The court in this regard can accept any claim for matrimonial property made after the death of any party in the claim, and reference should be made to any case that has been decided by a higher court"* (Ahmad, 2021). To further strengthen the position of claiming marital property after death, there are several states that have issued fatwas that the claim must be made after the death of one of the spouses. Among them is the fatwa issued by the Selangor State Fatwa Committee dated April 18, 2005, which reads: Matrimonial property after the death of one of the parties in a marriage in the state of Selangor can be divided between the husband and wife before inheritance, including after the deceased is discharged. Second, the division of the marital property should be given according to the extent of the contribution, either directly or indirectly, from both parties. Third, the partition agreement must be made through a court order (Tajul Urus, 2017). Based on these results, it was found that state fatwa councils in Malaysia have recognized the status of marital property, and it can be divided if the conditions have been met. Because the fatwa related to this issue has been officially gazette and issued based on a royal order, the Syariah Court in Malaysia has recognized it and implemented it in court cases (Ahmad, 2021).

This clearly shows that the wife is allowed to claim marital property after her husband's death. The wife does not automatically have rights over matrimonial property but must submit a claim in the Syariah High Court. Therefore, the court will determine the share rate that can be owned by the wife based on certain considerations. The main factor considered by the court is the duration of the marriage and the extent of the contribution of the spouses to acquire the property in question, which includes direct or indirect contributions. Therefore, the wife must present evidence or witnesses to convince the court that she has contributed equally to the acquisition of the claimed property.

Claims can be made in the Syariah High Court based on Practice Instruction No. 2 Year 2002 JKSM. Practice Instruction No. 6 of the 2003 JKSM explained that the claim must be made in the court where the claimant lives (Lembut, 2007).

The wife can claim marital property upon divorce (Sahid et.al, 2020). They need to apply for this claim in the Syariah High Court in their place. The wife's right to claim matrimonial property is stated under Section 122(1) of the Enactment of Islamic Family Law in each state; that is, the Court has the power when allowing the pronouncement of *talaq* or when making a divorce order to order that any assets acquired by the parties during the marriage with their joint efforts are divided between them or so that any assets acquired by the parties during the marriage with their joint efforts are divided between them or so that any of the assets are sold and the proceeds of the sale are divided between the parties. Therefore, the wife can apply for marital property to reduce their burden after divorce.

The enactment of the Islamic Family Law in each state has also outlined that applications for polygamy in all states must receive written permission from a qadi or Hakim Syarie. Even so, there are still many husbands who have polygamy without court permission, but they still need to register their second marriage. Section 23 (10) of the Perak Islamic Family Law Enactment 2004 provides that every court

that grants permission or orders that the marriage be registered under this section shall have the power on the application of any party to the marriage (a) to require a person to make alimony payments to the existing wife or wives or (b) to order that any assets that have been acquired by the parties during the marriage with their joint efforts be divided between them or that any of those assets be sold and the proceeds of the sale are divided.

Therefore, the first wife or any existing wife can claim their rights to marital property if their husband decides to have polygamy. There are several cases of marital property claims caused by polygamy in Malaysia. Among them is the case of *Rosmaliza binti Ismail v Muhammad Zarin bin Mohd Nor, Khadijah binti Ahmad v Khairuddin bin Ghazali, Yusni bin Mohd Yusof v Narizan binti Che Namat*, and other cases. Upon granting an application by the husband to practice a polygamous marriage, the court also granted an application made by the wife to divide the marital property (Najibah Mohd Zain et al., 2021). But this case is an unreported case. An unreported case is a court decision that is not published.

