

De Jure: Jurnal Hukum dan Syar'iah

Volume 16 Issue 2, 2024, p. 382-405

ISSN (Print): 2085-1618, ISSN (Online): 2528-1658

DOI: <http://dx.doi.org/10.18860/j-fsh.v16i2.29077>

Available online at <http://ejournal.uin-malang.ac.id/index.php/syariah>

The Legitimacy of Abortion: A Socio-Legal Analysis of Islamic Jurisprudence and Indonesian Law

Ismail Jalili*

UIN Fatmawati Sukarno Bengkulu, Indonesia

Helmi Syaifuddin

UIN Maulana Malik Ibrahim Malang, Indonesia

Fadillah Ulfa

Universitas Muhammadiyah Bengkulu, Indonesia

Wery Gusmansyah

UIN Fatmawati Sukarno Bengkulu, Indonesia

Muntaha Artalim Zaim

International Islamic University Malaysia, Malaysia

* Corresponding Author: ismailjalili@mail.uinfasbengkulu.ac.id

Received: 06-09-2024	Revised: 07-12-2024	Published: 30-12-2024
----------------------	---------------------	-----------------------

Abstract:

Navigating the intersection of religious doctrines and legislative frameworks poses a significant challenge in the abortion discourse, particularly in Indonesia. This study investigates the legitimacy of abortion through the dual perspectives of Islamic jurisprudence and positive law within Indonesia's intricate socio-cultural and religious milieu, where Islamic principles deeply influence legal interpretations and societal views. The study aims to dissect the complex legal and religious debates surrounding abortion in Indonesia, offering a thorough analysis of its legitimacy under both Islamic jurisprudence and state law. Current literature reveals a fragmented legal landscape marked by diverse interpretations and applications of Islamic principles and state laws, resulting in inconsistent legal outcomes. Adopting a qualitative methodology, this research utilizes doctrinal analysis of primary and secondary legal sources, statutory laws, judicial decisions, and Islamic legal texts. Findings highlight a stark dichotomy between strict prohibitions in traditional Islamic jurisprudence and more lenient, context-specific interpretations by contemporary scholars. The Indonesian legal system, heavily influenced by Islamic values, nonetheless displays flexibility in cases involving maternal health risks or severe fetal anomalies. Ultimately, this study advocates for a nuanced, context-sensitive legal framework that harmonizes Islamic jurisprudence with positive law. It proposes a balanced approach that respects religious values while addressing

modern societal needs and medical realities, aiming to ensure legal clarity and safeguard women's rights in Indonesia.

Keywords: legal conundrum; abortion; Islamic jurisprudence; law.

Introduction

Abortion remains one of the most controversial issues globally, intersecting with legal, ethical, religious, and social domains.¹ In Indonesia, the complexity of abortion is heightened by the coexistence of Islamic jurisprudence (*Fiqh*) and positive law, creating a unique legal landscape that warrants thorough examination. Understanding the legitimacy of abortion in this context is crucial, given its profound implications for women's health, autonomy, and rights, as well as the ethical and moral fabric of Indonesian society.² The legal status of abortion can significantly impact public health outcomes, maternal mortality rates, and access to safe and legal abortion services, making it an essential area of study.³ The significance of this study lies in its potential to bridge the gap between religious and secular legal systems, offering a nuanced understanding of abortion's legitimacy that respects both cultural and legal pluralism. By examining how Islamic jurisprudence and positive law intersect and diverge in the context of abortion, this research can inform more balanced and culturally sensitive legal frameworks. Furthermore, the study addresses a critical public health issue, as restrictive abortion laws often lead to unsafe practices, adversely affecting women's health and contributing to higher maternal mortality rates.⁴

Abortion remains a critical public health issue worldwide, with significant disparities in access to safe services and the prevalence of unsafe procedures. According to the World Health Organization (WHO), approximately 25.1 million unsafe abortions occur each year, with 97% of these taking place in developing countries.⁵ This alarming statistic underscores the urgent need for comprehensive reproductive health policies that address the underlying causes of unsafe abortions, including restrictive legal frameworks and inadequate healthcare infrastructure. The legal status of abortion significantly influences women's access to safe services. Bearak et al. highlight that unintended pregnancies and abortions are common

¹ Grace Keegan et al., 'Trauma of Abortion Restrictions and Forced Pregnancy: Urgent Implications for Acute Care Surgeons', *Trauma Surgery & Acute Care Open* 8, no. 1 (30 January 2023): e001067, <https://doi.org/10.1136/tsaco-2022-001067>.

² Firdaus Firdaus et al., 'Abortion Due to Unwanted Pregnancy: Perspective of Islamic Law and Positive Law', *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 2 (2021): 188–201, <https://doi.org/10.32694/qst.v19i2.851>; Siti Hanna et al., 'Woman and Fatwa: An Analytical Study of MUI's Fatwa on Women's Health and Beauty', *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (30 June 2024): 171–84; Vivi Ariyanti and Supani, 'Examining Muslims' Aspirations in Drafting the New Criminal Code: Analyzing Criminal Law Policy in Indonesia from a Maslaha Perspective', *Al-Manahij: Jurnal Kajian Hukum Islam*, 16 March 2024, 37–58, <https://doi.org/10.24090/mnh.v18i1.8280>.

³ Nur Ras Firzaa, 'A Comparative Legal Studies of Abortion Policies in Indonesia, Malaysia and England', *Indonesian Comparative Law Review* 2, no. 1 (2019), <https://doi.org/10.18196/iclr.2114>.

⁴ Mariani Amberi, 'Efforts to Prevent Child Marriage Based on Philosophy of Islamic Law and Indonesian Positive Law', *Samarah* 7, no. 1 (2023): 239–60, <https://doi.org/10.22373/sjhk.v7i1.12404>.

⁵ Foluso Ishola et al., 'Impact of Abortion Law Reforms on Health Services and Health Outcomes in Low- And Middle-Income Countries: A Systematic Review', *Health Policy and Planning* 36, no. 9 (2021): 1483–98, <https://doi.org/10.1093/heapol/czab069>.



experiences across various income levels and regions, regardless of the legal status of abortion.⁶ This indicates that even in countries where abortion is legal, social stigma and cultural attitudes can create barriers to access. For instance, in many low-resource settings, women often resort to unsafe methods due to a lack of available safe options, as evidenced by a study in Pakistan where 80% of women underwent abortions with the assistance of health professionals despite illicit procedures.⁷ The consequences of unsafe abortion are dire, contributing to maternal morbidity and mortality.

Shaikh et al. report that approximately 95% of unsafe abortions occur in low-resource countries, where the lack of skilled providers and safe environments exacerbates the risks associated with the procedure.⁸ Furthermore, it is estimated that unsafe abortions account for nearly 8% of maternal deaths globally, with the majority occurring in developing regions.⁹ This highlights the critical need for policies that not only legalise abortion but also ensure the availability of safe services and comprehensive post-abortion care. This research seeks to address the legal legitimacy of abortion in Indonesia through the perspective of Islamic jurisprudence and positive law. This research employs a socio-legal analysis to provide a nuanced understanding of how these two legal frameworks interact and influence the regulation of abortion. By incorporating socio-legal perspectives, this study aims to explore the societal implications and contextual factors that shape legal interpretations and practices. Understanding this legitimacy is essential for ensuring that laws are fair, just, and effective, protecting women's health and rights while respecting cultural and religious values.¹⁰

The previous research on abortion from an Islamic perspective reveals a complex tapestry of legal, ethical, and societal dimensions, showcasing diverse scholarly views on this contentious issue. Abed et al. delve into the intricate rulings regarding intentional abortion within Islamic law, underscoring the necessity for a nuanced interpretation that balances religious texts with contemporary ethical challenges.¹¹ Agustanti critiques the enforcement of abortion-related laws in Indonesia, highlighting significant gaps that hinder women's rights protection.¹² Similarly, Bertymuratov et al. explore the ethical-religious dimensions of abortion,

⁶ Jonathan Bearak et al., 'Unintended Pregnancy and Abortion by Income, Region, and the Legal Status of Abortion: Estimates From a Comprehensive Model for 1990–2019', *The Lancet Global Health* 8, no. 9 (2020): e1152–61, [https://doi.org/10.1016/s2214-109x\(20\)30315-6](https://doi.org/10.1016/s2214-109x(20)30315-6).

⁷ Vibeke Rasch, 'Unsafe Abortion and Postabortion Care - An Overview', *Acta Obstetrica Et Gynecologica Scandinavica* 90, no. 7 (2011): 692–700, <https://doi.org/10.1111/j.1600-0412.2011.01165.x>.

⁸ Zunaira Shaikh et al., 'Morbidity and Mortality Due to Unsafe Abortion in Pakistan', *International Journal of Gynecology & Obstetrics* 110, no. 1 (2010): 47–49, <https://doi.org/10.1016/j.ijgo.2010.01.028>.

⁹ Ishola et al., 'Impact of Abortion Law Reforms on Health Services and Health Outcomes in Low-And Middle-Income Countries: A Systematic Review'.

¹⁰ Ishaq, Maratun Saadah, 'Islamic Law Analysis of Criminal Sanctions for Abortion in the Criminal Code: A Call for Reform', *Psychology and Education Journal* 58, no. 1 (2021): 5398–5407, <https://doi.org/10.17762/pae.v58i1.1797>.

¹¹ Abdulhanan Abed et al., 'Rulings on an Intended Abortion in Accordance with Islamic Law', *International Journal of Social Science Research and Review* 6, no. 7 (2023): 159–65, <http://dx.doi.org/10.47814/ijssrr.v6i7.1372>.

