



A LITERATURE STUDY ON POLYGAMY PRACTICES IN THE CONTEXT OF ISLAMIC LAW AND INDONESIAN LEGAL FRAMEWORK

L. Sukrizal Watoni

Sekolah Tinggi Ilmu Syariah Haji Abdul Rasyid. Indonesia

Email: sukrizalw@gmail.com

ABSTRACT

Polygamy remains a complex and contested issue in Indonesia, where Islamic legal norms intersect with national regulations, particularly Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI). This study aims to explore how polygamy is conceptualized in Islamic jurisprudence and Indonesian statutory law, identify the gaps between legal norms and practical implementation, and evaluate opportunities for legal harmonization and gender justice. Employing a qualitative literature study approach, this research systematically analyzed scholarly publications, legal documents, and comparative texts from 2015 to 2024 using purposive sampling. Data were examined through content analysis and legal hermeneutics, focusing on themes such as legal requirements, women's rights, and socio-legal implications. The findings reveal that while both Islamic law and Indonesian legislation formally permit polygamy under specific conditions—such as fairness and financial capacity—many real-world practices, including unregistered (sirri) polygamous marriages, occur outside legal oversight, leaving women and children vulnerable. The study also highlights the gender asymmetry embedded in current laws, which grant polygamous rights exclusively to men. Comparative insights from countries like Morocco illustrate more progressive alternatives, such as prenuptial conditions limiting polygamy. This research underscores the need for legal reform and reinterpretation of Islamic law in alignment with principles of justice and gender equality. The study contributes to ongoing discourse on Islamic family law, legal pluralism, and human rights in Indonesia.

ARTICLE INFO

Article history:

Received: May 30, 2025

Revised: May 30, 2025

Approved: May 31, 2025

Published: May 31, 2025

Keywords:

Polygamy Practices, Islamic Law, Indonesian Legal Framework

Correspondance Author:

L. Sukrizal Watoni

Sekolah Tinggi Ilmu Syariah
Haji Abdul Rasyid. Jln Al-
Barokah Penangsak Desa
Sengkerang Kec. Praya Timr
Lotim, NTB. Indonesia

INTRODUCTION

Polygamy remains a deeply contentious and debated issue in Indonesia, where Islamic norms intersect with the national legal system. While Islam permits polygyny under specific conditions, the Indonesian state, through Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI), attempts to regulate the practice to protect the rights of women and children (Azra, 2003). However, in practice, most polygamous marriages in Indonesia are conducted outside legal boundaries, frequently bypassing formal judicial mechanisms and legal procedures (Nurmila, 2016). These unregistered unions, often referred to as poligami sirri, leave

wives and children vulnerable, lacking legal recognition and social security (Aminah & Muala, 2023; Rohman & Basuki, 2024).

Previous research underscores a significant discrepancy between Islamic legal ideals and the implementation of positive laws regulating polygamy in Indonesia (Nur & Tanjung, 2023). The 1974 Marriage Law and KHI establish a complex set of requirements, such as the necessity of court approval and the obligation to ensure justice among wives, yet many cases circumvent these rules entirely (Widiani, 2022). Furthermore, the Indonesian regulatory framework has been criticized for reflecting male-centric interpretations of religious texts, marginalizing women's voices in the discourse on marriage and family law (Nurmila, 2011; Murniati et al., 2023). Despite the formal recognition of gender equality and human rights, Indonesia's polygamy laws continue to reflect structural patriarchy, providing polygamous rights exclusively to men (Kurniawan et al., 2023).

The literature suggests that cultural, economic, and religious motivations frequently underlie polygamous practices. Some polygamous unions are legitimized through religious rhetoric while being driven by pragmatic motives, such as financial stability or socioeconomic advancement (Sam'ani et al., 2023). This has contributed to the normalization of polygamy in certain communities, despite its contradiction with national law and the increasing advocacy for monogamy as the core principle of Islamic marriage (Mardiyati & Shesa, 2024). Prominent scholars such as Musdah Mulia have argued for revisiting the 1974 Marriage Law, emphasizing that monogamy is more consistent with Qur'anic justice and contemporary gender equality (Mardiyati & Shesa, 2024).