Among the steps to claim matrimonial property in the event of death, divorce, and polygamy is the first, this matrimonial property can be claimed by the husband or wife. Second, the property claim process must be made in the local state sharia court. Third, the Syariah Court has a decision on the order to divide the marriage price after the dissolution of the marriage bond. Fourth, the Court gives explanations to the couple on a number of matters before deciding on the division of matrimonial property at a certain rate for the husband or wife according to their respective shares. Fifth, Conjugal property claimants need to confirm the validity of their marriage and have been registered at the local religious department as stipulated in the state Islamic family law. Sixth, Claimants of marital property must submit evidence or documents showing the existence of the claimed property during the period of marriage. Seventh, the Conjugal Property Claimant must bring proof (supporting documents) of his contribution to acquire the property, and bring two witnesses, namely two men or one man and two women, to record the information accompanied by an oath. (Sahid et.al, 2020). Through the trial conducted, the judge will give the results of the trial along with his arguments against the decision made. Next, the court will issue a warrant against the decision that has been made. After the decision is made, if the party to be sued is not satisfied with the decision given, he has 14 days to file an appeal at the Syariah Court of Appeal (Sitiris & Halim, 2010).

Suggestions for improving the guidance on giving matrimonial property to the first wife before registering the second marriage

As explained above, when the husband decides to be polygamous, the wife can claim marital property. However, it is rationally understandable that the first wife's feelings and circumstances at that time did not allow her to appear in court to make an application together with her husband, who wanted to register her second marriage. This is because the wife will naturally feel sad and disappointed by the actions of her husband, who has chosen to receive love from another woman. The procedure for claiming matrimonial property during polygamy under the current law is still not able to solve the problems faced by the first wife, such as not getting the right and proper maintenance, not to mention getting matrimonial property from the husband.

As a result, the life of the first wife and children will be difficult because they must share property with her husband's new wife, such as a house, household furniture, a car, etc. In addition, the husband will also take it easy to marry another woman and not use the proper property to settle the marital property of the first wife. Next, the husband will be more courageous and will not think twice about polygamy because he believes that the property, he owns is completely his own without seeing or realizing the joint property rights or conjugal property with the first wife. Husbands can also dispose of property at will, such as by selling marital property, and the profits are not shared with the first wife. It is also not impossible that the second wife may take advantage of the property if it is not given to the first wife.

Therefore, in order to safeguard the common good, the researcher would like to suggest improvements in the procedure for claiming marital property when polygamy occurs; that is, the Malaysian Syariah Judicial Department (JKSM) and also the court must create a specific procedure to claim marital property due to polygamy. In addition, in the said procedure, the summons form must be changed to a

specific application form to claim marital property due to polygamy. The application must be made by the husband himself and not by the first wife. This is because the researcher looks at the emotional and psychological state of the first wife, who is just trying to get used to accepting the statement as well as placing a sense of responsibility towards the husband so as not to neglect the first wife. The first wife has already tolerated and sacrificed her feelings when her husband marries another woman, so the husband must demand on behalf of the wife to repay their services.

Even if the husband makes the application, the wife needs to gather evidence to show that she is eligible to get the marital property. So, with this new improvement proposal, the husband must settle the matrimonial property either using the sulh method, which is the reconciliation process between husband and wife, or a trial in court. After the matrimonial property has been given to the first wife, the registration of the second husband's marriage can also be done. Therefore, it can be able to achieve the goal of helping this group get their rights and plan more stable finances in the future. It is also hoped that the process of obtaining matrimonial property will be quick and easy, making it easier for both parties to continue life as usual.

Conclusion

Matrimonial property claims in Malaysia have been stated in Islamic family law in every state in Malaysia. It can be claimed by a husband, wife, and heirs if the owner of the right has died. Joint property, also known as conjugal property, is property rights owned by one of the spouses, especially the wife, obtained either due to divorce, the death of the spouse, or the husband marrying a second wife. Thus, the researcher would like to suggest improvements to the procedure for claiming matrimonial property when the husband is polygamous to protect the welfare and rights of the first wife from being neglected by the husband. It is hoped that this study will help the authorities such as JKSM and Jabatan Kemajuan Islam Malaysia (JAKIM) or any readers to conduct a more in-depth study of this topic and criteria so that it will be a guide to any party in the future.

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