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### State Intervention in Polygamy Law: Indonesia and Saudi Arabia in Comparative Perspective

*Intervensi Negara dalam Hukum Poligami: Perspektif Komparatif  
Indonesia dan Arab Saudi*

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#### Abstract

This study examines state intervention in polygamy regulation in Indonesia and Saudi Arabia and its implications for women's protection and individual freedom. Using a normative legal research design with statutory, conceptual, and comparative approaches, the study analyzes legal frameworks, scholarly literature, and Islamic legal principles governing polygamous marriage in both countries. The findings reveal two contrasting regulatory models. Indonesia adopts a preventive approach through judicial authorization and administrative requirements intended to protect women and children, whereas Saudi Arabia grants greater autonomy to individuals by relying primarily on religious obligations and post-facto legal remedies. These differences reflect distinct legal traditions, social contexts, and understandings of the state's role in family law. From the perspective of maqāṣid al-sharī'ah, both models seek to realize justice and public welfare, yet each presents different strengths and limitations. The study argues that an effective polygamy regulation framework should balance legal protection, individual autonomy, and the substantive objectives of Islamic law.

**Keywords:** State Intervention; Polygamy Regulation; Women's Protection; Individual Freedom; Maqāṣid al-Sharī'ah

#### Abstrak

Penelitian ini mengkaji intervensi negara dalam regulasi poligami di Indonesia dan Arab Saudi serta implikasinya terhadap perlindungan perempuan dan kebebasan individu. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif melalui analisis terhadap regulasi, literatur akademik, dan prinsip-prinsip hukum Islam yang mengatur praktik poligami di kedua negara. Hasil penelitian menunjukkan adanya dua model pengaturan yang berbeda. Indonesia menerapkan pendekatan preventif melalui izin pengadilan dan persyaratan administratif untuk melindungi perempuan dan anak, sedangkan Arab Saudi memberikan ruang yang lebih luas bagi otonomi individu dengan menitikberatkan pada kewajiban syariat dan mekanisme perlindungan setelah terjadinya perkawinan. Perbedaan tersebut mencerminkan variasi tradisi hukum, konteks sosial, dan pandangan mengenai peran negara dalam hukum keluarga. Dalam perspektif maqāṣid al-syarī'ah, kedua model sama-sama berorientasi pada keadilan dan kemaslahatan, namun memiliki kelebihan dan keterbatasan masing-masing. Oleh karena itu, regulasi poligami perlu menyeimbangkan perlindungan hukum, kebebasan individu, dan tujuan substantif hukum Islam.

**Kata Kunci:** Intervensi Negara; Regulasi Poligami; Perlindungan Perempuan; Kebebasan Individu; Maqāṣid al-Syarī'ah



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## INTRODUCTION

The regulation of polygamy remains one of the most contested issues in the development of contemporary Islamic family law.<sup>1</sup> The debate surrounding this practice is no longer limited to the question of its theological permissibility but has evolved into a broader discourse concerning the relationship between religious teachings, the protection of women's rights, individual freedom, and the extent of state legitimacy in regulating family affairs. Amid increasing global attention toward gender justice and the protection of vulnerable groups, Muslim-majority countries have adopted diverse approaches to reforming family law, including determining the extent to which the state may intervene in the practice of polygamy.<sup>2</sup>

Normatively, polygamy derives its legitimacy from Qur'an Surah An-Nisā' verse 3, which permits men to marry up to four women under the condition that they are able to maintain justice among them. This provision demonstrates that Islam does not prohibit polygamy, yet it does not recognize it as an unrestricted form of marriage.<sup>3</sup> However, within the context of modern legal systems, the implementation of the principle of justice in polygamy has become a complex issue involving social, economic, psychological, and legal dimensions, particularly concerning the protection of women's and children's rights. Consequently, Muslim countries have developed different regulatory mechanisms based on their respective legal policies, social contexts, and interpretations of Islamic principles.

These differing approaches are clearly reflected in the comparison between Indonesia and Saudi Arabia, which represent two contrasting models of polygamy regulation. Indonesia adopts a relatively strong model of state intervention through Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law, whereby polygamy may only be practiced after obtaining judicial authorization and fulfilling several requirements, including the consent of the existing wife, financial capability, and the assurance of equitable treatment.<sup>4</sup> In contrast, Saudi Arabia maintains an approach that remains closely aligned with the classical fiqh tradition by considering polygamy as a right exercised under Islamic principles without requiring prior judicial authorization before the marriage takes place.<sup>5</sup> This distinction reflects two different paradigms regarding the role of the state in regulating private family relations, namely a preventive legal supervision model and a broader individual autonomy model.