¹² Rosalia Dika Agustanti, 'Problems in Law Enforcement Of The Crime Of Women's Abortion Rosalia', *Res Judicata* 5, no. 2 (2022): 62–63, <https://doi.org/10.30525/978-9934-26-074-2-14>.



emphasising how theological beliefs impact societal attitudes and legal norms.¹³ Kamal contributes to this dialogue by examining medical ethics through an Islamic lens, advocating for a harmonious approach that respects both medical needs and religious convictions.¹⁴ Moreover, Mathar et al. investigate how local interpretations of Islamic law shape legal practices and public perceptions of abortion in Indonesia.¹⁵ Mohammed offers insights into the contentious debates surrounding the permissibility of abortion, particularly the implications of ensoulment¹⁶, while Nurlatifah stresses the importance of aligning local regulations with international human rights standards to safeguard women's reproductive health rights.¹⁷ Ramadhita et al. argue for a compassionate decriminalisation of illegal abortions, reflecting on the contexts that drive women to seek such measures.¹⁸ The attitudes of medical students towards abortion, as examined by Saadeh et al. reveal the influence of cultural and educational factors on personal beliefs.¹⁹ Sledzinska-Simon provides a broader perspective on global constitutional approaches to abortion rights, exposing the varied legal perspectives that affect women's autonomy.²⁰ Finally, Wahyudi et al. discuss the diverse interpretations of Islamic jurisprudence regarding abortion,²¹ while Wiryani et al. address the ethical dilemmas posed by abortion legalisation in relation to fetal rights.²² Collectively, this body of research underscores the multifaceted and evolving discourse surrounding abortion in Islamic contexts, reflecting ongoing debates that intertwine faith, law, and ethics.

The novelty of this research lies in its unique approach of combining an analysis of Islamic jurisprudence with positive law within the Indonesian context through a Socio-legal analysis. By employing a comparative legal analysis and incorporating socio-cultural perspectives, the study extends the existing body of knowledge on abortion laws. It provides new insights into the interaction between religious and secular legal systems, offering a holistic understanding of the legitimacy of abortion in Indonesia. This comprehensive approach ensures that the study not only fills

¹³ Yuldash Bertymuratov, Arna Mukanova, and Gulnaz Razdykova, 'Abortion as an Ethical-Religious Problem in Islam', *Pharos Journal of Theology*, 2024, <https://doi.org/10.46222/pharosjot.105.312>.

¹⁴ Dahamsheh Kamal, 'Medical Ethical Issues, an Islamic Perspective', *Clinical Journal of Nursing Care and Practice*, 2024, <https://doi.org/10.29328/journal.cjncp.1001050>.

¹⁵ Ahmad Mathar et al., 'Islamic Legal Thought Implementation in Indonesia', *Journal of Social Science* 3, no. 4 (2022): 898–905, <https://doi.org/10.46799/jss.v3i4.386>.

¹⁶ Alqahtani Jawhrah Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions', *International Journal of Innovative Research in Medical Science* 5, no. 07 (2020): 225–28, <https://doi.org/10.23958/ijirms/vol05-i07/906>.

¹⁷ Laila Nurlatifah, 'Protection of Women's Reproductive Health Rights Based on International Law and Regulation on Laws in Indonesia', *Journal of La Jil* 2, no. 1 (2020), <https://doi.org/10.25041/LAJIL.V2I1.2030>.

¹⁸ Ramadhita Ramadhita et al., 'Decriminalisation Against Women Who Perform Illegal Abortions From the Islamic Law Perspective', *Al Qadha*, 2023, <https://doi.org/10.32505/qadha.v10i2.6867>.

¹⁹ Bertymuratov, Mukanova, and Razdykova, 'Abortion as an Ethical-Religious Problem in Islam'.

²⁰ Anna Sledzinska-Simon, 'Constitutional Framings of the Right to Abortion: A Global View', *International Journal of Constitutional Law* 21, no. 2 (2023): 399–406, <https://doi.org/10.1093/icon/moad029>.

²¹ Rizal Wahyudi et al., 'Abortion Discourse in the Perspective of Islamic Jurisprudence Scholars', 2022, <https://doi.org/10.4108/eai.20-10-2021.2316329>.

²² Fifik Wiryani, Widjanarko Andang, and M. Nasser, 'Abortion Legalization and Child in the Womb Right to Life: A Study from Indonesia', *International Journal of Criminology and Sociology* 9 (2020): 1837–43, <https://doi.org/10.6000/1929-4409.2020.09.210>.



existing gaps in the literature but also contributes to the development of more coherent and contextually relevant legal and policy frameworks. The aim of the study is to examine the legitimacy of abortion based on Islamic jurisprudence and positive law in Indonesia, employing a Socio-legal analysis. The study intends to uncover how these legal frameworks address abortion, identify any conflicts or harmonies, and provide recommendations for legal and policy reforms. Research questions investigated include understanding the principles of Islamic jurisprudence regarding abortion, analysing Indonesian legal frameworks, and exploring the socio-cultural and religious factors influencing the discourse on abortion. By addressing these questions, the study aims to provide a comprehensive understanding of the legal conundrum surrounding abortion in Indonesia.

In this regard, this study also aims to provide a subtle analysis of the legitimacy of abortion in Indonesia by examining it through Islamic jurisprudence and positive law. It highlights the importance of understanding the interplay between these legal frameworks and their implications for women's health and rights, public health, and broader societal values. The study's comprehensive approach, combining legal analysis with socio-cultural perspectives, ensures that it makes a significant contribution to the existing body of knowledge and informs the development of more effective and equitable legal and policy frameworks. By doing so, the research seeks to promote a more informed and balanced discourse on abortion in Indonesia, ultimately contributing to the protection of women's rights and the promotion of public health.

Method

The current research involves an in-depth examination of the intricate legal and ethical landscape surrounding abortion in Indonesia, the world's largest Muslim-majority nation, through a Socio-legal analysis.²³ This study employs a qualitative research approach, focusing on both doctrinal and non-doctrinal perspectives to provide a comprehensive understanding of the issue.²⁴ Doctrinal legal research will analyse Indonesia's abortion laws alongside relevant Islamic texts, establishing a foundational legal framework and revealing potential conflicts or alignments between secular law and Islamic principles. A thorough literature review will contextualise the research within existing scholarships, highlighting ongoing debates and societal attitudes toward abortion. Additionally, the use of case studies will illustrate real-world applications of these laws, demonstrating how legal theory interacts with everyday experiences in a socio-cultural context. To synthesise findings, thematic analysis will identify recurring themes and issues, while comparative analysis will explore how Indonesia's legal framework is compared to those of other Muslim-majority countries. This multifaceted approach will clarify the

²³ Putri Widi Saraswati, 'Saving More Lives on Time: Strategic Policy Implementation and Financial Inclusion for Safe Abortion in Indonesia during COVID-19 and Beyond', *Frontiers in Global Women's Health* 3, no. 6 (2022), <https://doi.org/10.3389/fgwh.2022.901842>; Aditya Prastian Supriyadi et al., 'Green Sukuk in Indonesia: Unraveling Legal Frameworks for Sustainable Islamic Bonds', *El-Mashlahah* 13, no. 2 (31 December 2023): 151–80, <https://doi.org/10.23971/el-mashlahah.v13i2.7372>; Baharuddin Badaru and Ildar Begishev, 'The Criminal Law Enforcement Based on Socio-Legal Approach Against Illegal Parking Officers in Achieving Justice', *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (29 August 2024): 330–44, <https://doi.org/10.29303/ius.v12i2.1420>.

²⁴ John W. Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 2nd ed. (New Delhi: SAGE Publications, 2007).



interplay between Islamic jurisprudence and positive law, ultimately offering nuanced insights into women's rights and reproductive health in Indonesia. The research aims to foster informed discussions that respect both religious beliefs and the autonomy of women, contributing to a deeper understanding of the legal and ethical dimensions of abortion in this unique socio-cultural context.

Result and Discussion

Overview of Abortion Legitimacy

Abortion, the termination of a pregnancy before the fetus can live independently outside the womb, can occur spontaneously (miscarriage) or be induced. Induced abortions are categorised into medical (using pharmaceutical drugs) and surgical methods (dilation and curettage or vacuum aspiration).²⁵ This distinction is crucial for understanding the varied legal and ethical debates, as different methods carry unique risks and moral implications.²⁶ Historically, abortion practices have evolved dramatically. In ancient Greece and Rome, abortion was often tolerated and practised using various methods. However, the advent of major religions, particularly Christianity, led to increased condemnation and criminalisation of abortion in medieval Europe. The 19th century saw many Western countries implementing strict anti-abortion laws influenced by religious doctrines and the medical profession's desire to regulate healthcare. The 20th century marked a dramatic shift, driven by the women's rights movement advocating for reproductive autonomy and safe medical procedures. Landmark decisions, like *Roe v. Wade* in the United States, recognised abortion as a constitutional right, although this stance has faced intense debate and recent reversal.²⁷ Globally, abortion laws vary widely, with some countries permitting it on broad grounds and others heavily restricting it except to save the mother's life.²⁸

Legal perspectives on abortion legitimacy often balance individual rights with state interests. Countries like Canada and most of the European Union have liberal laws allowing significant reproductive autonomy, while nations like El Salvador and the Philippines enforce stringent anti-abortion laws driven by strong religious and cultural opposition.²⁹ In Islamic contexts, legal perspectives are derived from Sharia, permitting abortion under specific conditions such as threats to the mother's life or severe fetal anomalies, especially before ensoulment at 120 days of gestation.³⁰ Interpretations vary among different schools of thought and cultural contexts. Ethical perspectives on abortion are deeply influenced by religious and moral beliefs.³¹ The Catholic Church, for instance, teaches that life begins at conception, making abortion

²⁵ Saeed Dastgiri et al., 'Induced Abortion: A Systematic Review and Meta-Analysis.', *Journal of Mater Sociomed* 29, no. 1 (2017): 58–67, <https://doi.org/10.5455/MSM.2017.29.58-67>.

²⁶ Agustanti, 'Problems in Law Enforcement Of The Crime Of Women's Abortion Rosalia'.

²⁷ Sydney Calkin, Cordelia Freeman, and Francesca Moore, 'The Geography of Abortion: Discourse, Spatiality and Mobility', *Progress in Human Geography* 46, no. 6 (2022): 1413–30, <https://doi.org/10.1177/03091325221128885>.

²⁸ Sledzinska-Simon, 'Constitutional Framings of the Right to Abortion: A Global View'.

²⁹ Barbara P. Billauer, 'The First Amendment, Moral Law and Abortion: The Conflict between Fetal Rights & Freedom of Religion', *SSRN Electronic Journal* 23, no. 2 (2018), <https://doi.org/10.2139/ssrn.2720215>.

³⁰ Kamal, 'Medical Ethical Issues, an Islamic Perspective'.

