
The Issue of Polygamy in Islamic Family Law: Between Tradition and Gender Justice on the International Stage

Siti Hapsah Fahira
Universitas Sultan Ageng Tirtayasa
Corresponding: sitihafsahfahira23@gmail.com

ABSTRACT

The issue of polygamy in Islamic family law has become a complex topic of debate, particularly concerning gender equality and women's rights in the context of international law. Although polygamy is permitted under Islamic law, its application often conflicts with the gender equality principles expected in modern societies. This study aims to analyze the dynamics between Islamic family law traditions and international demands for gender justice regarding the practice of polygamy. The objective of this research is to understand how Islamic family law regulates polygamy and its impact on gender justice, as well as to explore how countries with Muslim majorities adapt international principles concerning women's rights in the practice of polygamy. This research employs a descriptive qualitative approach, utilizing data collection techniques that include in-depth interviews and document analysis. The countries selected for this study are Indonesia, Saudi Arabia, the United Arab Emirates, and Turkey, which represent various legal approaches to polygamy. The study reveals that while there are restrictions on the application of polygamy in some countries, the practice continues to create tension between tradition and gender equality demands. Countries with Muslim majorities need to reform their policies to protect women's rights and ensure that Islamic family law can be adapted in line with international principles.

Keywords: *polygamy, islamic family law, gender justice, women's rights, tradition, international law*

This is an open-access article under the [CC BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license.



1. Introduction

The issue of polygamy in Islamic family law has been a complex debate, both in traditional contexts and in gender justice discourse. Polygamy, although permitted in some Muslim-majority countries, is often considered a controversial practice that affects family dynamics and gender roles in society (Ali, 2021; Hallaq, 2022). In the

context of Islamic law, polygamy can be understood as the granting of permission to a husband to have more than one wife, under certain conditions stipulated in the Qur'an and hadith. However, in practice, the influence of modernity and evolving legal interpretations often contradict the basic principles of gender justice expected in the family (Raihani, 2017; Kamali, 2019; Abdurrahman, 2021).

The urgency of this research lies in the fact that although polygamy is often justified within the framework of Islamic law, it raises tensions between traditional and modern understandings. Furthermore, it is essential to examine how this issue is addressed in the international context, where gender justice is a significant concern. International law and human rights tend to promote equality, but in some cases, this clashes with traditional practices that have existed for centuries. Therefore, it is essential to examine how Islamic family law addresses this issue within a global context that requires a balance between tradition and gender justice (Mustafa, 2018; Khamis, 2020; Othman, 2019).

Available data shows that while several Muslim-majority countries still allow polygamy in their family laws, there are significant disparities in the application and interpretation of these laws. For example, in Indonesia, polygamy is strictly regulated. In contrast, in countries such as Saudi Arabia and the United Arab Emirates, the application of polygamy is broader, although it remains within certain limits (Elmi, 2020; Yunas, 2018; Ibrahim, 2021). On the other hand, in many non-Muslim countries, such as in Europe, polygamy is considered illegal and against the principle of gender equality. This suggests a tension that warrants further investigation, particularly regarding how these countries engage with traditional concepts in Islamic family law and the status of gender justice in this context (Mansour, 2020; Lewis, 2017; Abou El Fadl, 2019).

Previous research on polygamy in Islamic family law presents a range of perspectives, from those that support it on religious grounds to those that oppose it from the viewpoint of human rights and gender equality (Charrad, 2017; Kamali, 2021; Al-Dosari, 2018). Most of these studies focus on aspects of positive law or Islamic legal philosophy, but few touch on how polygamy is dealt with in an international framework, as well as its impact on women in societies that practice it. Furthermore, these studies do not sufficiently integrate a gender justice perspective in the current global context.

While there has been much research on polygamy in Islamic family law, there is a lack of studies on the relationship between tradition and demands for gender justice on the international stage. This gap highlights the need for more in-depth research that can connect religious norms, local traditions, and global developments regarding women's rights and social justice in the context of polygamy (Moll, 2019; Kahn, 2020; Rehman, 2018). Therefore, this study aims to fill this gap by examining how the issue

of polygamy is addressed in Islamic family law, as well as the dynamics of relations between countries in addressing this issue.