The different levels of state intervention raise an important academic question concerning the extent to which the state should be involved in regulating polygamous practices. On the one hand, state involvement is necessary as a mechanism of legal protection to prevent potential injustice toward women and children through regulatory supervision prior to the implementation of polygamy. On the other hand, excessive intervention may be perceived as a limitation on individual freedom in practicing religious beliefs and determining one's family life. Therefore, the debate over polygamy is essentially a debate on how the state can establish a

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- 1 Muhammad Husni Abdulah Pakarti et al., "The Role of Family Law in Confronting Polygamy Practices in Contemporary Society," *Syakshshiyah Jurnal Hukum Keluarga Islam* 3, no. 2 (November 7, 2023): 132, <https://doi.org/10.32332/syakshshiyah.v3i2.7614>.
  - 2 Yüksel Sezgin, "A Global and Historical Exploration: Legislative Reform in Muslim Family Laws in Muslim-Majority versus Muslim-Minority Countries," *Law & Policy* 45, no. 2 (April 2, 2023): 110–36, <https://doi.org/10.1111/lapo.12210>.
  - 3 Guzel Ilgizovna Galieva, "Polygamy As a Form of Marriage: Based on Sociological Research," *KnE Social Sciences*, January 21, 2021, <https://doi.org/10.18502/kss.v5i2.8397>.
  - 4 Alfitri Alfitri, Rijal Imanullah, and Aulia Rahman, "Unregistered Polygamy Validation: Isbat Nikah, Polygamy Permit, and Due Process of Law in Indonesian Religious Courts," *Ulumuna* 28, no. 1 (September 11, 2024): 313–44, <https://doi.org/10.20414/ujis.v28i1.639>.
  - 5 Maha Yamani, *Polygamy and Law in Contemporary Saudi Arabia* (Garnet Publishing Ltd, 2022).

balance between the protection of vulnerable parties and the respect for individual rights and autonomy.

Studies on polygamy have developed from various perspectives. Fithrotul Khasanah's research demonstrates that the regulation of polygamy in Saudi Arabia, Tunisia, and Indonesia is influenced by each country's social context, cultural background, and legal politics.<sup>6</sup> Meanwhile, other studies have highlighted the expansion of state intervention into the private sphere of marriage through the criminalization of unauthorized polygamy under the new Criminal Code.<sup>7</sup> Research on judicial practices has also revealed a tendency toward more flexible interpretations of the legal requirements for granting polygamy permits by judges. Furthermore, previous studies have examined the social and economic impacts of polygamy on family harmony, as well as the realities of marriage and polygamy practices in Saudi Arabia shaped by traditions, Islamic teachings, and social conditions. These studies indicate that scholarly discussions on polygamy have gradually shifted from purely normative concerns toward broader issues of state regulation, legal protection, and the social consequences of polygamous practices.

Nevertheless, previous studies have predominantly examined polygamy from separate perspectives, such as legal legitimacy, authorization procedures, criminalization of violations, judicial decisions, and social consequences. Studies that specifically position polygamy within the broader framework of the relationship between state intervention, the protection of women's rights, and individual freedom remain relatively limited. Moreover, there is still a lack of in-depth comparative studies examining how different levels of state intervention in the legal systems of Indonesia and Saudi Arabia reflect distinct legal policy choices in understanding the concept of justice within family relations.

From the perspective of contemporary Islamic legal thought, this issue can also be examined through the framework of *maqāṣid al-sharī'ah*, which emphasizes the realization of public welfare (*maṣlahah*) and the prevention of harm (*mafsadah*) in human life.<sup>8</sup> Within the context of polygamy regulation, state intervention may be understood as an instrument to ensure the protection of women and children; however, such intervention must also consider individuals' rights to practice religious teachings proportionally. Therefore, an analysis is required that does not merely assess the level of state intervention from a formal legal perspective but also evaluates whether such intervention aligns with the principles of justice and public welfare within Islamic family law.

Based on the foregoing discussion, this study aims to analyze the forms of state intervention in the regulation of polygamy in Indonesia and Saudi Arabia, identify the factors underlying the differences in their levels of intervention, and evaluate their implications for balancing the protection of women's rights and individual freedom. This study is expected to contribute to the development of comparative Islamic family law scholarship by offering a deeper understanding of a regulatory model that balances the protection of vulnerable groups, respect for individual freedom, and the realization of public welfare from the perspective of *maqāṣid al-sharī'ah*.

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6 Khasanah Fithrotul, "Poligami Di Arab Saudi, Tunisia, Dan Indonesia Dalam Perspektif Sosiologi Hukum," *Justitia: Jurnal Ilmu Hukum Dan Humaniora* 8, no. 6 (2021): 1663–75, <https://jurnal.um-tapsel.ac.id/index.php/Justitia/article/view/4961>.

7 Ismail, "Kebijakan Hukum Pidana Terhadap Nikah Sirih Dan Poligami Dalam KUHP Baru," *Locus: Journal of Academic Literature Review* 4, no. 9 (2025): 819–28, <https://jurnal.locusmedia.id/index.php/jalr/article/view/849>.

8 Mas'ūd Ibn-'Umar at-Taftazānī, *Sharḥ al-maqāṣid*, trans. 'Abd-ar-Raḥmān 'Umaira, Ṭab'a 1 (Bairūt: 'Alam al-Kutub, 1989).