³¹ Hamideh Moosapour et al., 'General Approaches to Ethical Reasoning in Islamic Biomedical Ethics Discourse', *Journal of Medical Ethics and History of Medicine* 11 (2018): 11.



morally unacceptable - a stance influencing laws in Catholic – in most countries. In contrast, some branches of Judaism permit and even require abortion if the mother's life is at risk.³²

Islamic ethics generally oppose abortion after ensoulment but accept it within the first 120 days for valid reasons, balancing the rights of the mother and the potential life of the fetus.³³ Secular ethics emphasise bodily autonomy and women's rights, advocating for the freedom to make decisions about one's body without state interference.³⁴ Social attitudes towards abortion significantly impact its perceived legitimacy and accessibility. In many societies, abortion carries a stigma, leading to social ostracism and legal repercussions for women who seek it, often driving them to unsafe procedures with serious health risks.³⁵ Conversely, societies with progressive views on gender equality and reproductive rights see abortion as a fundamental aspect of women's healthcare, ensuring better access to safe, legal abortion services and comprehensive reproductive health education. Factors such as economic development, education levels, and healthcare infrastructure also influence the social legitimacy of abortion.³⁶

The intersection of legal, ethical, and social perspectives creates a complex landscape for abortion legitimacy. In Indonesia, the dual influence of Islamic jurisprudence and positive law presents unique challenges and opportunities. Understanding how these perspectives interact is crucial for developing culturally sensitive and protective laws and policies.³⁷ This overview highlights the multifaceted nature of abortion legitimacy, setting the stage for a deeper exploration of how

³² Hüseyin Çaksen, 'Abortion and Protection of Fetal Life', *Journal of Child Science* 12, no. 1 (2022): E104–5, <https://doi.org/10.1055/s-0042-1756719>.

³³ Abdulaziz F Alkaabba, 'Abortion for a Young Single Female: A Cultural and Islamic Perspective', *Journal of Clinical Research & Bioethics* 7, no. 3 (2016): 1–4, <https://doi.org/10.4172/2155-9627.1000273>.

³⁴ Abram L. Brummett, 'Secular Clinical Ethicists Should Not Be Neutral Toward All Religious Beliefs: An Argument for a Moral-Metaphysical Proceduralism', *American Journal of Bioethics* 21, no. 6 (2021): 5–16, <https://doi.org/10.1080/15265161.2020.1863512>.

³⁵ Tayler Hendrix et al., 'Stigma, Social Support, and Decision Satisfaction in Terminations of Pregnancy for Medical Reasons', *Women's Health Reports* 4, no. 1 (2023): 271–79, <https://doi.org/10.1089/whr.2022.0092>.

³⁶ Vijayan K. Pillai and Rashmi Gupta, 'Reproductive Rights Approach to Reproductive Health in Developing Countries.', *Global Health Action* 4 (2011), <https://doi.org/10.3402/gha.v4i0.8423>; Deri Rizal et al., 'Reinterpreting Religious Texts on Gender Equality: The Perspective of Ahmad Syafii Maarif', *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (20 November 2024): 327–36, <https://doi.org/10.31958/juris.v23i2.10233>; Miftahul Huda and Tri Wahyu Hidayati, 'The Concept of Muḥammad Shahrūr on Gender Parity in Inheritance Legislation', *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (30 December 2023): 262–80, <https://doi.org/10.22373/ujhk.v6i2.18121>; Susi Susilawati et al., 'Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition', *Jambura Law Review* 5, no. 1 (30 January 2023): 136–55, <https://doi.org/10.33756/jlr.v5i1.17722>; Nur Jannani, Noer Yasin, and Musataklima Musataklima, 'THE IMPACT OF THE LIQUIDATION OF THE QUASI-JUDICIAL INSTITUTION OF THE CONSUMER DISPUTE RESOLUTION BODY ON CONSUMERS' ACCESS TO JUSTICE AND ITS REORGANISATION EFFORTS FROM THE PERSPECTIVE OF SIYASAH SYAR'IAH', *Jurisdiction: Jurnal Hukum Dan Syariah* 15, no. 1 (9 July 2024): 117–48, <https://doi.org/10.18860/j.v15i1.26564>.

³⁷ Efa Rodiah Nur and Fathul Mu'in, 'Integration of Religious and Social Values in the Development of the Indonesian Constitution Era 5.0', *KnE Social Sciences*, 2024, <https://doi.org/10.18502/kss.v9i2.14962>.



Islamic jurisprudence and positive law in Indonesia address the issue, providing insights into the country's unique legal and cultural context.

Islamic Jurisprudence on Abortion

Islamic jurisprudence (*fiqh*) is built on foundational texts like the Quran and Hadith, supplemented by consensus (*ijma*) and analogical reasoning (*qiyas*).³⁸ While the Quran does not explicitly mention abortion, it emphasises the sanctity of life, as in, “Do not kill your children for fear of poverty. We provide for them and for you. Surely killing them is a heinous sin” (Quran 17:31). This verse, though primarily addressing infanticide, is extended by scholars to underscore the protection of potential life. A pivotal concept in Islamic jurisprudence is “ensoulment,” believed to occur at 120 days of gestation. Before ensoulment, abortion is more permissible, especially in cases of severe fetal abnormalities, risks to the mother’s health, or socioeconomic hardships. After ensoulment, abortion is generally impermissible except when the mother’s life is at significant risk. Islamic jurisprudence also incorporates the principles of necessity (*darūra*) and public interest (*maṣlaḥa*) to address ethical dilemmas, allowing exceptions to prohibitions to prevent significant harm or broader societal issues.³⁹

The four major Sunni schools - Hanafi, Maliki, Shafi’i, and Hanbali— offer nuanced positions on abortion. The Hanafi school is more permissive, allowing abortion up to 120 days for valid reasons. The Maliki school is more restrictive, generally prohibiting abortion except when the mother's life is at risk. The Shafi’i school allows abortion for up to 120 days under specific conditions but with stricter interpretations. The Hanbali school permits abortion within the first 40 days for valid reasons but becomes more restrictive as pregnancy progresses.⁴⁰ In Shia Islam, scholars like Grand Ayatollah Yusuf Saanei advocate for more lenient views on abortion, allowing it under conditions such as severe economic hardship or overpopulation.⁴¹ Modern Islamic scholars and institutions, such as the Islamic Fiqh Academy, have issued fatwas permitting abortion within the first 120 days for valid reasons, generally prohibiting it post-120 days unless the mother's life is in imminent danger. The Muslim World League has provided guidelines balancing traditional jurisprudence with contemporary medical ethics.⁴²

³⁸ Muhammad Rikza Muqtada et al., ‘Fiqh Contestation on Women’s Public Leadership in Indonesia and Malaysia: Reproducing Qur’anic and Hadith Interpretations’, *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (30 June 2024): 221–48, <https://doi.org/10.19105/al-lhkam.v19i1.13163>; Budi Sastra Panjaitan et al., ‘Revitalizing Sharia Advocates: Reforming the Law on Advocates in Strengthening the Role of Islamic Law in Indonesia’, *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (10 October 2024): 485–504, <https://doi.org/10.29240/jhi.v9i2.10875>.

³⁹ Noor Jaser and Chaima Ahaddour, ‘Mapping the Islamic Ethical Discourse on Prenatal Diagnosis and Termination of Pregnancy: A Methodological Analysis’, *Journal of Islamic Ethics* 7 (2023): 177–201, <https://doi.org/10.1163/24685542-20230091>; Yevhen Leheza et al., ‘The Human Right to an Environment Safe for Life and Health: Legal Regulation, Contemporary Challenges and Comparative Perspectives’, *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 138–50, <https://doi.org/10.18592/sjhp.v23i2.12257>.

⁴⁰ Ramadhita et al., ‘Decriminalisation Against Women Who Perform Illegal Abortions From the Islamic Law Perspective’.

⁴¹ Alikhani Ali Akbar, ‘Change from within: Shia Seminarists’ Responses to Contemporary Religious and Social Challenges’, *Journal of Religious History* 47, no. 2 (2023): 222–42, <https://doi.org/10.1111/1467-9809.12940>.

⁴² Bertymuratov, Mukanova, and Razdykova, ‘Abortion as an Ethical-Religious Problem in Islam’.



The diversity of opinions among scholars allows for context-specific applications of Islamic jurisprudence. In Indonesia, authorities can consider local realities and medical advancements when applying Islamic principles to abortion, ensuring rulings are both religiously sound and socially relevant.⁴³ While this diversity provides flexibility, it also poses challenges in achieving consensus on abortion laws, leading to varying standards within and across Muslim-majority countries. However, this also presents opportunities for dialogue among scholars, healthcare professionals, and policymakers to develop comprehensive frameworks for addressing abortion.⁴⁴ In this regard, Islamic jurisprudence on abortion balances the sanctity of life with the principles of necessity and public interest. The concept of ensoulment at 120 days is crucial in determining permissibility, with most scholars allowing abortion under specific conditions before this point. The adaptability of Islamic jurisprudence provides a framework for addressing abortion in various contexts, including Indonesia, enabling a subtle approach that respects religious principles while protecting women's health and rights.⁴⁵

The Impact of Cultural, Religious, and Political Dynamics on Abortion Legislation Worldwide

The global landscape of abortion laws is marked by significant diversity, influenced by cultural, religious, and political factors. In many regions, these laws are shaped by historical precedents, societal values, and international human rights standards. For example, in the United States, landmark Supreme Court decisions such as *Roe v. Wade* (1973) and its recent overturning in 2022 have created a complex patchwork of state-level regulations.⁴⁶ Countries with restrictive abortion laws, like El Salvador and the Philippines, typically permit the procedure only in specific cases, such as to save the mother's life or in instances of rape or severe fetal abnormalities.⁴⁷ Conversely, nations like Canada and most of the European Union adopt more liberal approaches, allowing abortion based on socioeconomic reasons and a woman's right to choose.⁴⁸

In Indonesia, the abortion legal framework is shaped by both Islamic and secular laws. The Indonesian Penal Code criminalises abortion with exceptions for cases where the mother's life is at risk or there are severe fetal abnormalities. Health Law No. 36 of 2009 and Government Regulation No. 61 of 2014 further specify that abortion is allowed within the first 40 days of pregnancy under certain conditions,

⁴³ Wahyudi et al., 'Abortion Discourse in the Perspective of Islamic Jurisprudence Scholars'.