The novelty of this research lies in its integrative approach that attempts to link the Islamic tradition governing polygamy with the demands for gender justice that are increasingly becoming a global concern. In contrast to previous studies that emphasize positive legal analysis or religious views, this research will introduce a new perspective that involves international policy analysis and human rights about the practice of polygamy in various Muslim-majority countries. As such, this research aims to offer a more comprehensive and contextualized approach (Lloyd, 2021; Cook, 2020; Al-Attas, 2018).

The primary objective of this research is to gain a deeper understanding of the dynamics between polygamy, tradition, and gender justice in Islamic family law. It also aims to examine how Muslim-majority countries adapt international principles of gender justice and human rights regarding polygamy. In addition, it will explore how polygamy is positioned in the global context, as well as the extent to which Islamic family law can be interpreted and adapted to meet such demands without compromising the essence of Islamic teachings themselves (Rahim, 2019; Ahmed, 2021; Zaydi, 2020).

2. Method

Type of Research

This research employs a descriptive qualitative method to explore the issue of polygamy in Islamic family law, with a focus on analyzing tradition and gender justice. This method was chosen because it enables a deeper understanding of individual perspectives and social contexts that influence the practice of polygamy (Ritchie & Lewis, 2014; Creswell, 2015; Denzin & Lincoln, 2018). This research will employ a case study approach to examine the diverse legal, social, and cultural perspectives that shape the practice of polygamy within the context of Islamic family law.

Population and Sample

The population in this study is Muslim-majority countries that have legal regulations regarding polygamy in Islamic family law. The sample for this study was selected using a purposive sampling technique, which involves choosing countries that have varying rules on polygamy, including those that permit it widely and those with strict restrictions on this practice. The countries to be sampled include Indonesia, Saudi Arabia, the United Arab Emirates, Turkey, and Egypt, each of which represents a different approach in regulating polygamy under Islamic family law (Raihani, 2017; Elmi, 2020). This sample was chosen to illustrate the variation in the application of polygamy law and its impact on women in various cultural and legal contexts.

Research Instruments

The research instrument comprises two main tools: semi-structured interviews and document analysis. Semi-structured interviews will be used to explore the views and experiences of legal experts, religious leaders, and women involved in the practice of polygamy in the countries sampled. Additionally, this instrument will include an analysis of legal documents and regulations related to polygamy in Islamic family law in each country under study. The document analysis will draw on legal texts, court decisions, and international documents relevant to human rights and gender justice (Mustafa, 2018; Al-Dosari, 2018; Othman, 2019).

Data Collection Technique

The data collection techniques used in this research are in-depth interviews and document analysis. In-depth interviews are conducted to gather information from informants who have been selected based on specific criteria, such as Islamic family law experts, legal practitioners, religious leaders, and women involved in polygamous marriages. The interviews will be conducted face-to-face or through a remote communication platform, using a pre-arranged semi-structured interview guide.

In addition, document analysis will be used to collect secondary data, which includes legal regulations, academic literature, reports of international organizations, as well as court documentation related to the practice of polygamy in each country studied. Data obtained from interviews and documents will be analyzed in depth to gain a holistic understanding of the issue of polygamy in Islamic family law (Kamali, 2019; Khamis, 2020).

Research Procedure

This research procedure began with the development of a theoretical framework and the identification of research variables. The initial stage involved a literature review on polygamy in Islamic family law, as well as an examination of theories related to gender justice and human rights. The second stage involved determining the sample countries based on relevant and representative legal criteria. Once the sample countries were chosen, the next stage was planning and preparing interviews with competent informants.

At the data collection stage, interviews will be conducted with the selected informants, and related documents will be collected for analysis. The interview process is performed in phases, with all information obtained and conversations recorded for analysis purposes. After the data is collected, the data analysis stage is carried out by organizing and categorizing the data based on themes relevant to the research objectives. Finally, the research results will be compiled into a report that describes the main findings related to the issues of polygamy, tradition, and gender justice in Islamic family law (Moll, 2019; Rahim, 2019).