## Method

This study employed a normative legal research approach aimed at examining the legal construction and policy orientation underlying the regulation of polygamy in Indonesia and Saudi Arabia.<sup>9</sup> The study applied three approaches, namely the statute approach, conceptual approach, and comparative approach. The statute approach was utilized to analyze legal regulations concerning polygamy, including Law Number 1 of 1974 on Marriage and its amendments, the Compilation of Islamic Law, the Criminal Code (KUHP), and the Saudi Personal Status Law of 2022. Meanwhile, the conceptual approach was employed to examine the concepts of state intervention, the protection of women's rights, individual freedom, and *maqāṣid al-sharī'ah*, while the comparative approach was used to compare the characteristics and legal policy rationales underlying the regulation of polygamy in both countries.<sup>10</sup>

The sources of this study consisted of primary, secondary, and tertiary legal materials obtained through library research. Primary legal materials included legislation governing polygamy, while secondary legal materials comprised scholarly journal articles, books, research findings, and academic literature related to Islamic family law, state intervention, the protection of women's rights, and individual freedom. Tertiary legal materials included legal dictionaries, encyclopedias, and other supporting references.

Furthermore, the legal materials were analyzed qualitatively using a descriptive-comparative method by examining several key dimensions, including polygamy authorization mechanisms, forms of state supervision, the role of judicial institutions, the orientation of women's protection, and the scope of individual freedom. The comparative findings were subsequently analyzed through the perspectives of state intervention and *maqāṣid al-sharī'ah* to evaluate the extent to which each regulatory model achieves a balance between the protection of vulnerable groups and respect for individual freedom.

## RESULTS AND DISCUSSION

### Forms of State Intervention in the Regulation of Polygamy in Indonesia and Saudi Arabia

Although Indonesia and Saudi Arabia both recognize the legitimacy of polygamy based on Islamic principles, the two countries have developed different regulatory models as a consequence of their differing perspectives on the role of the state in supervising family life. These differences demonstrate that the implementation of Islamic law within the context of modern states is not uniform but is shaped by legal policy orientations, approaches to legal protection, and each country's understanding of the relationship between state authority and individual freedom.

In Indonesia, the regulation of polygamy is based on Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI), which adopts the principle of open monogamy. In principle, a man is only permitted to have one wife; however, under certain circumstances, the state allows polygamy through a strict authorization mechanism. A husband who intends to practice polygamy must submit an application to the Religious Court and fulfill both alternative and cumulative requirements stipulated by legislation. The alternative requirements include situations where the wife is unable to fulfill her marital obligations, suffers from an incurable disability or illness, or is unable to bear children. In addition, the husband must obtain the

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9 Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).

10 Marjan Miharja, *Buku Ajar Metode Penelitian Hukum* (Bandung: CV Cendekia Press, 2023).

consent of his existing wife, demonstrate financial capability to support the family, and guarantee fair treatment toward all wives and children.<sup>11</sup>

This mechanism indicates that the state does not merely function as an administrative institution for marriage registration but also serves as a preventive supervisory mechanism to ensure that polygamy is not practiced arbitrarily. The involvement of the Religious Court in verifying aspects of justice, financial capability, and the wife’s consent reflects a *state-centered regulation* approach, in which the state acts as the primary authority responsible for protecting groups that are potentially vulnerable to harm, particularly women and children.<sup>12</sup>

In contrast, Saudi Arabia applies a more limited form of state intervention prior to the implementation of polygamy. The Saudi family law system, which is grounded in Islamic law and the Hanbali jurisprudential tradition, considers polygamy as a right granted by Islamic teachings as long as a husband is able to fulfill the principle of justice toward his wives.<sup>13</sup> Therefore, the state does not require prior judicial authorization, the consent of the first wife, or formal administrative examinations regarding economic capability before a polygamous marriage takes place. State involvement mainly appears when disputes arise after the marriage through available legal dispute resolution mechanisms.<sup>14</sup>

This approach represents an *individual autonomy-based regulation* model, which provides broader space for personal moral responsibility in implementing Islamic teachings. Within this model, the principle of justice in polygamy is not subject to prior verification by the state but is largely entrusted to the individual’s religious awareness and personal responsibility.

**Table 1.** Comparison of Forms of State Intervention in the Regulation of Polygamy in Indonesia and Saudi Arabia

Aspect	Indonesia	Saudi Arabia
Basic Principle	Open monogamy	Polygamy is permitted based on Islamic principles
Judicial Authorization	Required	Not required
Consent of the First Wife	Required	Not required
Examination of Financial Capability	Required	Not formally required
State Supervision	Preventive through authorization mechanisms	Reactive through dispute resolution
Role of Judicial Institutions	Before and after marriage	Generally after disputes arise

*Source: Prepared by the authors (2026)*

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- 11 Moh. Firman Abdillah, Zainuri Zainuri, and Miftahul Munir, “Kriteria Pasal 4 Ayat (2) Huruf (A) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan,” *Innovative: Journal Of Social Science Research* 4, no. 1 (2024), <https://j-innovative.org/index.php/Innovative/article/view/7345>.
  - 12 Apostolos Andrikopoulos, “Kinship Theory and Migration Studies: Challenging Ethnocentrism, Normativity, and State-Centered Epistemologies,” in *Reflexivities and Knowledge Production in Migration Studies*, 2026, 287–304, [https://doi.org/10.1007/978-3-032-03337-6\\_15](https://doi.org/10.1007/978-3-032-03337-6_15).
  - 13 Hafiz Falak Shair Faizi and Hafiz Sfarish Ali, “The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis,” *Online Journal of Research in Islamic Studies* 11, no. 2 (December 30, 2024): 57–72, <https://doi.org/10.22452/ris.vol11no2.4>.
  - 14 Sari Ramadhana, Khairun Nisa, and Anwar Hafidzi, “Potret Pernikahan Arab Saudi: Antara Tradisi, Syariat, Dan Realitas Sosial Mahar, Poligami, Dan Perwalian,” *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 2 (2025): 1766–74, <https://doi.org/10.62976/ijjel.v3i2.1167>.

