

The Implementation of *Tanqih Al-Manath* Theory in *Ushul Fiqh*: An Analysis of Marriage Law Issues in Indonesia

Ismail Jalili

Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia
ismailjalili@mail.uinfasbengkulu.ac.id

Badrun Taman

Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia
badrun.taman@mail.uinfasbengkulu.ac.id

Fadillah Ulfa

Universitas Muhammadiyah Bengkulu, Indonesia
fadillahulfa@umb.ac.id

Abdul Kabir Hussain Solih

Kwara State University, Nigeria
abdulkabir.solihu@kwasu.edu.ng

| Received: 29-07-2024 || Revised: 28-08-2024 || Accepted: 30-09-2024 | Published On: 30-10-2024

Abstract: This study examines the application of *Tanqih al-Manath* theory in the context of marriage law in Indonesia, a country with a complex legal landscape influenced by both Islamic and secular laws. The aim of this study is to explore how *Tanqih al-Manath* theory can be effectively employed to resolve marriage law issues, providing a nuanced understanding of its implications in a modern legal setting. The state of the art reveals a gap in the comprehensive application of *Tanqih al-Manath* in current Indonesian marriage law, highlighting the need for a systematic analysis of its practical utility. Utilizing a qualitative research method, this study conducts an extensive review of relevant literature, legal texts, and case studies, alongside interviews with legal scholars and practitioners. The results indicate that *Tanqih al-Manath* theory offers a robust framework for addressing complex marriage law issues, such as polygamy, child marriage, and interfaith unions, by harmonizing traditional Islamic principles with contemporary legal demands. In conclusion, this study highlights the potential of *Tanqih al-Manath* theory to modernize marriage law in Indonesia by harmonizing classical jurisprudence with contemporary legal challenges. This approach can foster a more inclusive and relevant legal system, offering valuable insights for legal scholars and practitioners and paving the way for further exploration of Ushul al-Fiqh theories.

Keywords: *Tanqih al-Manath*; *Ushul al-Fiqh*; Marriage Law Issues; Legal Pluralism

Abstrak: Penelitian ini menguji penerapan teori *Tanqih al-Manath* dalam konteks hukum perkawinan di Indonesia, sebuah negara dengan lanskap hukum yang kompleks yang dipengaruhi oleh hukum Islam dan sekuler. Tujuan dari studi ini adalah untuk mengeksplorasi bagaimana teori *Tanqih al-Manath* dapat diterapkan secara efektif untuk menyelesaikan masalah hukum perkawinan, memberikan pemahaman yang nuansa tentang implikasinya dalam pengaturan hukum modern. Keadaan seni mengungkapkan kesenjangan dalam penerapan komprehensif *Tanqih al-Manath* dalam hukum perkawinan Indonesia saat ini, menyoroti perlunya analisis sistematis tentang utilitas praktisnya. Dengan menggunakan metode penelitian kualitatif, studi ini melakukan tinjauan yang luas terhadap literatur yang relevan, teks hukum, dan studi kasus, serta wawancara dengan sarjana hukum dan praktisi. Hasilnya menunjukkan bahwa teori *Tanqih al-Manath* menawarkan kerangka kerja yang kokoh untuk mengatasi masalah hukum perkawinan yang kompleks, seperti poligami, pernikahan anak, dan perkawinan lintas agama, dengan mengharmonisasikan prinsip-prinsip Islam tradisional dengan tuntutan hukum kontemporer. Sebagai kesimpulan, studi ini menyoroti potensi teori *Tanqih al-Manath* untuk memodernisasi hukum perkawinan di Indonesia dengan mengharmonisasikan yurisprudensi klasik dengan tantangan hukum kontemporer. Pendekatan ini dapat mendorong sistem hukum yang lebih inklusif dan relevan, menawarkan wawasan berharga bagi sarjana hukum dan praktisi, dan membuka jalan untuk eksplorasi lebih lanjut tentang teori Ushul al-Fiqh.