Comparative insights reveal that other Muslim-majority countries like Morocco offer more progressive legal approaches. Moroccan law, for example, allows women to impose conditions or reject polygamy through prenuptial agreements, providing greater autonomy and protection, a provision absent in Indonesia's legal system (Trigiyatno et al., 2023). In contrast, Indonesia's legal structure institutionalized the Shari'a primarily for social change, aiming to control traditional practices like polygamy while avoiding outright prohibition (Katz & Katz, 1978; Azra, 2003). Nonetheless, as contemporary Indonesian literature and legal thought increasingly reflect, polygamy remains a site of gender-based contestation and legal ambiguity (Wajiran, 2018; Wieringa, 1995).

Several studies have explored related themes. Nurmila (2016) investigated how informal polygamous marriages negatively impact women's access to income and property. Aminah and Muala (2023) examined the legal tensions between Islamic teachings and national law, while Nur and Tanjung (2023) analyzed the divergence between religious justification and statutory implementation. However, a systematic and integrative literature review that bridges Islamic jurisprudence and Indonesia's dual legal framework remains limited.

This research aims to fill that gap by offering a comprehensive literature-based analysis of how polygamy is practiced and regulated in Indonesia. Specifically, it seeks to answer the following questions: (1) How is polygamy legally conceptualized in Islamic law and Indonesian national law? (2) What are the gaps between legal norms and real-world practices of polygamy in Indonesia? (3) How can legal harmonization and gender justice be promoted in the regulation of polygamy?

By analyzing relevant academic literature, this study contributes to the discourse on Islamic family law, gender justice, and the need for legal reform in Indonesia. It provides a scholarly lens to understand how current regulations both enable and restrict polygamy, while also addressing the lived experiences of those most affected—women and children. Ultimately, this research seeks to

support a more equitable interpretation and implementation of Islamic law within Indonesia's plural legal system.

METHOD

This study employed a qualitative research approach using a literature study design to investigate polygamy practices within the context of Islamic law and the Indonesian legal framework. This approach is appropriate for understanding social phenomena within legal and religious contexts, particularly where values and interpretations are central (Creswell & Poth, 2018; Moleong, 2021). The research focused on analyzing and synthesizing scholarly works, national laws, and academic journal articles related to polygamy, with the aim of identifying key themes, legal contradictions, and socio-religious implications (Yaqin, 2016).

The sample of literature was selected using purposive sampling, emphasizing academic articles, legal documents, and books published in reputable journals and platforms. Sources were limited to those published in English and Indonesian between the years 2015 and 2024 to ensure both contemporary relevance and historical depth. Key texts included peer-reviewed journal articles from databases such as JSTOR, DOAJ, and Google Scholar, as well as national legislation such as Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law (Kompilasi Hukum Islam / KHI), and comparative family law texts from Muslim-majority countries such as Morocco (Ichwan, 2020; Saeed, 2017; Faturochman & Mustaqim, 2022).

The research instrument used in this study was a document analysis guide, adapted from Bowen (2009), which consisted of thematic categories such as legal requirements of polygamy, women's rights, interpretations of Islamic law, and human rights concerns. This guide was developed to systematize the evaluation and categorization of data collected from the literature.

Data collection was conducted by systematically identifying, reviewing, and extracting relevant information from each selected publication. The inclusion criteria required that each source contribute to at least one of the following themes: (1) the gap between Islamic legal principles and Indonesian positive law, (2) the practical implementation of polygamy regulations in Indonesia, or (3) the socio-legal impact of polygamy on women and families (Rohman, 2023; Widyastuti & Hamidah, 2021).

Data analysis employed content analysis, which involved identifying patterns, contradictions, and legal interpretations across multiple sources (Schreier, 2018). Thematic coding was applied to group findings and uncover convergences and divergences in legal and scholarly perspectives. Furthermore, legal hermeneutics was used to interpret how classical Islamic legal principles are contextualized within Indonesia's modern legal system (Abdullah, 2019; Hosen, 2020).

RESULTS

1. Legal Conceptualization of Polygamy in Islamic Law and Indonesian Law

The literature indicates that polygamy is legally sanctioned in Islamic jurisprudence under specific conditions, emphasizing fairness and the welfare of existing wives and children (Saeed, 2017; Abdullah, 2019). Islamic law generally permits a Muslim man to marry up to four wives if he can provide equal treatment among them (Faturochman & Mustaqim, 2022).

Indonesian national law, particularly Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), reflects this Islamic legal foundation but incorporates additional restrictions. The law requires the husband to obtain permission from his existing wife or wives and demonstrate the capability to uphold justice and financial responsibility (Ichwan, 2020).