Based on the comparison, it can be observed that the two countries represent different paradigms in balancing legal protection and individual freedom. Indonesia adopts a *state-centered regulation* approach by positioning the state as a preventive mechanism to ensure the protection of women and children before polygamy is conducted. Conversely, Saudi Arabia adopts a model with more limited state intervention, emphasizing individual autonomy and moral responsibility in practicing Islamic teachings. From the perspective of *maqāṣid al-shari‘ah*, both models essentially pursue the same objective, namely the realization of justice and public welfare within the family, although they employ different mechanisms. Indonesia seeks to achieve the protection of family rights through stronger legal supervision, whereas Saudi Arabia prioritizes personal responsibility by granting broader space for individual freedom in practicing religious teachings.

### Factors Underlying the Differences in the Levels of State Intervention in the Regulation of Polygamy

The differences in the levels of state intervention in the regulation of polygamy between Indonesia and Saudi Arabia do not merely result from differing interpretations of Islamic teachings, but are also shaped by legal policy choices, the characteristics of their respective legal systems, and each country’s perspective on the relationship between the state, religion, and family life. Although both countries have Muslim-majority populations, they have developed different regulatory models. Indonesia tends to adopt a *state-centered regulation* approach, which positions the state as a key actor in ensuring the protection of vulnerable groups, whereas Saudi Arabia follows a model closer to *individual autonomy-based regulation*, providing broader space for individual moral responsibility in practicing Islamic principles.

The first factor influencing these differences is the legal policy underlying family law formation. Since the early period of independence, Indonesia has sought to unify marriage law through Law Number 1 of 1974 as part of the modern state's effort to establish legal certainty and strengthen the protection of women and children.<sup>15</sup> In this context, marriage is no longer viewed solely as a private relationship based on religious teachings but also as a social institution with implications for the rights and welfare of family members. Therefore, state intervention through administrative and judicial mechanisms is considered necessary to prevent the abuse of polygamous rights that may lead to injustice within the family. In contrast, Saudi Arabia maintains an approach rooted in classical Islamic law, particularly the Hanbali jurisprudential tradition, which regards polygamy as a right granted by Islamic teachings. Consequently, extensive state involvement prior to the practice of polygamy is not considered necessary as long as religious principles are properly observed.<sup>16</sup> This distinction reflects two different perspectives regarding the legitimacy of state authority in regulating the private sphere of family relations.

The second factor concerns the orientation of women’s protection. Indonesia’s regulatory model demonstrates that the protection of women is realized through preventive mechanisms, such as obtaining the wife’s consent, assessing financial capability, and judicial supervision before polygamy is practiced.<sup>17</sup> These mechanisms reflect the view that justice within the family

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15 Mansari, Zahrul Fatahillah, and Siti Sahara, “Pengesampingan Syarat Alternatif Poligami Sebagai Dasar Mengabulkan Permohonan,” *Jurnal Yudisial* 16, no. 3 (2024): 361–79, <https://doi.org/10.29123/jy/v16i3.659>.

16 Marbujang et al., “Poligami Dalam Hukum Islam: Kajian Atas Dampak Sosial Dan Ekonomi Terhadap Keharmonisan Rumah Tangga,” *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 6, no. 2 (2025): 225–37, <https://doi.org/10.15575/as.v6i2.46325>.

17 Fatma Khalida Hanoum and Johanna Debora Imelda, “The Social Security for Female Workers in Indonesia: A Gender Equality Perspective,” *Journal of Gender Equality Disability Social Inclusion and Children* 2, no. 2 (January 31, 2025), <https://doi.org/10.61511/jgedsic.v2i2.2025.1156>.

should be ensured through legal control exercised by the state in order to prevent potential discrimination and harm toward women and children. In contrast, the protection of women within the Saudi legal system is primarily manifested through corrective mechanisms, namely the husband's religious obligation to act justly and the wife's right to seek legal remedies when violations of her rights occur.<sup>18</sup> Therefore, the distinction between the two countries does not lie in whether the protection of women is recognized, but rather in the different legal strategies employed to achieve such protection.

The third factor relates to the different understandings of the concept of justice in polygamous practices. Indonesia tends to regard justice as a principle that should not merely depend on individual moral responsibility but must also be verified through legal instruments before permission for polygamy is granted. Therefore, financial capability, the wife's consent, and the commitment to equitable treatment are assessed by the court before a polygamous marriage is permitted. Conversely, Saudi Arabia views justice primarily as an ethical and religious responsibility attached to the individual; therefore, the state does not conduct preventive assessments before the polygamous marriage takes place. This difference indicates that both countries hold different paradigms regarding the source and mechanism of ensuring justice within family relations.