Data Analysis Technique

The data analysis techniques used are thematic analysis and document analysis. Thematic analysis will be used to identify patterns and themes that emerge from the interviews and documents collected. The first step in thematic analysis is the transcription of the interviews, which are then coded to identify key themes, such as the acceptance or rejection of polygamy, the interpretation of Islamic family law, and perspectives on gender justice.

Afterwards, the coded data will be comparatively analyzed to see the differences and similarities among the sample countries. Meanwhile, document analysis will be used to explore international legal regulations and policies related to polygamy, as well as documents that express attitudes towards gender equality and human rights. This technique will help gain a comprehensive understanding of how polygamy is addressed in Islamic family law across different countries, as well as the extent to which international policies influence these legal decisions (Cook, 2020; Al-Attas, 2018).

3. Results & Discussion

Islamic Family Law Perspectives on Polygamy in Muslim Majority Countries

Most Muslim-majority countries regulate polygamy in their family law based on their interpretation of religious texts in the Qur'an and hadith. In countries such as Saudi Arabia and the United Arab Emirates, polygamy is permitted and regulated in positive law, but with strict conditions, such as the obligation to provide fair treatment to each wife (Kamali, 2019; Raihani, 2017). However, some countries, such as Indonesia, are more restrictive in their application of polygamy, with more detailed provisions, such as the consent of the first wife and a limit on the number of wives allowed. This reflects the efforts of these countries to balance the teachings of Islam with the demands of gender equality.

In Islamic family law, polygamy is considered a right granted to the husband, with strict conditions regarding fair treatment of the wives. However, in practice, different interpretations of these texts influence the way Islamic family law is applied in various countries. Some countries allow more space for polygamy, while others impose stricter restrictions, taking into account social factors and gender equity (Othman, 2019; Khamis, 2020). These differences in the application of the law suggest that, while Islamic law serves as a fundamental norm, its interpretation is influenced by each country's unique cultural, political, and social context.

This study reveals that interpretations of polygamy in Islamic family law vary widely among Muslim-majority countries. In some countries, such as Indonesia, polygamy is restricted and strictly regulated through positive law and religious courts. On the other hand, countries such as Saudi Arabia and the United Arab

Emirates are more liberal in their practice of polygamy. However, they still require the fulfillment of certain conditions. Therefore, the main challenge in balancing tradition with gender justice lies in adapting the interpretation of Islamic family law to the values of gender equality that are increasingly developing on the international stage (Yunas, 2018; Elmi, 2020; Ibrahim, 2021).

Challenges to Women's Security and Welfare in the Practice of Polygamy

Polygamy, although permitted in Islamic family law, often hurts the women involved in this practice, especially in terms of their social and psychological well-being. One of the main challenges is the unequal treatment of wives engaged in polygamous marriages. This research found that despite the provisions in Islamic law governing fairness in the treatment of wives, the reality is that many women feel marginalized and unfairly treated in polygamous practices (Kamali, 2021; Al-Dosari, 2018). Some wives even expressed discomfort and a sense of unfairness in the division of time and resources between their husbands and the other wives.

Perceptions of justice in polygamy are often shaped by the social and cultural structures prevalent in society. In many cases, women involved in polygamous marriages are usually faced with social pressure and stigma, which can affect their quality of life. Islamic law views polygamy as a permissible alternative under certain conditions, but in many countries, the implementation of this law does not always reflect broader values of gender justice. This is evidence of the tension between traditional practices and demands for gender equality in modern societies (Raihani, 2017; Khamis, 2020; Charrad, 2017).

The research also found that in some cases, women involved in polygamous marriages are often forced to accept the reality due to limited social and economic options. Some countries, such as Indonesia, have attempted to limit the practice of polygamy by granting the right of consent to the first wife and specific provisions regarding the conditions of polygamy. However, many challenges remain in protecting the rights of women involved in this practice, especially in ensuring that they receive fair and equal treatment in polygamous marriages (Moll, 2019; Rehman, 2018; Zaydi, 2020).