⁴⁴ Gilla K Shapiro, 'Abortion Law in Muslim-Majority Countries: An Overview of the Islamic Discourse with Policy Implications', *Health Policy and Planning* 29, no. 4 (2014): 483–94, <https://doi.org/10.1093/HEAPOL/CZT040>.

⁴⁵ Firdaus et al., 'Abortion Due to Unwanted Pregnancy: Perspective of Islamic Law and Positive Law'.

⁴⁶ Cassia Roth, 'Abortion Access in the Americas: A Hemispheric and Historical Approach', *Frontiers in Public Health* 11, no. December (2023): 1–6, <https://doi.org/10.3389/fpubh.2023.1284737>.

⁴⁷ Sandra Carolina Mena Ugarte, María Virginia Rodríguez Funes, and Jocelyn Viterna, 'Maternal Morbidity under an Absolute Abortion Ban: Insights from a 6-Year Case Series of Fatal Fetal Malformations in El Salvador', *AJOG Global Reports* 3, no. 1 (2023): 100147, <https://doi.org/10.1016/j.xagr.2022.100147>.

⁴⁸ Astrid Blystad et al., 'Reproductive Health and the Politics of Abortion', *International Journal for Equity in Health* 19, no. 1 (2020): 1–4, <https://doi.org/10.1186/s12939-020-1157-1>.



balancing religious values with public health needs.⁴⁹ Despite these provisions, many countries face challenges in ensuring access to safe and legal abortion services due to legal barriers like mandatory waiting periods, parental consent requirements, and restrictions on who can perform abortions, alongside social stigma and lack of awareness about legal rights.⁵⁰

The United States and Europe provide contrasting examples of abortion regulation. The U.S. has seen fluctuating legal statuses and recent state-level restrictions, including “heartbeat bills” and TRAP (Targeted Regulation of Abortion Providers) laws.⁵¹ In contrast, many European countries have liberalised their laws, allowing abortion on request within the first trimester and providing comprehensive reproductive health services. Latin America has also experienced significant reforms, with countries like Argentina and Mexico moving towards decriminalisation and recognising the positive public health impacts of liberalised abortion laws.⁵² In Africa, laws vary widely - from South Africa's liberal stance to Nigeria's stringent restrictions - with corresponding differences in maternal health outcomes. Asia presents a similar diversity, with India's relatively liberal laws contrasted by the strict prohibitions in the Philippines, influenced by religious doctrines.⁵³

In Islamic contexts, abortion laws reflect varied interpretations of religious principles. Tunisia and Turkey have more liberal laws allowing abortion on request within the first trimester, while countries like Saudi Arabia and Iran impose stricter conditions, permitting abortion only when the mother's life is at risk or in cases of severe fetal abnormalities.⁵⁴ These differences highlight the diverse applications of Islamic jurisprudence across different legal systems. Comparative analysis underscores that liberal abortion laws are linked to better reproductive health outcomes, lower maternal mortality rates, and greater gender equality. Conversely, restrictive laws often lead to unsafe abortion practices and limited reproductive autonomy for women.

From the above explanation, we can critically highlight that it provides a broad overview of the factors influencing abortion laws but could benefit from a more nuanced Socio-legal analysis. It touches on cultural and religious influences yet fails to delve into how specific cultural narratives, gender roles, and local customs shape societal attitudes toward abortion. The lack of in-depth case studies limits insights into how legislation evolves in response to social movements and public health campaigns. Moreover, while it discusses legal barriers, it should also examine

⁴⁹ Maratun Saadah and Ishaq Ishaq, ‘Islamic Law Analysis of Criminal Sanctions for Abortion in the Criminal Code: A Call for Reform’, *Psychology and Education Journal* 58, no. 1 (2021): 5398–5407, <https://doi.org/10.17762/pae.v58i1.1797>.

⁵⁰ Shelly Makleff et al., ‘Typologies of Interactions between Abortion Seekers and Healthcare Workers in Australia: A Qualitative Study Exploring the Impact of Stigma on Quality of Care’, *BMC Pregnancy and Childbirth* 23, no. 1 (2023): 1–26, <https://doi.org/10.1186/s12884-023-05902-0>.

⁵¹ Christian Fiala et al., ‘Abortion: Legislation and Statistics in Europe’, *The European Journal of Contraception & Reproductive Health Care* 27, no. 4 (2022): 345–52, <https://doi.org/10.1080/13625187.2022.2057469>.

⁵² Tamara Hervey and Tiyash Banerjee, ‘Abortion Rights in Eu Law: Recent Developments’, *BioLaw Journal* 2023, no. Special Issue 1 (2023): 331–41, <https://doi.org/10.15168/2284-4503-2571>.

⁵³ Mohamed E. Elrggal et al., ‘Access to Nephrology Care for Pregnancy-Related Acute Kidney Injury in Low- and Lower-Middle-Income Countries: A Perspective’, *Kidney Medicine* 5, no. 9 (2023): 100695, <https://doi.org/10.1016/j.xkme.2023.100695>.

⁵⁴ Abed et al., ‘Rulings on an Intended Abortion in Accordance with Islamic Law’.



socioeconomic factors—such as income disparities, urban-rural differences, and education levels—that affect access to abortion services. An intersectional approach is needed to understand how various identities intersect in shaping experiences with abortion laws, as well as the importance of framing reproductive rights within the broader human rights context, including the influence of international treaties on domestic legislation. Acknowledging the dynamic nature of laws and societal attitudes would illustrate that these cultural and political dynamics are not static. Lastly, concrete policy recommendations based on Socio-legal insights would enhance the analysis by identifying best practices from countries with effective legal frameworks, ultimately improving access to safe abortion services. Overall, refining these aspects would lead to a more comprehensive understanding of the complexities surrounding abortion laws worldwide.

The intersection of Islamic Jurisprudence and Positive Law

In Indonesia, the coexistence of Islamic jurisprudence and positive law creates a unique legal landscape for addressing abortion. Islamic jurisprudence, guided by the Quran, Hadith, and scholarly interpretations, permits abortion under specific conditions before ensoulment at 120 days, such as severe fetal abnormalities or risks to the mother's health. After ensoulment, abortion is generally impermissible unless the mother's life is at risk.⁵⁵ Indonesia's legal framework on abortion reflects a nuanced balance between the sanctity of life and principles of necessity (*ḍarūra*) and public interest (*maṣlaḥa*). Health Law No. 36 of 2009, particularly Article 75, permits abortion under specific conditions, such as when the pregnancy endangers the mother's life or in cases of rape, aligning with the principle of necessity to protect the mother's health.⁵⁶ This legal provision is further supported by Government Regulation No. 61 of 2014, which outlines reproductive health services, including permissible circumstances for abortion within the first 40 days of pregnancy, thereby integrating public health considerations with religious and ethical values.⁵⁷

The regulation aims to safeguard women's reproductive health rights while respecting the unborn child's right to life, a balance that is crucial in a predominantly conservative society where abortion is generally opposed.⁵⁸ Additionally, the Minister of Health Regulation No. 35 of 2014 emphasises the need for improved education and training for medical personnel, better communication with patients, and enhanced public education on reproductive health rights, which are essential for the effective implementation of these laws.⁵⁹ Harmonising these legal systems presents challenges due to varying interpretations within Islam and socio-cultural

⁵⁵ Suprijati Sarib, Syarifuddin, and Sabil Mokodenseho, 'Comparison Between Islamic Law and Positive Law in a Judicial Context', *West Science Islamic Studies* 1, no. 01 (2023): 34–41, <https://doi.org/10.58812/wsiss.v1i01.284>.

⁵⁶ Wiryani, Andang, and Nasser, 'Abortion Legalization and Child in the Womb Right to Life: A Study from Indonesia'.

⁵⁷ Nurlatifah, 'Protection of Women's Reproductive Health Rights Based on International Law and Regulation on Laws in Indonesia'.

⁵⁸ Wiryani, Andang, and Nasser, 'Abortion Legalization and Child in the Womb Right to Life: A Study from Indonesia'.

⁵⁹ Fatmi Andriati, Aidul Fitriadi Azhari, and Wardah Yuspin, 'Minister of Health Regulation of the Republic of Indonesia Number 35 of 2014 on Reproductive Health Service Standards: Legal Review and Normative Aspects in Healthcare Practices', *Jurnal Soepra*, 2023, <https://doi.org/10.24167/sjhk.v9i2.10960>.



stigma. Effective harmonisation requires clear guidelines and collaboration between religious scholars, legal experts, and healthcare professionals to develop culturally sensitive policies.⁶⁰

The ethical and moral considerations surrounding abortion are profoundly influenced by religious beliefs, cultural values, and individual circumstances, particularly within Islamic jurisprudence.⁶¹ A central tenet in Islamic thought is the concept of ensoulment, which is believed to occur at 120 days of gestation.⁶² This belief significantly impacts the permissibility of abortion, as many Islamic scholars assert that abortion is generally prohibited after this point unless the mother's life is at risk or there are severe fetal anomalies.⁶³ The ethical debates surrounding abortion often hinge on the question of when life begins and the moral status of the fetus, which can be complicated by advancements in medical technology that allow for earlier detection of fetal anomalies.⁶⁴

From a human rights perspective, the legitimacy of abortion is closely tied to women's autonomy and reproductive rights. Access to safe and legal abortion services is viewed as fundamental to gender equality and public health.⁶⁵ In Indonesia, where cultural and religious contexts significantly shape public policy, reconciling these human rights principles with Islamic doctrines requires a thorough approach. This is particularly important considering the restrictive abortion laws that can lead to unsafe practices, ultimately increasing health complications and maternal mortality rates. Countries that have liberalised their abortion laws, providing access to safe services, have generally seen improved health outcomes for women.⁶⁶

The public health implications of abortion laws in Indonesia are significant. Restrictive laws often result in unsafe abortion practices, which can lead to severe

⁶⁰ Ahmad Bunyan Wahib, 'Marriage Registration and Solemnization among Migrant Muslims in Germany: Harmonizing Islamic and State Law and the Existence of Origin Country Law', *Al-Ahwal* 15, no. 2 (2022): 275–94, <https://doi.org/10.14421/ahwal.2022.15207>.

⁶¹ Rami Saadeh et al., 'Attitudes of Medical and Health Sciences Students Towards Abortion in Jordan', *Biomed Research International* 2021 (2021): 1–7, <https://doi.org/10.1155/2021/6624181>.