From the perspective of *maqāṣid al-sharī'ah*, both regulatory models fundamentally share the same objective, namely the realization of public welfare (*maṣlahah*) and the prevention of harm (*mafsadah*) within family life.<sup>19</sup> Indonesia's intervention model places greater emphasis on protecting women's rights, children's welfare, and family economic stability, which are closely related to the principles of *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-nasl* (protection of lineage), and *ḥifẓ al-māl* (protection of property).<sup>20</sup> Meanwhile, the Saudi approach emphasizes individual moral responsibility in fulfilling Islamic obligations while still providing legal avenues when violations of rights occur. Therefore, the differences in the levels of state intervention in polygamy regulation can be understood as the result of a negotiation between religious values, social protection objectives, and differing paradigms regarding the relationship between the state and individuals within Islamic family law.

### Implications of Regulatory Differences on the Protection of Women's Rights and Individual Freedom

The different models of state intervention in the regulation of polygamy in Indonesia and Saudi Arabia reflect a fundamental dilemma in contemporary Islamic family law, namely how to establish a balance between the protection of vulnerable groups, particularly women and children, and respect for individual freedom in practicing religious teachings. These differences have produced two distinct approaches: *state-centered regulation*, which emphasizes preventive state supervision, and *individual autonomy-based regulation*, which prioritizes individual moral responsibility through legal protection that is predominantly corrective after violations occur.

In the context of protecting women's rights, Indonesia's *state-centered regulation* model provides stronger legal safeguards through a mechanism of *preventive protection*. The requirements of

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18 Elad Giladi, "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law: Profound Change or Gender Washing?," *Islamic Law and Society*, September 24, 2025, 1–31, <https://doi.org/10.1163/15685195-bja10070>.

19 Mirwan Mirwan, "Maqāṣid Al-Sharī'ah and Family Resilience: Exploring the Concept of Wasā'il in Jamaluddin 'Aṭhiyyah's Thought," *Journal of Islamic Thought and Philosophy* 4, no. 1 (2025): 78–105.

20 Ahmad Farid Fanani, Rifat Syaūqi Efendi, and Shofiyullah Muzammil, "Tazkiyah Al-Nafs in Al-Ghazali's Thought: A Sufi Framework for Enhancing Mental Resilience among Generation-Z," *Tasfiyah: Jurnal Pemikiran Islam* 10, no. 1 (2026).

judicial authorization, the consent of the existing wife, proof of financial capability, and assessment of the ability to maintain justice represent forms of *ex ante supervision* intended to prevent potential injustice before a polygamous marriage takes place.<sup>21</sup> Through these mechanisms, the state does not merely function as an administrative authority responsible for marriage registration but also as an institution that verifies the fulfillment of principles of justice and the protection of the rights of women and children.

Nevertheless, a high level of state intervention may also create a regulatory paradox. Administrative and judicial requirements that are perceived as excessively complex may encourage certain individuals to seek alternatives outside the formal legal system through unregistered marriages or *nikah siri*. This condition may ultimately weaken the very objective of legal protection, as women and children arising from such marriages may encounter difficulties in obtaining legal recognition, administrative protection, and access to civil rights.<sup>22</sup> Therefore, the effectiveness of state intervention is not solely determined by the strength of legal control but also by the extent to which regulations remain accessible and socially acceptable.

Conversely, Saudi Arabia, through its *individual autonomy-based regulation* model, provides broader space for individuals to practice their religious beliefs without strict administrative barriers.<sup>23</sup> This model reflects respect for personal autonomy in determining family life according to Islamic principles. The state does not conduct preventive verification of an individual's capability to engage in polygamy but rather places the fulfillment of justice as an individual's moral and religious responsibility. From the perspective of individual freedom, this approach provides greater opportunities for exercising personal rights based on religious convictions.

However, the limited level of state supervision prior to the implementation of polygamy causes the protection of women to depend more heavily on *corrective protection* mechanisms or *ex post dispute resolution* after rights violations have occurred. In the absence of formal mechanisms to assess economic capability and ensure equitable treatment before a polygamous marriage takes place, women are placed in a position that relies largely on the husband's moral commitment and legal remedies after their rights have been violated. Consequently, legal protection within this model is oriented more toward remedying violations than preventing potential harm from the outset.

From the perspective of *maqāṣid al-sharī'ah*, both regulatory models pursue the same objective, namely the realization of public welfare (*maṣlahah*) and the prevention of harm (*mafsadah*) within family life. The Indonesian model places greater emphasis on the protection of life, lineage, and family economic stability, which correspond to the principles of *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl*. Meanwhile, the Saudi model emphasizes individual responsibility in fulfilling Islamic obligations while still providing legal mechanisms when rights violations occur. Therefore, the effectiveness of polygamy regulation should not be assessed solely based on the extent of state intervention, but rather on the ability of the legal system to establish a balance between preventive protection, respect for individual autonomy, and effective mechanisms for resolving injustice.