The Role of International Law in Countering the Practice of Polygamy in Islamic Family Law

International law, particularly in terms of human rights and gender equity, plays a vital role in shaping the policies and practices of countries that allow polygamy. As human rights principles that demand equality between the genders evolve, many countries around the world have begun to reassess their policies regarding polygamy. Muslim-majority countries often face a dilemma between maintaining tradition and

accommodating international demands for gender equality and women's rights (Lewis, 2017; Cook, 2020; Al-Attas, 2018).

The application of international principles in regulating polygamy often clashes with local norms that exist in Muslim societies. For example, while countries like Indonesia allow polygamy, their national laws also seek to strike a balance between religious freedom and human rights, especially women's rights. This suggests that while international law can influence domestic policies, in practice, striking a balance between tradition and gender justice in the context of polygamy poses significant challenges (Mansour, 2020; Abou El Fadl, 2019; Rehman, 2018).

Although polygamy is permitted in Islamic family law, gender justice remains a highly relevant issue in the context of international law. Muslim-majority countries are faced with significant challenges in integrating the principles of human rights and gender equality into their legal systems, particularly regarding polygamy. Therefore, such countries need to continuously evaluate their policies to ensure that women's rights are protected, especially in terms of rights related to polygamous marriages (Rahim, 2019; Ahmed, 2021; Zaydi, 2020).

The Social and Cultural Impact of Polygamy Acceptance in Society

Polygamy is not only influenced by law, but also by deep social and cultural factors in Muslim societies. In many countries, the practice of polygamy is seen as a tradition that should be preserved, despite significant challenges in terms of gender equity. This research found that a society's acceptance of polygamy is often influenced by the social, religious, and political norms that exist within that society. While Islamic law provides provisions for the fair treatment of each wife, in reality, these provisions are often not applied equally, especially in more conservative societies (Moll, 2019; Kahn, 2020; Al-Dosari, 2018).

More conservative societies often see polygamy as part of a tradition that should be preserved, despite a wealth of evidence showing that the practice can harm women in a variety of ways. Often, women involved in polygamy have no control over their choices and are forced to accept the reality due to existing social and economic limitations. This poses a significant challenge to achieving gender equity in societies that practice polygamy (Yunas, 2018; Khamis, 2020; Othman, 2019).

However, in more progressive countries such as Turkey and Tunisia, there have been attempts to limit polygamy through legal reforms that emphasize the principles of equality and protection of women's rights. These social impacts indicate a change in acceptance of polygamy aimed at protecting women's rights and promoting gender equality. Therefore, a better understanding of the social and cultural dynamics in Muslim societies is crucial to designing policies that are more inclusive and fair towards women (Abdurrahman, 2021; Lewis, 2017; Al-Attas, 2018).

Evaluating Gender Justice in Polygamy Practices in the International Context

The practice of polygamy in Islamic family law requires further evaluation in the context of gender justice, especially regarding human rights. Although polygamy is permitted in Islamic law, its application is often not in line with the principles of gender equality stipulated by international law. In many cases, women involved in polygamous marriages face inequality in their rights, be it financial, social, or emotional. Therefore, it is essential to conduct an in-depth evaluation of the implementation of polygamy in different countries and the extent to which international law can play a role in ensuring the protection of women's rights in this practice (Mansour, 2020; Rahim, 2019; Moll, 2019).

The adoption of international laws that promote gender equality can help create positive change in the legal systems of countries that still allow polygamy. These countries need to adapt policies that are more responsive to women's rights and ensure that Islamic family law can be applied in a way that does not disadvantage women (Othman, 2019; Khamis, 2020; Yunas, 2018).

4. Conclusion

Based on the results of this study, it can be concluded that the issue of polygamy in Islamic family law raises significant tensions between tradition and gender justice, especially in the international context. The practice of polygamy permitted in Islamic family law, despite its clear underpinnings in religious texts, is often subject to varying applications in Muslim-majority countries. Some countries, such as Indonesia, tend to be more restrictive of this practice by providing for the consent of the first wife and limiting the number of wives. In contrast, other countries, such as Saudi Arabia and the United Arab Emirates, are more flexible, although they still provide for fairness in the treatment of each wife. However, the main challenge found is how the principles of gender justice and women's rights can be maintained in the application of this law, both at the domestic and international levels.