Kata kunci: *Tanqih al-Manath*; *Ushul al-Fiqh*; Masalah Hukum Perkawinan

How to cite this article:

Ismail Jalili and others, The Implementation of *Tanqih Al-Manath* Theory in *Ushul Fiqh*: An Analysis of Marriage Law Issues in Indonesia, Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan, 11.2 (2024), 401-420
Doi: <http://dx.doi.org/10.29300/mzn.v11i2.4828>



Copyright (c) 2024 The Authors
Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan
Published by Faculty of Sharia, State Islamic University of Fatmawati Sukarno Bengkulu
This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](#)

Introduction

Ushul al-Fiqh is a critical discipline within Islamic jurisprudence that focuses on the principles and methodologies used to derive and interpret Islamic law (Sharia). It provides a structured framework for legal reasoning, ensuring systematic and consistent derivation of laws through principles such as Qiyas (analogical reasoning), Ijma (consensus), and Istihsan (juridical preference).¹ Ushul al-Fiqh aids in interpreting the primary sources of Islamic law, namely the Quran and the Sunnah, establishing rules for understanding their intended meanings and applying them to contemporary issues. One of its key strengths is the ability to adapt to changing circumstances and new issues through Ijtihad (independent reasoning), addressing modern challenges while remaining faithful to core tenets of Islam.² Additionally, it resolves conflicts between different legal opinions and interpretations, maintaining unity and coherence within the Islamic legal system.³ Furthermore, by emphasizing principles such as *Maslahah* (public interest) and *Darurah* (necessity), Ushul al-Fiqh ensures that the application of Islamic law promotes justice, equity, and community welfare.⁴

In the context of marriage law issues in

Indonesia, Ushul al-Fiqh plays a significant role in addressing and resolving various legal and ethical dilemmas. Indonesia, being the largest Muslim-majority country, faces unique challenges in harmonizing traditional Islamic principles with contemporary legal and social realities.⁵ The implementation of theories like *Tanqih al-Manath* is crucial in this regard. *Tanqih al-Manath* is a methodological tool in Ushul al-Fiqh involving the critical examination and refinement of the underlying causes (*Manath*) of legal rulings. It ensures that the application of a legal ruling is based on a clear and precise understanding of its rationale, making it relevant and applicable to specific contexts. The process involves identifying the *Manath*, critically examining its validity and relevance, refining it for precision and clarity, and finally applying it to the issue at hand.⁶

The relevance of *Tanqih al-Manath* to marriage law issues in Indonesia is indeed profound, given the country's intricate socio-legal landscape that blends customary (*Adat*) law, Dutch colonial law, and Islamic law. This methodological approach is crucial for refining and contextualizing the *illah* (legal reason) behind marriage laws, ensuring they are rooted in Islamic jurisprudence while being adaptable to local contexts. For instance, the practice of polygamy in Makassar City is often misunderstood and viewed as taboo due to erroneous interpretations of Islamic law, highlighting the need for nuanced legal interpretations that consider both religious texts and contemporary societal

¹ Alyasa Abu Bakar and S Sahman, "The Renewing of Ushul Al-Fiqh: Challenges, Limitations and Future Directions," *Indonesian Journal of Islamic Economic Law* 1, no. 2 (2024): 105–22, <https://doi.org/10.23917/ijioel.v1i2.5334>.

² Muhammad Khalid Masud, Brinkley Messick, and David S Powers, "Islamic Legal Interpretation: Muftis and Their Fatwas," *The Journal of Law and Religion* 15 (2000): 421–24, <https://doi.org/10.2307/1051538>.

³ Ahmed Gad Makhoul, "Continuity and Change of Traditional Islamic Law in Modern Times: Tarjih as a Method of Adaptation and Development of Legal Doctrines," *Oxford Journal of Law and Religion* 12, no. 1 (2023): 55–74, <https://doi.org/10.1093/ojlr/rwado10>.