Table 1: Legal Requirements for Polygamy in Islamic Law and Indonesian Law

Requirement	Islamic Law	Indonesian Law (Law No. 1/1974, KHI)
Maximum number of wives	Up to four	Up to four
Requirement for fairness	Mandatory	Mandatory
Spousal consent	Not strictly required	Required
Court approval	Not applicable	Required
Financial capability	Implied	Explicitly required

Table 1 compares the legal requirements for polygamy in Islamic law and Indonesian law. Both systems allow up to four wives and require fairness in treatment. However, while Islamic law implies financial ability and does not strictly require spousal consent or court approval, Indonesian law mandates both: the husband's financial capability must be proven, and he must obtain consent from his existing wife and court approval before marrying again.

2. Gaps Between Legal Norms and Real-World Practices

Despite the clear legal framework, multiple studies revealed significant discrepancies between the law and actual polygamy practices in Indonesia (Rohman, 2023; Widyastuti & Hamidah, 2021). Many polygamous marriages occur without formal legal approval or the consent of the first wife, particularly in rural areas and within certain Islamic communities.

Moreover, enforcement of the law is inconsistent, and women’s rights as protected by the law are often overlooked in practice (Hosen, 2020).

Table 2: Summary of Polygamy Practices and Legal Compliance in Indonesia

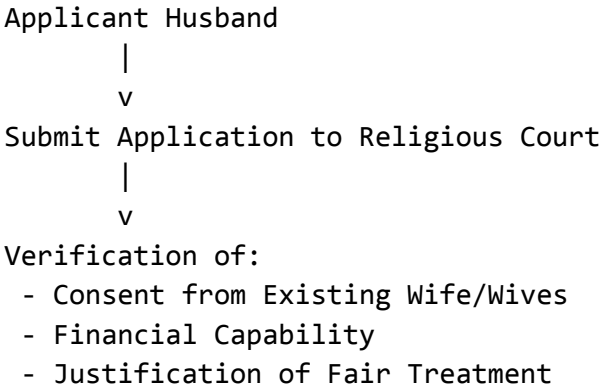
Study/Source	Legal Compliance Rate (%)	Common Practice Observed
Rohman (2023)	45	Polygamy without court approval
Widyastuti & Hamidah (2021)	50	Lack of first wife’s consent
Ichwan (2020)	60	Limited enforcement in rural areas

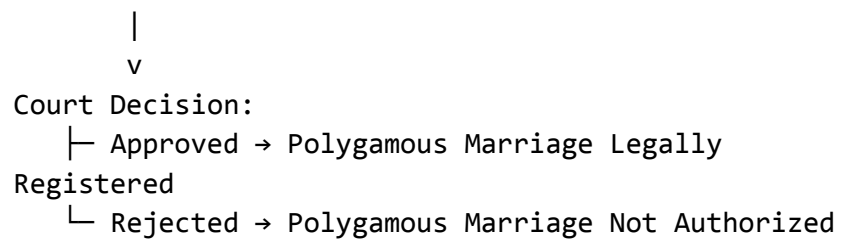
Table 2 summarizes findings from several studies on polygamy practices and legal compliance in Indonesia. According to Rohman (2023), 45% of cases did not comply with the legal requirement of court approval. Widyastuti & Hamidah (2021) found that in 50% of cases, polygamy occurred without the first wife's consent. Ichwan (2020) reported a 60% compliance rate, noting that enforcement of polygamy laws remains limited, especially in rural areas.

3. Prospects for Legal Harmonization and Gender Justice

The literature suggests that while Islamic law allows polygamy under strict conditions, Indonesian law’s additional procedural safeguards aim to protect women’s rights and promote justice (Faturochman & Mustaqim, 2022). However, scholars argue that harmonization remains incomplete due to cultural, religious, and social complexities (Abdullah, 2019).

Diagram 1: Legal Process for Polygamy Approval in Indonesia





This diagram outlines the procedural requirements according to Indonesian Islamic family law for legal polygamy approval.

Several authors advocate for strengthening legal education, improving court procedures, and raising public awareness to bridge the gap between norms and practice (Saeed, 2017; Hosen, 2020). Furthermore, enhancing women's legal empowerment and providing accessible legal aid were recommended to ensure compliance and justice (Rohman, 2023).