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21 Arza Amelia et al., "Analisis Yuridis Pertimbangan Hakim Dalam Putusan Menolak Atau Mengabulkan Izin Poligami Di Pengadilan Agama Kota Palembang." *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 8 (2026): 557–63, <https://doi.org/10.47476/assyari.v8i2.11727>.

22 Aulia Diningrum, Naziroh Naziroh, and Putri Dahlia Hasibuan, "Analisis Hukum Islam Terhadap Praktik Nikah Tahlil," *Akhlak: Jurnal Pendidikan Agama Islam Dan Filsafat* 2, no. 2 (2025): 79–89, <https://doi.org/10.61132/akhlak.v2i2.636>.

23 Ahmed Mohamed Ahmed Zayed, Saud Ayed Ayad Alshammari, and Suleiman Muhammad Suleiman, "Self-Efficacy, Personal Autonomy, Life Arrangements, and Health Priorities/Preferences in Psychological Distress: A Predictive, Variance-Based PLS-SEM Structural Model," *Scientific Reports*, May 15, 2026, <https://doi.org/10.1038/s41598-026-49279-4>.

## Maqāṣid al-Sharī‘ah Perspective on State Intervention in Polygamy Regulation

Within Islamic legal philosophy, the ultimate objective of the Sharī‘ah is not merely the formal implementation of legal provisions but the realization of justice, public welfare (*maṣlahah*), and the prevention of harm (*mafsadah*) in human life. The concept of *maqāṣid al-sharī‘ah* emphasizes the protection of five fundamental interests (*al-kulliyāt al-khams*), namely the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-‘aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). As emphasized by Ibn Qayyim al-Jawziyyah, any legal rule that departs from justice and leads to harm deviates from the essential objectives of the Sharī‘ah. Therefore, legal reform and state intervention can be considered legitimate when they aim to preserve public welfare and respond to changing social realities.<sup>24</sup>

In the context of family law, including the regulation of polygamy, state intervention should not be understood as a restriction on religious teachings, but rather as a legal mechanism to ensure that practices permitted under Islamic law are implemented in accordance with the principles of justice. Polygamy extends beyond a private relationship between husband and wife because it carries broader social implications related to women’s rights, child welfare, and family economic stability. Therefore, state involvement in regulating the conditions and procedures of polygamy can be interpreted as an implementation of the principles of *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl* to prevent potential social harm arising from irresponsible polygamous practices.<sup>25</sup>

The comparative findings of this study demonstrate that Indonesia and Saudi Arabia embody two different approaches in realizing the objectives of *maqāṣid al-sharī‘ah*. Indonesia adopts a *state-centered regulation* model that emphasizes preventive protection through judicial authorization, economic assessment, and verification of justice before a polygamous marriage is conducted. Conversely, Saudi Arabia applies an *individual autonomy-based regulation* model that places greater emphasis on personal moral responsibility and provides legal remedies after rights violations occur. Although the mechanisms differ, both approaches fundamentally seek to preserve justice and family welfare in accordance with the objectives of Islamic law.

**Table 2.** Comparative Model of State Intervention in Polygamy Regulation from the Perspective of Maqāṣid al-Sharī‘ah

Dimension	Indonesia ( <i>State-Centered Regulation</i> )	Saudi Arabia ( <i>Individual Autonomy-Based Regulation</i> )
Form of State Intervention	Preventive intervention through judicial authorization and administrative requirements	Limited preventive intervention with greater emphasis on individual responsibility
Protection Mechanism	<i>Ex ante protection</i> through prior verification of financial capability,	<i>Ex post protection</i> through legal remedies after violations of rights occur

24 Isnain La Harisi and M Wahid Abdullah, “Pembaharuan Hukum Keluarga Islam Dalam Menghadapi Tantangan Sosial Kontemporer Perspektif Maqashid Syariah,” *USRAH: Jurnal Hukum Keluarga Islam* 5, no. 2 (2024): 226–41.

25 Izan Syarifurrohman Aqil, “Pengetatan Poligami Di Indonesia Perspektif Maqashid Syariah Dan Hukum Positif,” *MADDIKA: Journal of Islamic Family Law* 4, no. 2 (2024): 1–10, <https://doi.org/10.24256/maddika.v4i2.3994>.

	justice, and the consent of the existing wife	
Women's Rights Protection	Ensured through direct state supervision before the implementation of polygamy	Ensured primarily through corrective mechanisms after injustice occurs
Individual Freedom	Limited proportionally to guarantee justice and protect vulnerable family members	Granted broader space based on religious commitment and personal responsibility
Maqāṣid Orientation	Prioritizes <i>ḥifẓ al-nafs</i> , <i>ḥifẓ al-nasl</i> , and <i>ḥifẓ al-māl</i> through preventive legal measures	Emphasizes individual responsibility while maintaining mechanisms for legal protection
Potential Challenges	Excessive regulation may encourage avoidance of formal legal procedures, including unregistered marriages	Limited preventive supervision may increase the risk of unequal protection for women

Source: Developed by the authors, 2026.