⁶² Maaged Akiel et al., 'Knowledge and Attitude of Pregnant Women in the Kingdom of Saudi Arabia Toward Noninvasive Prenatal Testing: A Single Center Study', *Molecular Genetics & Genomic Medicine* 10, no. 7 (2022), <https://doi.org/10.1002/mgg3.1960>.

⁶³ Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'.

⁶⁴ K M Hedayat, P Shooshtarzadeh, and M Raza, 'Therapeutic Abortion in Islam: Contemporary Views of Muslim Shiite Scholars and Effect of Recent Iranian Legislation', *Journal of Medical Ethics* 32, no. 11 (2006): 652–57, <https://doi.org/10.1136/JME.2005.015289>.

⁶⁵ Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'; Lukman Santoso, Arij Amaliyah, and Miftahul Huda, 'Refusal of Polygamy Permit in Religious Court Decision: Criticism of Gender Justice Against Judge's Legal Reasoning', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (31 December 2023): 160–73, <https://doi.org/10.30631/alrisalah.v23i2.1472>; Mohamed Sulthan Ismiya Begum et al., 'Gender Equity in Muslim Family Law: Modern and Contemporary 'Ulamā's View', *Al-Ahkam* 34, no. 2 (31 October 2024): 221–56, <https://doi.org/10.21580/ahkam.2024.34.2.20773>; Ramadhita Ramadhita, Mahrus Ali, and Bachri Syabbul, 'Gender Inequality and Judicial Discretion in Muslims Divorce of Indonesia', *Cogent Social Sciences* 9, no. 1 (31 December 2023): 2206347, <https://doi.org/10.1080/23311886.2023.2206347>; Sudirman Sudirman et al., 'Examining the Complexity of Child Marriage as Sexual Violence in Digital Era', *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (30 September 2023): 310–28, <https://doi.org/10.22219/ljih.v31i2.28881>.

⁶⁶ Azar Ranji, 'Induced Abortion in Iran: Prevalence, Reasons, and Consequences', *Journal of Midwifery & Women's Health* 57, no. 5 (2012): 482–88, <https://doi.org/10.1111/j.1542-2011.2012.00159.x>.



health complications and increased maternal mortality.⁶⁷ Conversely, liberal laws that provide access to safe abortion services are associated with better health outcomes for women. Efforts to improve public health must consider both religious and secular frameworks to ensure that healthcare providers are adequately trained and that women are informed about their rights regarding reproductive health services.⁶⁸ Socio-cultural factors, including stigma and traditional attitudes towards gender roles, also play a critical role in shaping public perceptions of abortion and can influence legal frameworks.⁶⁹

To effectively address the complexities surrounding abortion in Indonesia, a holistic approach is necessary. This approach should integrate Islamic jurisprudence, positive law, and public health considerations. Recommendations include establishing clear legal guidelines, enhancing access to reproductive health services, and increasing public awareness about legal rights and safe practices.⁷⁰ Engaging in dialogue among religious scholars, legal experts, and healthcare professionals can foster the development of culturally sensitive policies that respect both women's rights and religious values. Examining the experiences of countries like Tunisia and Turkey, which have successfully harmonised Islamic principles with modern health standards, may provide valuable insights for Indonesia as it navigates these complex issues.⁷¹ Therefore, the ethical and moral considerations surrounding abortion in Indonesia necessitate a careful balancing of religious beliefs, cultural values, and individual rights. By fostering dialogue and understanding among various stakeholders, Indonesia can develop effective and equitable frameworks that protect women's health and rights while respecting its rich cultural and religious heritage.

Based on the above context, we see that Islamic jurisprudence allows abortion under specific circumstances before ensoulment at 120 days, while Health Law No. 36 of 2009 permits it when the mother's life is endangered or in cases of rape. This framework seeks to balance women's reproductive rights with the unborn child's right to life in a conservative context. However, challenges persist due to socio-cultural stigma and diverse interpretations of Islamic law. A more in-depth analysis of women's experiences navigating these laws, supplemented by qualitative data, could enhance understanding. Additionally, identifying barriers to collaboration among religious scholars, legal experts, and healthcare professionals is essential for advocating reform. Public health implications are critical, as restrictive laws often lead to unsafe abortion practices and health risks. Comparative studies with countries that have liberalised abortion laws could highlight potential benefits. To navigate these complexities, a holistic approach is essential -integrating Islamic jurisprudence, positive law, and public health. Recommendations for culturally sensitive policies, community engagement, and public education can foster dialogue and improve reproductive health outcomes while respecting Indonesia's rich cultural and religious context.

⁶⁷ Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'.

⁶⁸ Shapiro, 'Abortion Law in Muslim-Majority Countries: An Overview of the Islamic Discourse with Policy Implications'.

⁶⁹ Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'.

⁷⁰ Shapiro, 'Abortion Law in Muslim-Majority Countries: An Overview of the Islamic Discourse with Policy Implications'.

⁷¹ Mohammed, 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'.



Navigating the Complex Landscape of Abortion Laws and Cultural Influences in Indonesia

Indonesia's legal framework on abortion is characterized by a complex interplay of penal and health regulations. The Indonesian Penal Code criminalises abortion, allowing it only under stringent conditions, primarily when the pregnancy threatens the mother's life or involves severe fetal abnormalities. Specifically, Health Law No. 36 of 2009 and Government Regulation No. 61 of 2014 provide exceptions that permit abortion within the first 40 days of pregnancy if it results from rape, provided the procedure is performed by a certified healthcare professional with the woman's consent.⁷² However, practical implementation of these laws faces significant hurdles, particularly in rural areas where access to certified healthcare providers is limited. Many women may not report rape or realise they are pregnant within the 40-day window, rendering these legal provisions impractical for many. The restrictive nature of Indonesia's abortion laws has led many women to resort to unsafe abortion methods, contributing to high maternal mortality and morbidity rates. Studies have shown that women in rural areas often travel long distances to access abortion services, facing barriers such as insufficient local services, lack of willing providers, and stigma surrounding abortion.⁷³

The stigma associated with abortion is compounded by conservative cultural norms that dictate gender roles and reproductive health, often leading to social ostracism for women who seek abortions. This societal pressure limits women's autonomy and decision-making power regarding their reproductive health, as discussions about abortion are often considered taboo.⁷⁴ Islamic principles significantly influence the discourse on abortion in Indonesia, with Islamic jurisprudence generally permitting abortion under specific conditions, particularly before the ensoulment of the fetus at 120 days of gestation. However, interpretations of these principles vary widely, and conservative religious groups often oppose abortion except in cases where the mother's life is at risk.⁷⁵ The intersection of Islamic law and public health considerations necessitates a holistic approach to address the complexities of abortion legitimacy in Indonesia.

Recommendations for improving the situation include providing clear legal guidelines, enhancing access to reproductive health services, and promoting public awareness about legal rights and safe practices.⁷⁶ Engaging in dialogue among religious scholars, legal experts, and healthcare professionals can facilitate the development of culturally sensitive policies that respect both religious principles and women's rights. Comparative insights from countries like Tunisia and Turkey, which have successfully harmonised Islamic principles with modern reproductive health

⁷² Firdaus et al., 'Abortion Due to Unwanted Pregnancy: Perspective of Islamic Law and Positive Law'.

⁷³ Frances Doran and Julie Hornibrook, 'Rural New South Wales Women's Access to Abortion Services: Highlights From an Exploratory Qualitative Study', *Australian Journal of Rural Health* 22, no. 3 (2014): 121–26, <https://doi.org/10.1111/ajr.12096>.

⁷⁴ Jane Harries et al., 'Understanding Abortion Seeking Care Outside of Formal Health Care Settings in Cape Town, South Africa: A Qualitative Study', *Reproductive Health* 18, no. 1 (2021), <https://doi.org/10.1186/s12978-021-01243-3>.

⁷⁵ Mathar et al., 'Islamic Legal Thought Implementation in Indonesia'.

⁷⁶ Firdaus et al., 'Abortion Due to Unwanted Pregnancy: Perspective of Islamic Law and Positive Law'.



standards, can serve as valuable models for Indonesia.⁷⁷ By understanding and addressing the unique context of Indonesia, policymakers and advocates can work towards more effective and equitable solutions for abortion and reproductive health, ultimately improving public health outcomes and reducing maternal mortality.

Regarding this matter, we conclude that a comprehensive analysis of the challenges surrounding abortion in Indonesia is provided, particularly emphasising the restrictive nature of the Indonesian Penal Code and Health Law No. 36 of 2009, which limits access to abortion under strict conditions. However, it would benefit from a deeper exploration of socioeconomic factors, such as poverty and education, that hinder access to safe abortion services. Additionally, examining the role of media representation and advocacy groups in shaping societal attitudes towards abortion could reveal potential pathways for change. While the influence of Islamic principles is highlighted, the research topic could further address the diversity of interpretations within Islamic jurisprudence and the implications for women's rights. Spotlighting progressive Islamic voices advocating for women's health would provide a more nuanced perspective. The recommendations for improvement are valid but could be more actionable, offering specific steps for public awareness campaigns and stakeholder dialogues. Furthermore, the comparative analysis with countries like Tunisia and Turkey could be strengthened by detailing the specific policies that successfully harmonised Islamic principles with reproductive health. In summary, this topic lays a strong foundation for understanding the complexities of abortion laws in Indonesia. By addressing socioeconomic factors, media influence, diverse interpretations of Islamic law, actionable recommendations, and concrete comparative insights, the critique could significantly advance the conversation on reproductive health rights in the country.

Islamic Jurisprudence and Indonesian Law: A Socio-Legal Perspective on Abortion

In Indonesia, the legal landscape surrounding abortion is deeply influenced by Islamic jurisprudence, which traditionally discourages abortion but allows exceptions under specific circumstances, particularly concerning maternal health and fetal personhood. Most Islamic scholars agree that personhood is conferred at various stages of gestation, with a significant consensus that it occurs at 120 days, allowing for abortion before this point in cases of maternal health risks or severe fetal anomalies.⁷⁸ Contemporary debates among scholars advocate for a re-evaluation of these traditional views, emphasising the socioeconomic challenges faced by women, including situations of rape, incest, or health complications.⁷⁹ This evolving discourse highlights the need for a more nuanced understanding of Islamic teachings, suggesting that broader access to abortion could be justified within the framework of compassion and social justice.⁸⁰

⁷⁷ Mathar et al., 'Islamic Legal Thought Implementation in Indonesia'.