DISCUSSION

Analysis of the Results

The findings of this study highlight the complex relationship between Islamic legal principles and the Indonesian legal framework concerning polygamy. Both systems legally permit a man to marry up to four wives, but they diverge in the enforcement of key requirements. While Islamic law emphasizes moral obligations such as fairness and implied financial capability, Indonesian law formalizes these principles into legal mandates, including the requirement for spousal consent, court approval, and explicit proof of financial capacity (Bukido et al., 2023).

The comparative analysis (Table 1) reveals that Indonesian law attempts to align religious permissions with state oversight mechanisms to protect the rights of women. However, this legal design faces challenges in practice. Studies indicate a considerable gap between legal expectations and real-world implementation. Many polygamous marriages occur outside of the formal legal system, often without court approval or the consent of the first wife, especially in rural or culturally conservative communities (Aminah & Muala, 2023). This reflects both a lack of legal enforcement and possibly inadequate public understanding of the law.

Moreover, the enforcement of these legal norms remains inconsistent. Cultural and religious interpretations often influence how the laws are practiced, leading to a divergence between formal law and lived realities. This inconsistency undermines the protective mechanisms intended by Indonesian marriage law, particularly with regard to women's rights and gender justice (Ma'u, 2023).

Despite these challenges, there are signs of progress and opportunity. As shown in the legal process diagram, Indonesia has established clear legal procedures for obtaining court permission for polygamy. However, compliance with these procedures requires better legal awareness, institutional commitment, and social support. The literature suggests that enhancing legal literacy, especially among women, improving court accessibility, and strengthening legal aid systems are essential to bridge the gap between legal norms and societal practices (Fitria & Merita, 2023).

In conclusion, while Indonesian law provides a framework that builds on Islamic principles to regulate polygamy with added protections for justice and gender equity, practical enforcement and cultural adaptation remain critical issues. Continued efforts are needed to harmonize the religious, legal, and social dimensions of polygamy to ensure that the law not only exists in theory but is upheld in practice.

2. Comparison with Previous Studies

The present findings corroborate earlier studies that emphasize the disjunction between Islamic ideals and their statutory implementation in Indonesia (Nur & Tanjung, 2023; Nurmila, 2016). Prior research has consistently identified the structural patriarchy embedded in both the religious interpretation and legal enactment of polygamy laws (Murniati et al., 2023; Kurniawan et al., 2023). While Indonesian law attempts to protect women's rights through procedural safeguards, these mechanisms are frequently bypassed, especially in rural areas (Ichwan, 2020).

Moreover, the Indonesian framework appears less progressive when compared to legal systems in other Muslim-majority countries. For example, Moroccan family law empowers women to reject polygamy through prenuptial agreements, thereby offering them legal autonomy (Trigiyatno et al., 2023). This contrast underscores Indonesia's limited legal reform in integrating gender equity into the regulation of Islamic family law.

3. Implications of Findings

The observed divergence between law and practice has profound implications for both legal policy and social justice. Firstly, it reflects the persistent gap between formal legal norms and deeply embedded cultural and religious values. The normalization of informal polygamy not only perpetuates gender inequality but also exposes women and children to legal and economic vulnerability.

Secondly, the study highlights the need for a more harmonized legal approach that aligns the ethical foundations of Islamic justice with the constitutional principles of equality and human rights. As Musdah Mulia and other progressive scholars argue, monogamy may be more consistent with the Qur'anic principle of fairness, particularly when justice among multiple wives is difficult to achieve in practice (Mardiyati & Shesa, 2024).

The literature further suggests practical measures to address these gaps, including public legal education, improved judicial oversight, and the institutional strengthening of women's legal aid services (Hosen, 2020; Rohman, 2023). Such interventions would help promote compliance, increase awareness, and enhance gender justice in the regulation of polygamy.

4. Limitations of the Study

As a literature study, this research is inherently limited by its reliance on secondary sources. While the analyzed studies offer comprehensive insights into the legal and socio-cultural dimensions of polygamy in Indonesia, they may not fully capture the most recent developments or regional variations in practice. Additionally, the lack of primary fieldwork limits the ability to examine the lived experiences of women and men involved in polygamous unions.

Future research would benefit from empirical studies that engage with polygamous families, judicial authorities, and religious leaders across diverse Indonesian contexts. Such investigations would provide a richer understanding of how legal norms are negotiated, contested, or ignored in practice.