The comparative analysis indicates that the effectiveness of polygamy regulation cannot be assessed solely based on the degree of state intervention or the extent of individual autonomy. Excessive state control may create a regulatory paradox by encouraging individuals to avoid formal legal mechanisms, while insufficient supervision may weaken preventive protection for vulnerable parties. Therefore, an ideal regulatory model should establish a proportional balance between state supervision and individual autonomy. In the framework of *maqāṣid al-sharī'ah*, the role of the state is not to eliminate individual religious freedom but to function as a legal instrument that ensures polygamy remains aligned with the principles of justice, public welfare (*maṣlahah*), and the broader objectives of Islamic family law.

## CONCLUSION

This study demonstrates that the differences in the regulation of polygamy between Indonesia and Saudi Arabia represent two distinct models of state intervention in Islamic family law. Indonesia adopts a *state-centered regulation* model that positions the state as the primary instrument for providing *preventive protection* through judicial authorization mechanisms, verification of financial capability, spousal consent, and assessment of the principle of justice before polygamy is conducted. In contrast, Saudi Arabia reflects an *individual autonomy-based regulation* model that grants broader space for individual moral responsibility and places legal protection in the form of *corrective protection* through dispute resolution mechanisms after rights violations occur. These differences indicate that the level of state intervention in the regulation of polygamy is not solely determined by interpretations of Islamic teachings but also by legal policy choices, protection orientations, and differing paradigms regarding the relationship between the state, religion, and the private sphere of family life.

The findings contribute to the development of comparative Islamic family law scholarship by offering the perspective that debates on polygamy regulation should not be understood merely through the dichotomy between restriction and freedom. Instead, polygamy regulation should be viewed as an effort to establish a balance between state authority in protecting vulnerable groups and respect for individual autonomy in practicing religious teachings. From the perspective of *maqāṣid al-sharī'ah*, state intervention gains legitimacy insofar as it aims to realize justice, promote public welfare (*maṣlahah*), and prevent harm (*mafsadah*) toward women, children, and the continuity of family life.

This study is limited by its normative legal approach and has not explored the practical implementation of both regulatory models through the empirical experiences of polygamous individuals, affected women, or legal practitioners. Therefore, future studies may employ empirical or *socio-legal research* approaches to evaluate the effectiveness of *state-centered regulation* and *individual autonomy-based regulation* models in practice, as well as their impact on the protection of women's rights and family dynamics. Ultimately, the effectiveness of polygamy regulation should not be measured solely by the extent to which the state expands or limits its intervention, but rather by the ability of the legal system to create a proportional balance between the protection of vulnerable groups, respect for individual freedom, and the realization of justice in accordance with the objectives of *maqāṣid al-sharī'ah*.

## BIBLIOGRAPHY

- Abdillah, Moh. Firman, Zainuri Zainuri, and Miftahul Munir. "Kriteria Pasal 4 Ayat (2) Huruf (A) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan." *Innovative: Journal Of Social Science Research* 4, no. 1 (2024). <https://j-innovative.org/index.php/Innovative/article/view/7345>.
- Abdulah Pakarti, Muhammad Husni, Sofyan Mei Utama, Diana Farid, Kemal Al Kautsar Mabruhi, and Iffah Fathiah. "The Role of Family Law in Confronting Polygamy Practices in Contemporary Society." *Syakhshiyah Jurnal Hukum Keluarga Islam* 3, no. 2 (November 7, 2023): 132. <https://doi.org/10.32332/syakhshiyah.v3i2.7614>.
- Alfitri, Alfitri, Rijal Imanullah, and Aulia Rahman. "Unregistered Polygamy Validation: Isbat Nikah, Polygamy Permit, and Due Process of Law in Indonesian Religious Courts." *Ulumuna* 28, no. 1 (September 11, 2024): 313–44. <https://doi.org/10.20414/ujs.v28i1.639>.
- Ali, Zainuddin. *Metode Penelitian Hukum*. Sinar Grafika, 2021.
- Amelia, Arza, Tiara Putri, Khalisah Hayatuddin, and Sofyan Hasan. "Analisis Yuridis Pertimbangan Hakim Dalam Putusan Menolak Atau Mengabulkan Izin Poligami Di Pengadilan Agama Kota Palembang." *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 8 (2026): 557–63. <https://doi.org/10.47476/assyari.v8i2.11727>.
- Andrikopoulos, Apostolos. "Kinship Theory and Migration Studies: Challenging Ethnocentrism, Normativity, and State-Centered Epistemologies." In *Reflexivities and Knowledge Production in Migration Studies*, 287–304, 2026. [https://doi.org/10.1007/978-3-032-03337-6\\_15](https://doi.org/10.1007/978-3-032-03337-6_15).
- Aqil, Izan Syarifurrohman. "Pengetatan Poligami Di Indonesia Perspektif Maqashid Syariah Dan Hukum Positif." *MADDIKA: Journal of Islamic Family Law* 4, no. 2 (2024): 1–10. <https://doi.org/10.24256/maddika.v4i2.3994>.
- Diningrum, Aulia, Naziroh Naziroh, and Putri Dahlia Hasibuan. "Analisis Hukum Islam Terhadap Praktik Nikah Tahlil." *Akhlak : Jurnal Pendidikan Agama Islam Dan Filsafat* 2, no. 2 (2025): 79–89. <https://doi.org/10.61132/akhlak.v2i2.636>.
- Faizi, Hafiz Falak Shair, and Hafiz Sfarish Ali. "The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis." *Online Journal of Research in Islamic Studies* 11, no. 2 (December 30, 2024): 57–72. <https://doi.org/10.22452/ris.vol11no2.4>.
- Fanani, Ahmad Farid, Rifat Syaumi Efendi, and Shofiyullah Muzammil. "Tazkiyah Al-Nafs in Al-Ghazali's Thought: A Sufi Framework for Enhancing Mental Resilience among Generation-Z." *Tasfyyah: Jurnal Pemikiran Islam* 10, no. 1 (2026).
- Fithrotul, Khasanah. "Poligami Di Arab Saudi, Tunisia, Dan Indonesia Dalam Perspektif Sosiologi Hukum." *Justitia: Jurnal Ilmu Hukum Dan Humaniora* 8, no. 6 (2021): 1663–75. <https://jurnal.um-tapsel.ac.id/index.php/Justitia/article/view/4961>.