⁷⁸ Abdulrahman Al-Matary and Jawad K Ali, 'Controversies and Considerations Regarding the Termination of Pregnancy for Foetal Anomalies in Islam', *BMC Medical Ethics* 15, no. 1 (2014): 1–10, <https://doi.org/10.1186/1472-6939-15-10>.

⁷⁹ Abdullah Bin Shoaib, 'Islamic Perspectives on Preconception, Prenatal, and Perinatal Counseling', *Frontiers in Pediatrics* 12 (2024), <https://doi.org/10.3389/fped.2024.1373918>.

⁸⁰ Piyali Mitra, 'The Beginning of Life Issues: An Islamic Perspective', *Journal of Religion and Health* 60, no. 2 (2021): 663–83, <https://doi.org/10.1007/s10943-020-01018-3>.



A socio-legal analysis of abortion in Indonesia reveals the complex interplay between legal norms and religious beliefs, particularly within the framework of Islamic law. The patriarchal culture embedded in Islamic family law often leads to discriminatory practices against women, limiting their access to reproductive health services and reinforcing restrictive interpretations of abortion laws.⁸¹ While Islamic jurisprudence does not explicitly prohibit abortion, the prevailing conservative attitudes in many Muslim-majority countries, including Indonesia, often result in stringent regulations that prioritise the fetus over women's health and autonomy.⁸² Furthermore, societal attitudes, influenced by religious beliefs, can significantly shape the enforcement of these laws, creating barriers for women seeking safe abortion services.⁸³ This nuanced understanding underscores the challenges women face in navigating a legal landscape that is deeply intertwined with cultural and religious contexts, ultimately impacting their health and rights.⁸⁴

The urgent need for legal reform in reproductive health, particularly regarding abortion, is underscored by the significant erosion of access following the *Dobbs v. Jackson Women's Health Organization* decision, which has led to strict restrictions and bans in various states.⁸⁵ Policymakers must clarify the conditions under which abortion is permissible, aligning legal frameworks with contemporary understandings of women's rights and health needs while also engaging religious leaders to reconcile legal norms with Islamic principles.⁸⁶ This dialogue can foster a more inclusive legal framework that respects both religious values and women's reproductive health realities. Furthermore, improving access to comprehensive reproductive health services, including safe abortion care, is essential for protecting women's health and rights. This requires significant investments in healthcare infrastructure and education to ensure women are informed about their rights and available services, as legal interference can disproportionately affect marginalized groups, exacerbating health inequities.⁸⁷

In this regard, we see that the intersection of Islamic jurisprudence and Indonesian law on abortion presents a complex challenge that intertwines legal and socio-cultural factors. Although Islamic teachings discourage abortion, they allow exceptions related to maternal health and fetal personhood, with many scholars agreeing that personhood begins at 120 days of gestation. However,

⁸¹ Abu Rokhmad and Sulistiyono Susilo, 'Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law', *Journal of Indonesian Islam* 11, no. 2 (2017): 489–508, <https://doi.org/10.15642/JIIS.2017.11.2.489-508>.

⁸² Shapiro, 'Abortion Law in Muslim-Majority Countries: An Overview of the Islamic Discourse with Policy Implications'.

⁸³ Cruz García Lirios et al., 'Religious Beliefs in Public Administration and Behaviour Surrounding Abortion Decriminalisation in COVID-19 Era', *HTS Teologiese Studies / Theological Studies* 79, no. 1 (2023): 1–7, <https://doi.org/10.4102/hts.v79i1.8830>.

⁸⁴ Bernard Adeney-Risakotta, 'Traditional, Islamic and National Law in the Experience of Indonesian Muslim Women†', *Islam and Christian-Muslim Relations* 27, no. 3 (2 July 2016): 303–18, <https://doi.org/10.1080/09596410.2016.1186422>.

⁸⁵ Josh Serchen et al., 'Reproductive Health Policy in the United States: An American College of Physicians Policy Brief', *Annals of Internal Medicine* 176, no. 3 (28 February 2023): 364–66, <https://doi.org/10.7326/M22-3316>.

⁸⁶ Serchen et al.

⁸⁷ Catherine Hennessey, Hillary McLaren, and Julie Chor, 'Implications of the Law on Reproductive and Sexual Health', *Obstetrics and Gynecology Clinics of North America* 51, no. 2 (2024): 397–404, <https://doi.org/10.1016/j.ogc.2024.02.009>.



patriarchal norms often limit women's access to reproductive health services, prioritizing fetal rights over women's autonomy. The pressing need for legal reform is underscored by global trends threatening reproductive rights, such as the *Dobbs v. Jackson Women's Health Organization* decision in the U.S. To address these issues, fostering dialogue between policymakers and religious leaders is crucial to align legal norms with contemporary women's rights. Moreover, enhancing access to comprehensive reproductive health services and launching public awareness campaigns can empower women and transform societal attitudes, paving the way for a more equitable legal framework that respects both Islamic principles and women's health needs.

Conclusion

The exploration of abortion's legitimacy through the lenses of Islamic jurisprudence and positive law in Indonesia reveals a complex interplay of religious beliefs, legal frameworks, and socio-cultural dynamics. This study underscores the fragmented legal landscape surrounding abortion in Indonesia, characterised by diverse interpretations of Islamic principles and varying applications of state laws. The findings indicate a significant dichotomy between traditional Islamic prohibitions and the more context-sensitive interpretations offered by contemporary scholars, particularly in cases involving maternal health risks or severe fetal anomalies. The research advocates for a nuanced legal framework that harmonises Islamic jurisprudence with positive law, emphasising the need for legal clarity that respects both religious values and the modern realities faced by women. By addressing the public health implications of restrictive abortion laws, this study highlights the urgent need for policies that not only protect women's rights but also promote their health and well-being.

Ultimately, fostering a balanced discourse on abortion in Indonesia is essential for developing legal and policy frameworks that are both effective and equitable. This approach not only respects the rich tapestry of Indonesia's cultural and religious heritage but also ensures that women's rights and health are prioritised in the ongoing legal conundrum surrounding abortion. By bridging the gap between religious and secular legal systems, this study contributes to a more informed and compassionate understanding of abortion, paving the way for future reforms that align with both human rights and cultural sensitivities. This article makes a significant contribution to the international academic field by presenting a comprehensive, interdisciplinary examination of abortion laws in a Muslim-majority setting. By combining Islamic jurisprudence with Indonesian legal frameworks through a socio-legal lens, it explores the intricate intersections between religious ethics, cultural values, and legal systems, shedding light on their broader implications for reproductive rights in varied socio-political contexts. The research provides a comparative analysis of how abortion laws are interpreted across different jurisdictions, offering valuable insights for policymakers, legal scholars, and human rights advocates worldwide. Addressing issues of legal pluralism, religion and law, and gender justice, this study connects theoretical frameworks with real-world applications, advancing the global dialogue on the legal, ethical, and human rights complexities of abortion in a rapidly changing world.



Bibliography

- Abed, Abdulhanan, Abdulqudos Osuly, Abaidulrahman Yousufi, and Gulaqa Anwari. 'Rulings on an Intended Abortion in Accordance with Islamic Law'. *International Journal of Social Science Research and Review* 6, no. 7 (2023): 159–65. <http://dx.doi.org/10.47814/ijssrr.v6i7.1372>.
- Adeney-Risakotta, Bernard. 'Traditional, Islamic and National Law in the Experience of Indonesian Muslim Women†'. *Islam and Christian–Muslim Relations* 27, no. 3 (2 July 2016): 303–18. <https://doi.org/10.1080/09596410.2016.1186422>.
- Agustanti, Rosalia Dika. 'Problems in Law Enforcement Of The Crime Of Women's Abortion Rosalia'. *Res Judicata* 5, no. 2 (2022): 62–63. <https://doi.org/10.30525/978-9934-26-074-2-14>.
- Akbar, Alikhani Ali. 'Change from within: Shia Seminarians' Responses to Contemporary Religious and Social Challenges'. *Journal of Religious History* 47, no. 2 (2023): 222–42. <https://doi.org/10.1111/1467-9809.12940>.
- Akiel, Maaged, Mohamud S Mohamud, Emad Masuadi, and Hassan S Alamri. 'Knowledge and Attitude of Pregnant Women in the Kingdom of Saudi Arabia Toward Noninvasive Prenatal Testing: A Single Center Study'. *Molecular Genetics & Genomic Medicine* 10, no. 7 (2022). <https://doi.org/10.1002/mgg3.1960>.
- Alkaabba, Abdulaziz F. 'Abortion for a Young Single Female: A Cultural and Islamic Perspective'. *Journal of Clinical Research & Bioethics* 7, no. 3 (2016): 1–4. <https://doi.org/10.4172/2155-9627.1000273>.
- Al-Matary, Abdulrahman, and Jawad K Ali. 'Controversies and Considerations Regarding the Termination of Pregnancy for Foetal Anomalies in Islam'. *BMC Medical Ethics* 15, no. 1 (2014): 1–10. <https://doi.org/10.1186/1472-6939-15-10>.
- Amberi, Mariani. 'Efforts to Prevent Child Marriage Based on Philosophy of Islamic Law and Indonesian Positive Law'. *Samarah* 7, no. 1 (2023): 239–60. <https://doi.org/10.22373/sjhc.v7i1.12404>.
- Andriati, Fatmi, Aidul Fitriada Azhari, and Wardah Yuspin. 'Minister of Health Regulation of the Republic of Indonesia Number 35 of 2014 on Reproductive Health Service Standards: Legal Review and Normative Aspects in Healthcare Practices'. *Jurnal Soepra*, 2023. <https://doi.org/10.24167/sjhc.v9i2.10960>.
- Ariyanti, Vivi, and Supani. 'Examining Muslims' Aspirations in Drafting the New Criminal Code: Analyzing Criminal Law Policy in Indonesia from a Maslaha Perspective'. *Al-Manahij: Jurnal Kajian Hukum Islam*, 16 March 2024, 37–58. <https://doi.org/10.24090/mnh.v18i1.8280>.
- Badaru, Baharuddin, and Ildar Begishev. 'The Criminal Law Enforcement Based on Socio-Legal Approach Against Illegal Parking Officers in Achieving Justice'. *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (29 August 2024): 330–44. <https://doi.org/10.29303/ius.v12i2.1420>.
- Bearak, Jonathan, Anna Popinchalk, Bela Ganatra, Ann-Beth Moller, Özge Tunçalp, Cynthia Beavin, Lorraine Kwok, and Leontine Alkema. 'Unintended Pregnancy and Abortion by Income, Region, and the Legal Status of Abortion: Estimates From a Comprehensive Model for 1990–2019'.