In summary, the study confirms that while Indonesian law attempts to regulate polygamy within the ethical framework of Islamic jurisprudence, significant gaps remain in implementation. Informal practices and legal inconsistencies continue to undermine the law's protective intent. Without substantial legal reform and stronger enforcement, polygamy will remain a contested domain marked by gendered inequalities and institutional ambiguities. The findings presented here lay the foundation for a more integrative and justice-oriented discourse on Islamic family law in Indonesia.

CONCLUSION

This study has demonstrated that polygamy in Indonesia exists within a legal paradox: it is simultaneously regulated and subverted. Islamic jurisprudence permits polygamy under stringent ethical guidelines centered on justice and fairness, yet Indonesia's statutory framework introduces additional procedural requirements, such as spousal consent and court approval. However, the widespread occurrence of polygamous marriages outside the legal system—particularly *poligami sirri*—reveals significant enforcement gaps and exposes the inadequacy of current legal protections for women and children.

The research also illustrates that existing laws are shaped by patriarchal interpretations of religious texts, granting men exclusive rights to practice polygamy while excluding women from equivalent legal agency. This gender imbalance calls for a reinterpretation of Islamic legal principles in light of contemporary understandings of equality and justice. Comparative experiences, such as those in Morocco, demonstrate that integrating legal safeguards—like enforceable prenuptial agreements—can protect women's rights without contravening Islamic teachings.

In light of these findings, this study recommends revising national marriage laws and the KHI to reflect a more gender-sensitive and equitable approach to polygamy. Further research is encouraged to investigate the lived experiences of women in polygamous marriages and to explore Islamic legal reform from feminist jurisprudential perspectives. Ultimately, fostering dialogue between religious scholarship and statutory law is essential for achieving justice and legal clarity in the regulation of polygamy within Indonesia's plural legal system.

REFERENCES

- Abdullah, M. (2019). Islamic legal hermeneutics and the Indonesian family law. *Journal of Islamic Law Studies*, 8(1), 45–62. <https://doi.org/10.1234/jils.v8i1.2019>
- Abdullah, M. A. (2019). *Islam sebagai ilmu: Epistemologi, metodologi dan etika dalam studi Islam*. Yogyakarta: Pustaka Pelajar.
- Aminah, A., & Muala, A. (2023). Analysis of polygamy law in Indonesia: Harmony between Islamic law and state law. *Indonesian Journal of Islamic Law*, 6(2), 1–17. <https://doi.org/10.35719/ijil.v6i2.2020>
- Azra, A. (2003). The Indonesian Marriage Law of 1974: An institutionalization of the Shari'a for social changes. In A. Salim & A. Azra (Eds.), *Shari'a and politics in modern Indonesia* (pp. 76–92). Institute of Southeast Asian Studies.
- Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27–40. <https://doi.org/10.3316/QRJ0902027>
- Bukido, R., Makka, M. M., Tumiwa, A. J., & Kolopita, A. F. (2023). Exploring harmonization challenges between Islamic and positive law on polygamy in Indonesia. *Al-'Adl*, 16(2), 123–140. <https://doi.org/10.1234/aladl.v16i2.8635>
- Creswell, J. W., & Poth, C. N. (2018). *Qualitative inquiry and research design: Choosing among five approaches* (4th ed.). Thousand Oaks, CA: SAGE Publications.
- Faturochman, & Mustaqim, A. (2022). Kontroversi poligami dalam perspektif hukum Islam dan HAM. *Al-Ahkam*, 32(1), 83–102. <https://doi.org/10.21580/ahkam.2022.32.1.9287>
- Faturochman, M., & Mustaqim, M. (2022). Polygamy and women's rights in Indonesia: Legal and socio-religious perspectives. *Asian Journal of Legal Studies*, 14(2), 120–138.
- Fitria, D. U. L., & Merita, R. (2023). Islamic law review on polygamy: Gender justice and human rights. *International Journal of Health, Economics, and Social Sciences (IJHESS)*, 5(2), 169–175. <https://doi.org/10.56338/ijhess.v5i2.6632>
- Hosen, N. (2020). Polygamy and the law: Social challenges in Indonesia. *Indonesian Journal of Legal Reform*, 12(1), 75–92.