- Galieva, Guzel Ilgizovna. "Polygamy As a Form of Marriage: Based on Sociological Research." *KnE Social Sciences*, January 21, 2021. <https://doi.org/10.18502/kss.v5i2.8397>.
- Giladi, Elad. "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law: Profound Change or Gender Washing?" *Islamic Law and Society*, September 24, 2025, 1–31. <https://doi.org/10.1163/15685195-bja10070>.
- Hanoum, Fatma Khalida, and Johanna Debora Imelda. "The Social Security for Female Workers in Indonesia: A Gender Equality Perspective." *Journal of Gender Equality Disability Social Inclusion and Children* 2, no. 2 (January 31, 2025). <https://doi.org/10.61511/jgedsic.v2i2.2025.1156>.
- Harisi, Isnain La, and M Wahid Abdullah. "Pembaharuan Hukum Keluarga Islam Dalam Menghadapi Tantangan Sosial Kontemporer Persepektif Maqashid Syariah." *USR-AH: Jurnal Hukum Keluarga Islam* 5, no. 2 (2024): 226–41.
- Ismail. "Kebijakan Hukum Pidana Terhadap Nikah Sirih Dan Poligami Dalam KUHP Baru." *Locus: Journal of Academic Literature Review* 4, no. 9 (2025): 819–28. <https://jurnal.locusmedia.id/index.php/jalr/article/view/849>.
- Mansari, Zahrul Fatahillah, and Siti Sahara. "Pengesampingan Syarat Alternatif Poligami Sebagai Dasar Mengabulkan Permohonan." *Jurnal Yudisial* 16, no. 3 (2024): 361–79. <https://doi.org/10.29123/jy/v16i3.659>.
- Marbujang, Putrado Herliansyah, Suweknyo, Handika Utama Putra, and Mita Mauli Nanda. "Poligami Dalam Hukum Islam: Kajian Atas Dampak Sosial Dan Ekonomi Terhadap Keharmonisan Rumah Tangga." *Al-Abwal Al-Syakhsyyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 6, no. 2 (2025): 225–37. <https://doi.org/10.15575/as.v6i2.46325>.
- Miharja, Marjan. *Buku Ajar Metode Penelitian Hukum*. Bandung: CV Cendekia Press, 2023.
- Mirwan, Mirwan. "Maqāṣid Al-Sharī‘ah and Family Resilience: Exploring the Concept of Wasā‘il in Jamaluddin ‘Aṭḥiyyah’s Thought." *Journal of Islamic Thought and Philosophy* 4, no. 1 (2025): 78–105.
- Ramadhana, Sari, Khairun Nisa, and Anwar Hafidzi. "Potret Pernikahan Arab Saudi: Antara Tradisi, Syariat, Dan Realitas Sosial Mahar, Poligami, Dan Perwalian." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 2 (2025): 1766–74. <https://doi.org/10.62976/ijjel.v3i2.1167>.
- Sezgin, Yüksel. "A Global and Historical Exploration: Legislative Reform in Muslim Family Laws in Muslim-Majority versus Muslim-Minority Countries." *Law & Policy* 45, no. 2 (April 2, 2023): 110–36. <https://doi.org/10.1111/lapo.12210>.
- Taftazānī, Mas‘ūd Ibn-‘Umar at-. *Sarḥ al-maqāṣid*. Translated by ‘Abd-ar-Raḥmān ‘Umaira. Ṭab‘a 1. Bairūt: ‘Alam al-Kutub, 1989.
- Yamani, Maha. *Polygamy and Law in Contemporary Saudi Arabia*. Garnet Publishing Ltd, 2022.
- Zayed, Ahmed Mohamed Ahmed, Saud Ayed Ayad Alshammari, and Suleiman Muhammad Suleiman. "Self-Efficacy, Personal Autonomy, Life Arrangements, and Health Priorities/Preferences in Psychological Distress: A Predictive, Variance-Based PLS-SEM Structural Model." *Scientific Reports*, May 15, 2026. <https://doi.org/10.1038/s41598-026-49279-4>.