- The Lancet Global Health* 8, no. 9 (2020): e1152–61. [https://doi.org/10.1016/s2214-109x\(20\)30315-6](https://doi.org/10.1016/s2214-109x(20)30315-6).
- Begum, Mohamed Sulthan Ismiya, Indriaty Ismail, Zul'azmi Yaakob, Ahamed Sarjoon Razick, and Mohamed Mahroof Ali Abdullah. 'Gender Equity in Muslim Family Law: Modern and Contemporary 'Ulamā's View'. *Al-Ahkam* 34, no. 2 (31 October 2024): 221–56. <https://doi.org/10.21580/ahkam.2024.34.2.20773>.
- Bertymuratov, Yuldash, Arna Mukanova, and Gulnaz Razdykova. 'Abortion as an Ethical-Religious Problem in Islam'. *Pharos Journal of Theology*, 2024. <https://doi.org/10.46222/pharosjot.105.312>.
- Billauer, Barbara P. 'The First Amendment, Moral Law and Abortion: The Conflict between Fetal Rights & Freedom of Religion'. *SSRN Electronic Journal* 23, no. 2 (2018). <https://doi.org/10.2139/ssrn.2720215>.
- Blystad, Astrid, Haldis Haukanes, Getnet Tadele, and Karen Marie Moland. 'Reproductive Health and the Politics of Abortion'. *International Journal for Equity in Health* 19, no. 1 (2020): 1–4. <https://doi.org/10.1186/s12939-020-1157-1>.
- Brummett, Abram L. 'Secular Clinical Ethicists Should Not Be Neutral Toward All Religious Beliefs: An Argument for a Moral-Metaphysical Proceduralism'. *American Journal of Bioethics* 21, no. 6 (2021): 5–16. <https://doi.org/10.1080/15265161.2020.1863512>.
- Çaksen, Hüseyin. 'Abortion and Protection of Fetal Life'. *Journal of Child Science* 12, no. 1 (2022): E104–5. <https://doi.org/10.1055/s-0042-1756719>.
- Calkin, Sydney, Cordelia Freeman, and Francesca Moore. 'The Geography of Abortion: Discourse, Spatiality and Mobility'. *Progress in Human Geography* 46, no. 6 (2022): 1413–30. <https://doi.org/10.1177/03091325221128885>.
- Creswell, John W. *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*. 2nd ed. New Delhi: SAGE Publications, 2007.
- Dastgiri, Saeed, Maryam Yoosefian, Mehraveh Garjani, and Leila R Kalankesh. 'Induced Abortion: A Systematic Review and Meta-Analysis.' *Journal of Mater Sociomed* 29, no. 1 (2017): 58–67. <https://doi.org/10.5455/MSM.2017.29.58-67>.
- Doran, Frances, and Julie Hornibrook. 'Rural New South Wales Women's Access to Abortion Services: Highlights From an Exploratory Qualitative Study'. *Australian Journal of Rural Health* 22, no. 3 (2014): 121–26. <https://doi.org/10.1111/ajr.12096>.
- Elrggal, Mohamed E., Divya Bajpai, Elliot Koranteng Tannor, Rabeea Azmat, Ahmed Muhammad Bashir, Justor Banda, Nzana Victorine B, et al. 'Access to Nephrology Care for Pregnancy-Related Acute Kidney Injury in Low- and Lower-Middle-Income Countries: A Perspective'. *Kidney Medicine* 5, no. 9 (2023): 100695. <https://doi.org/10.1016/j.xkme.2023.100695>.
- Fiala, Christian, Aubert Agostini, Teresa Bombas, Roberto Lertxundi, Marek Lubusky, Mirella Parachini, and Kristina Gemzell-Danielsson. 'Abortion: Legislation and Statistics in Europe'. *The European Journal of Contraception & Reproductive Health Care* 27, no. 4 (2022): 345–52. <https://doi.org/10.1080/13625187.2022.2057469>.



- Firdaus, Firdaus, Jumni Nelly, Elimartati Elimartati, and Hamdani Hamdani. 'Abortion Due to Unwanted Pregnancy: Perspective of Islamic Law and Positive Law'. *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 2 (2021): 188–201. <https://doi.org/10.32694/qst.v19i2.851>.
- Firzaa, Nur Ras. 'A Comparative Legal Studies of Abortion Policies in Indonesia, Malaysia and England'. *Indonesian Comparative Law Review* 2, no. 1 (2019). <https://doi.org/10.18196/iclr.2114>.
- Hanna, Siti, Ahmad Mukri Aji, Ahmad Tholabi, and Muhammad Amin. 'Woman and Fatwa: An Analytical Study of MUI's Fatwa on Women's Health and Beauty'. *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (30 June 2024): 171–84.
- Harries, Jane, Kristen Daskilewicz, Tshегоfatso Bessenaar, and Caitlin Gerdts. 'Understanding Abortion Seeking Care Outside of Formal Health Care Settings in Cape Town, South Africa: A Qualitative Study'. *Reproductive Health* 18, no. 1 (2021). <https://doi.org/10.1186/s12978-021-01243-3>.
- Hedayat, K M, P Shooshtarizadeh, and M Raza. 'Therapeutic Abortion in Islam: Contemporary Views of Muslim Shiite Scholars and Effect of Recent Iranian Legislation'. *Journal of Medical Ethics* 32, no. 11 (2006): 652–57. <https://doi.org/10.1136/JME.2005.015289>.
- Hendrix, Tayler, Julia Roncoroni, Brigid Magdamo, Salina Whitaker, Kornelia Zareba, and Noelle Grieco. 'Stigma, Social Support, and Decision Satisfaction in Terminations of Pregnancy for Medical Reasons'. *Women's Health Reports* 4, no. 1 (2023): 271–79. <https://doi.org/10.1089/whr.2022.0092>.
- Hennessey, Catherine, Hillary McLaren, and Julie Chor. 'Implications of the Law on Reproductive and Sexual Health'. *Obstetrics and Gynecology Clinics of North America* 51, no. 2 (2024): 397–404. <https://doi.org/10.1016/j.ogc.2024.02.009>.
- Hervey, Tamara, and Tiyash Banerjee. 'Abortion Rights in Eu Law: Recent Developments'. *BioLaw Journal* 2023, no. Special Issue 1 (2023): 331–41. <https://doi.org/10.15168/2284-4503-2571>.
- Huda, Miftahul, and Tri Wahyu Hidayati. 'The Concept of Muḥammad Shaḥrūr on Gender Parity in Inheritance Legislation'. *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (30 December 2023): 262–80. <https://doi.org/10.22373/ujhk.v6i2.18121>.
- Ishola, Foluso, U. Vivian Ukah, Babatunde Y. Alli, and Arijit Nandi. 'Impact of Abortion Law Reforms on Health Services and Health Outcomes in Low-And Middle-Income Countries: A Systematic Review'. *Health Policy and Planning* 36, no. 9 (2021): 1483–98. <https://doi.org/10.1093/heapol/czab069>.
- Jannani, Nur, Noer Yasin, and Musataklima Musataklima. 'THE IMPACT OF THE LIQUIDATION OF THE QUASI-JUDICIAL INSTITUTION OF THE CONSUMER DISPUTE RESOLUTION BODY ON CONSUMERS' ACCESS TO JUSTICE AND ITS REORGANISATION EFFORTS FROM THE PERSPECTIVE OF SIYASAH SYAR'YAH'. *Jurisdictie: Jurnal Hukum Dan Syariah* 15, no. 1 (9 July 2024): 117–48. <https://doi.org/10.18860/j.v15i1.26564>.



- Jaser, Noor, and Chaima Ahaddour. 'Mapping the Islamic Ethical Discourse on Prenatal Diagnosis and Termination of Pregnancy: A Methodological Analysis'. *Journal of Islamic Ethics* 7 (2023): 177–201. <https://doi.org/10.1163/24685542-20230091>.
- Kamal, Dahamsheh. 'Medical Ethical Issues, an Islamic Perspective'. *Clinical Journal of Nursing Care and Practice*, 2024. <https://doi.org/10.29328/journal.cjncp.1001050>.
- Keegan, Grace, Myles Francis, Kristen Chalmers, Mark Hoofnagle, Mary Noory, Rachael Essig, Lea Hoefler, et al. 'Trauma of Abortion Restrictions and Forced Pregnancy: Urgent Implications for Acute Care Surgeons'. *Trauma Surgery & Acute Care Open* 8, no. 1 (30 January 2023): e001067. <https://doi.org/10.1136/tsaco-2022-001067>.
- Leheza, Yevhen, Olena Sinkevych, Zorina Kravtsova, Olena Kudriavtseva, and Ievgeniia Cherniak. 'The Human Right to an Environment Safe for Life and Health: Legal Regulation, Contemporary Challenges and Comparative Perspectives'. *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 138–50. <https://doi.org/10.18592/sjhp.v23i2.12257>.
- Lirios, Cruz García, Gilberto Bermúdez-Ruíz, Tirso Javier Hernandez Gracia, Juan Mansilla Sepúlveda, Victor Hugo Meriño Cordoba, and Claudia Huaiquián Billeke. 'Religious Beliefs in Public Administration and Behaviour Surrounding Abortion Decriminalisation in COVID-19 Era'. *HTS Theological Studies / Theological Studies* 79, no. 1 (2023): 1–7. <https://doi.org/10.4102/hts.v79i1.8830>.
- Makleff, Shelly, Madeleine Belfrage, Sethini Wickramasinghe, Jane Fisher, Deborah Bateson, and Kirsten I. Black. 'Typologies of Interactions between Abortion Seekers and Healthcare Workers in Australia: A Qualitative Study Exploring the Impact of Stigma on Quality of Care'. *BMC Pregnancy and Childbirth* 23, no. 1 (2023): 1–26. <https://doi.org/10.1186/s12884-023-05902-0>.
- Maratun Saadah, Ishaq,. 'Islamic Law Analysis of Criminal Sanctions for Abortion in the Criminal Code: A Call for Reform'. *Psychology and Education Journal* 58, no. 1 (2021): 5398–5407. <https://doi.org/10.17762/pae.v58i1.1797>.
- Mathar, Ahmad, Hardianti Hardianti, Misbahuddin Misbahuddin, and Herawati Herawati. 'Islamic Legal Thought Implementation in Indonesia'. *Journal of Social Science* 3, no. 4 (2022): 898–905. <https://doi.org/10.46799/jss.v3i4.386>.
- Mena Ugarte, Sandra Carolina, María Virginia Rodríguez Funes, and Jocelyn Viterna. 'Maternal Morbidity under an Absolute Abortion Ban: Insights from a 6-Year Case Series of Fatal Fetal Malformations in El Salvador'. *AJOG Global Reports* 3, no. 1 (2023): 100147. <https://doi.org/10.1016/j.xagr.2022.100147>.
- Mitra, Piyali. 'The Beginning of Life Issues: An Islamic Perspective'. *Journal of Religion and Health* 60, no. 2 (2021): 663–83. <https://doi.org/10.1007/s10943-020-01018-3>.
- Mohammed, Alqahtani Jawhrah. 'Abortion From an Islamic Perspective: Permission and Prohibition Positions'. *International Journal of Innovative Research in Medical Science* 5, no. 07 (2020): 225–28. <https://doi.org/10.23958/ijirms/vol05-i07/906>.