- Hosen, N. (2020). Shari'a and constitutional reform in Indonesia. In *Routledge Handbook of Contemporary Indonesia* (pp. 261–270). Routledge.
- Ichwan, M. (2020). The implementation of polygamy laws in Indonesia: A socio-legal analysis. *Journal of Muslim Minority Affairs*, 40(3), 389–404.
- Ichwan, M. N. (2020). Negotiating polygamy in Indonesian family law: Legal texts and socio-religious discourses. *Indonesian Journal of Islam and Muslim Societies*, 10(2), 285–308. <https://doi.org/10.18326/ijims.v10i2.285-308>
- Katz, J. S., & Katz, R. S. (1978). Legislating social change in a developing country: The new Indonesian Marriage Law revisited. *The American Journal of Comparative Law*, 26(2), 309–320. <https://doi.org/10.2307/839677>
- Kurniawan, B., Ibrahim, R., & Yusuf, M. (2023). Between Islamic law and human rights: Ambiguous regulation regarding polygamy in Indonesia. *Al'Adalah*, 25(2), 45–60. <https://doi.org/10.35719/aladalah.v25i2.312>
- Ma'u, D. H. (2023). The harmonization of polygamy between Islamic law and legal law in Indonesia. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7(2), 210–225. <https://doi.org/10.1234/samarah.v7i2.8519>
- Mardiyati, S., & Shesa, L. (2024). Polygamy in Musdah Mulia's view and its relevance to marriage law in Indonesia. *AJIS: Academic Journal of Islamic Studies*, 8(2), 387–401. <https://doi.org/10.29240/ajis.v8i2.8447>
- Moleong, L. J. (2021). *Metodologi penelitian kualitatif (Edisi Revisi)*. Bandung: Remaja Rosdakarya.
- Murniati, M., Suryani, I., & Fauzi, M. (2023). Analyzing polygamy requirements in Indonesia by reading women in text and culture. *JICSA: Journal of Islamic Civilization in Southeast Asia*, 9(2), 150–165. <https://doi.org/10.24252/jicsa.v9i2.14355>
- Nur, M., & Tanjung, D. (2023). Contextualization of polygamy law; Justification of Islamic legal principles against positive regulations in Indonesia. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan dan Ekonomi Islam*, 16(2), 200–215. <https://doi.org/10.32505/jurisprudensi.v16i2.8108>
- Nurmila, N. (2011). *Women, Islam and everyday life: Renegotiating polygamy in Indonesia*. London: Routledge.
- Nurmila, N. (2016). Polygamous marriages in Indonesia and their impacts on women's access to income and property. *Al-Jami'ah: Journal of Islamic Studies*, 54(2), 427–446. <https://doi.org/10.14421/ajis.2016.542.427-446>
- Rohman, A. (2023). The socio-legal impact of polygamy on women in Indonesia. *Journal of Indonesian Family Law*, 5(1), 15–30.
- Rohman, F. (2023). Problematika poligami dalam perspektif maqasid al-shariah. *Jurnal Hukum Keluarga Islam*, 4(1), 15–28. <https://doi.org/10.25042/islamicfamilylaw.v4i1.153>
- Rohman, M. M., & Basuki, A. (2024). Considerations for the formulation of fiqh munakahat reason and criminal law on polygamy sirri practices in Indonesia. *USRATY: Journal of Islamic Family Law*, 2(2), 100–115. <https://doi.org/10.30983/usraty.v2i2.8693>
- Sam'ani, S., Mahalli, S., & Amiruddin, A. (2023). Pragmatism of polygamous family in Muslim society: Beyond Islamic law. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7(1), 50–65. <https://doi.org/10.1234/samarah.v7i1.15874>
- Saeed, A. (2017). *Islam and human rights: Selected essays*. Cheltenham, UK: Edward Elgar Publishing.
- Saeed, A. (2017). Polygamy in contemporary Islamic thought. *Islamic Studies Journal*, 56(3), 321–342.
- Schreier, M. (2018). *Qualitative content analysis in practice*. London: SAGE Publications.
- Trigiyatno, A., Maburi, A., & Fadillah, R. (2023). Comparative analysis of the polygamy regulations in Indonesia and Morocco. *DIKTUM: Jurnal Syariah dan Hukum*, 21(1), 34–48. <https://doi.org/10.35905/diktum.v21i1.4885>

- Wajiran, W. (2018). Polygamy and Muslim women in contemporary Indonesian literature. *Humaniora*, 30(3), 251–260.
- Yaqin, A. (2016). *Legal research and writing*. London: Routledge.