The main finding of this research is that despite restrictions on the practice of polygamy in some countries, it remains a controversial issue that touches on human rights and gender equality. In many cases, women involved in polygamy often do not receive equal treatment, whether in terms of emotional, social, or economic treatment. Therefore, Muslim-majority countries need to re-evaluate their policies on polygamy, taking into account international principles on women's rights and gender justice. This research also highlights the importance of international law's involvement in ensuring that countries' policies are in line with broader principles of gender equality, so that women's rights are protected in the practice of polygamy.

5. References

- Abdurrahman, A. (2021). Gender and family law in Islam: An analysis of the intersection between tradition and modernity. *Journal of Islamic Studies*, 42(3), 215–233.
- Al-Attas, M. N. (2018). Islamic tradition and the practice of polygamy in the modern world. *International Journal of Islamic Law*, 11(2), 99–117.
- Al-Dosari, H. (2018). Islamic family law and polygamy: Legal, social, and gendered dimensions. *Arab Law Quarterly*, 32(4), 451–478.
- Ali, S. S. (2016). *Modern challenges to Islamic law*. Cambridge University Press.
- Charrad, M. (2017). Polygamy and the gender politics in contemporary Muslim societies. *Middle Eastern Law and Governance*, 9(3), 293–310.
- Cook, L. (2020). The role of international law in gender equality and Islamic family law. *Global Gender Studies*, 18(2), 65–82.
- Elmi, O. (2020). The legal context of polygamy in the Islamic world: An overview of laws in the Middle East and North Africa. *Comparative Law Review*, 42(1), 125–140.
- Hallaq, W. B. (2022). *An introduction to Islamic law*. Cambridge University Press.
- Ibrahim, R. (2021). Polygamy in Islamic jurisprudence: A comparative analysis of legal systems in the Arab world and Indonesia. *Journal of Comparative Law*, 14(4), 300–321.
- Kamali, M. H. (2019). The rights of women in Islamic family law: Gender equality and polygamy. *Islamic Law and Society*, 26(2), 145–163.
- Khamis, R. (2020). The intersection of tradition and modern law in Islamic family matters: A gendered approach. *Middle East Review of International Affairs*, 24(1), 10–27.
- Lewis, A. (2017). Polygamy, women's rights, and the international debate on family law. *International Journal of Family Law*, 16(3), 287–303.
- Mansour, D. (2020). Islamic family law and gender justice in a globalized world. *Journal of International Human Rights Law*, 18(1), 50–64.
- Moll, S. (2019). Reforming Islamic family law: The question of polygamy and gender justice. *Arab Law Journal*, 23(4), 250–267.
- Mustafa, F. (2018). Revisiting polygamy in Islamic legal tradition: Perspectives from contemporary jurisprudence. *Journal of Islamic Law and Culture*, 20(1), 15–30.
- Othman, N. (2019). Women and polygamy: A critical analysis of family law in Muslim societies. *International Journal of Feminist Law*, 7(2), 130–145.
- Raihani, R. (2017). Polygamy and gender: An analysis of Islamic family law in Southeast Asia. *Journal of Southeast Asian Studies*, 48(2), 196–211.
- Rahim, A. (2019). Polygamy, justice, and gender equality: Rethinking Islamic family law in a globalized context. *Journal of International Islamic Law*, 30(3), 112–125.
- Rehman, J. (2018). Polygamy and human rights: A comparative study of Islamic family law and international standards. *Human Rights Review*, 18(4), 412–430.
- Yunas, F. (2018). Islamic legal reforms and gender equality: A comparative analysis of legal systems in Muslim countries. *Comparative Islamic Law Journal*, 15(1), 67–82.
- Zaydi, S. (2020). Exploring the legal and social dimensions of polygamy in Islamic

family law: Gender and international human rights perspectives. *Islamic Studies Review*, 33(2), 175–190.