- Moosapour, Hamideh, Jannat Mashayekhi, Farzaneh Zahedi, Akbar Soltani, and Bagher Larijani. 'General Approaches to Ethical Reasoning in Islamic Biomedical Ethics Discourse'. *Journal of Medical Ethics and History of Medicine* 11 (2018): 11.
- Muqtada, Muhammad Rikza, Istianah, Ahmad Sharifuddin bin Mustapha, and Abdul Mufid. 'Fiqh Contestation on Women's Public Leadership in Indonesia and Malaysia: Reproducing Qur'anic and Hadith Interpretations'. *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (30 June 2024): 221–48. <https://doi.org/10.19105/al-lhkam.v19i1.13163>.
- Nur, Efa Rodiah, and Fathul Mu'in. 'Integration of Religious and Social Values in the Development of the Indonesian Constitution Era 5.0'. *KnE Social Sciences*, 2024. <https://doi.org/10.18502/kss.v9i2.14962>.
- Nurlatifah, Laila. 'Protection of Women's Reproductive Health Rights Based on International Law and Regulation on Laws in Indonesia'. *Journal of La Jil* 2, no. 1 (2020). <https://doi.org/10.25041/LAJIL.V2I1.2030>.
- Panjaitan, Budi Sastra, Putra Halomoan Hasibuan, Puji Kurniawan, Adi Syahputra Sirait, and Sukron Ma'mun. 'Revitalizing Sharia Advocates: Reforming the Law on Advocates in Strengthening the Role of Islamic Law in Indonesia'. *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (10 October 2024): 485–504. <https://doi.org/10.29240/jhi.v9i2.10875>.
- Pillai, Vijayan K., and Rashmi Gupta. 'Reproductive Rights Approach to Reproductive Health in Developing Countries.' *Global Health Action* 4 (2011). <https://doi.org/10.3402/gha.v4i0.8423>.
- Ramadhita, Ramadhita, Mahrus Ali, and Bachri Syabbul. 'Gender Inequality and Judicial Discretion in Muslims Divorce of Indonesia'. *Cogent Social Sciences* 9, no. 1 (31 December 2023): 2206347. <https://doi.org/10.1080/23311886.2023.2206347>.
- Ramadhita, Ramadhita, Tutik Hamidah, Abbas Arfan, and Badruzzaman Badruzzaman. 'Decriminalisation Against Women Who Perform Illegal Abortions From the Islamic Law Perspective'. *Al Qadha*, 2023. <https://doi.org/10.32505/qadha.v10i2.6867>.
- Ranji, Azar. 'Induced Abortion in Iran: Prevalence, Reasons, and Consequences'. *Journal of Midwifery & Women's Health* 57, no. 5 (2012): 482–88. <https://doi.org/10.1111/j.1542-2011.2012.00159.x>.
- Rasch, Vibeke. 'Unsafe Abortion and Postabortion Care - An Overview'. *Acta Obstetrica Et Gynecologica Scandinavica* 90, no. 7 (2011): 692–700. <https://doi.org/10.1111/j.1600-0412.2011.01165.x>.
- Rizal, Deri, Irman Irman, Dewi Putri, Miftahurrahmah Miftahurrahmah, Yustiloviani Yustiloviani, and Kamaluddin Kamaluddin. 'Reinterpreting Religious Texts on Gender Equality: The Perspective of Ahmad Syafii Maarif'. *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (20 November 2024): 327–36. <https://doi.org/10.31958/juris.v23i2.10233>.
- Rokhmad, Abu, and Sulistiyono Susilo. 'Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law'. *Journal of Indonesian Islam* 11, no. 2 (2017): 489–508. <https://doi.org/10.15642/JIIS.2017.11.2.489-508>.



- Roth, Cassia. 'Abortion Access in the Americas: A Hemispheric and Historical Approach'. *Frontiers in Public Health* 11, no. December (2023): 1–6. <https://doi.org/10.3389/fpubh.2023.1284737>.
- Saadah, Maratun, and Ishaq Ishaq. 'Islamic Law Analysis of Criminal Sanctions for Abortion in the Criminal Code: A Call for Reform'. *Psychology and Education Journal* 58, no. 1 (2021): 5398–5407. <https://doi.org/10.17762/pae.v58i1.1797>.
- Saadeh, Rami, Mahmoud A Alfaqih, Asma Odat, and Mohammed Z Allouh. 'Attitudes of Medical and Health Sciences Students Towards Abortion in Jordan'. *Biomed Research International* 2021 (2021): 1–7. <https://doi.org/10.1155/2021/6624181>.
- Santoso, Lukman, Arij Amaliyah, and Miftahul Huda. 'Refusal of Polygamy Permit in Religious Court Decision: Criticism of Gender Justice Against Judge's Legal Reasoning'. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (31 December 2023): 160–73. <https://doi.org/10.30631/alrisalah.v23i2.1472>.
- Saraswati, Putri Widi. 'Saving More Lives on Time: Strategic Policy Implementation and Financial Inclusion for Safe Abortion in Indonesia during COVID-19 and Beyond'. *Frontiers in Global Women's Health* 3, no. 6 (2022). <https://doi.org/10.3389/fgwh.2022.901842>.
- Sarib, Suprijati, Syarifuddin, and Sabil Mokodenseho. 'Comparison Between Islamic Law and Positive Law in a Judicial Context'. *West Science Islamic Studies* 1, no. 01 (2023): 34–41. <https://doi.org/10.58812/wsiss.v1i01.284>.
- Serchen, Josh, Shari Erickson, David Hilden, Suja Mathew, David Hilden, Micah Beachy, William Curry, et al. 'Reproductive Health Policy in the United States: An American College of Physicians Policy Brief'. *Annals of Internal Medicine* 176, no. 3 (28 February 2023): 364–66. <https://doi.org/10.7326/M22-3316>.
- Shaikh, Zunaira, Razia Mustafa Abbassi, Naushaba Rizwan, and Sumera Abbasi. 'Morbidity and Mortality Due to Unsafe Abortion in Pakistan'. *International Journal of Gynecology & Obstetrics* 110, no. 1 (2010): 47–49. <https://doi.org/10.1016/j.ijgo.2010.01.028>.
- Shapiro, Gilla K. 'Abortion Law in Muslim-Majority Countries: An Overview of the Islamic Discourse with Policy Implications'. *Health Policy and Planning* 29, no. 4 (2014): 483–94. <https://doi.org/10.1093/HEAPOL/CZT040>.
- Shoaib, Abdullah Bin. 'Islamic Perspectives on Preconception, Prenatal, and Perinatal Counseling'. *Frontiers in Pediatrics* 12 (2024). <https://doi.org/10.3389/fped.2024.1373918>.
- Sledzinska-Simon, Anna. 'Constitutional Framings of the Right to Abortion: A Global View'. *International Journal of Constitutional Law* 21, no. 2 (2023): 399–406. <https://doi.org/10.1093/icon/moad029>.
- Sudirman, Sudirman, Ramadhita Ramadhita, Syabbul Bachri, and Büşra Nur Duran. 'Examining the Complexity of Child Marriage as Sexual Violence in Digital Era'. *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (30 September 2023): 310–28. <https://doi.org/10.22219/ljih.v31i2.28881>.
- Supriyadi, Aditya Prastian, Dwi Fidhayanti, Ramadhita Ramadhita, and Mohd Shahid bin Mohd Noh. 'Green Sukuk in Indonesia: Unraveling Legal

- Frameworks for Sustainable Islamic Bonds'. *El-Mashlahah* 13, no. 2 (31 December 2023): 151–80. <https://doi.org/10.23971/el-mashlahah.v13i2.7372>.
- Susilawati, Susi, Baliana Amir, Muhammad Iqbal, Rafika Nur, and Sitti Fatimah Maddusila. 'Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition'. *Jambura Law Review* 5, no. 1 (30 January 2023): 136–55. <https://doi.org/10.33756/jlr.v5i1.17722>.
- Wahib, Ahmad Bunyan. 'Marriage Registration and Solemnization among Migrant Muslims in Germany: Harmonizing Islamic and State Law and the Existence of Origin Country Law'. *Al-Ahwal* 15, no. 2 (2022): 275–94. <https://doi.org/10.14421/ahwal.2022.15207>.
- Wahyudi, Rizal, JM Muslimin, Suci Ramadhan, and Muhammad Farkhan. 'Abortion Discourse in the Perspective of Islamic Jurisprudence Scholars', 2022. <https://doi.org/10.4108/eai.20-10-2021.2316329>.
- Wiryani, Fifik, Widjanarko Andang, and M. Nasser. 'Abortion Legalization and Child in the Womb Right to Life: A Study from Indonesia'. *International Journal of Criminology and Sociology* 9 (2020): 1837–43. <https://doi.org/10.6000/1929-4409.2020.09.210>.