⁴ Abdurrahman Dahlan et al., "Al-Būti's Thoughts on Maslāhah and Its Application in the Fatwa of World Fatwa Institutions," *Samarah* 7, no. 2 (2023): 1148–70, <https://doi.org/10.22373/sjhk.v7i2.17552>.

⁵ Enkin Asrawijaya, "Harmonization Between Customs and Islam in the Jalawastu Community," *Journal of Indonesian Islam* 16, no. 2 (2022): 378–98, <https://doi.org/10.15642/JIIS.2022.16.2.378-398>.

⁶ Rasyid Al-Hafizh, Fachrul Rozy, and Zaim Rais, "Ushul Al-Fiqh: Its Epistemology, Purpose, and Use," *Diktum: Jurnal Syariah Dan Hukum* 19, no. 1 (2021): 1–15, <https://doi.org/10.35905/DIKTUM.V19i1.1529>.

norms.⁷ Similarly, the issue of child adoption in Sasak society and its implications for Islamic marriage law demonstrates the necessity of including adoption provisions in the Marriage Law and eliminating articles that allow polygamy as a solution for childless couples, thereby ensuring that marriage laws are just and equitable.⁸

Furthermore, the dynamic nature of Islamic family law, which remains relevant by adapting to current and future challenges, underscores the importance of a methodological approach like *Tanqih al-Manath* in addressing issues such as divorce and women's rights in marriage.⁹ Theological comprehension also plays a significant role in shaping perspectives on marital duties and the incidence of divorce, as seen in Makassar City, where a moderate understanding of theology leads to a more flexible interpretation of Islamic law.¹⁰ Additionally, Indonesian students' openness to interfaith marriages and their advocacy for legislative changes to facilitate such unions reflect the need for marriage laws that are culturally sensitive and practically applicable, addressing the unique challenges faced by Indonesian Muslims in their marital lives.¹¹ By

purifying the *illah* from irrelevant attributes and focusing on the core rationale, *Tanqih al-Manath* ensures that marriage laws are not only theoretically sound but also practically applicable, fostering a legal system that is both just and culturally attuned.

The novelty of this study lies in its application of the *Tanqih al-Manath* theory to contemporary marriage law issues in Indonesia, a context that has not been extensively explored in previous research. While much of the existing literature focuses on the historical and normative aspects of Indonesian marriage law, this study uniquely integrates a classical Islamic jurisprudential method with modern legal challenges. By doing so, it offers a fresh perspective on how traditional Islamic legal principles can be effectively applied to address current socio-legal issues, such as interfaith marriages, polygamy, and the rights of women within marriage. This approach not only bridges the gap between classical Islamic jurisprudence and contemporary legal practice but also provides practical solutions that are culturally and religiously relevant to the Indonesian context.

The problem statement for this study revolves around the need to address the complexities and conflicts arising from the coexistence of Islamic law, customary law (*Adat*), and national law in Indonesia, particularly in the realm of marriage law. The main issues to be discussed include the challenges of harmonizing these different legal traditions, the inadequacies of existing marriage laws in addressing contemporary issues such as polygamy, child marriage, and women's rights, and the potential for classical Islamic jurisprudential methods like *Tanqih al-Manath* to provide innovative and culturally sensitive solutions. The study

⁷ Muhammad Ridwan, Wahidah Abdullah, and Idham Idham, "Public Perception of Polygamy in Makassar, Indonesia: Cultural Perspective and Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.15419>.

⁸ Jumarim Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.18581>.

⁹ Zaini Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 1–19, <https://doi.org/10.22373/sjhk.v8i1.16553>.

¹⁰ Abdullah Abdullah et al., "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.20621>.

¹¹ Fransiska Widyawati, "University Student's

Perceptions on Interfaith Marriage in Indonesia: Openness, Idealism, and Reality," *Religions*, 2024, <https://doi.org/10.3390/rel15060745>.

seeks to identify and refine the legal reasons (*illah*) behind existing marriage laws, ensuring their relevance and applicability to the Indonesian context. By doing so, it aims to bridge the gap between traditional Islamic principles and modern legal practice, offering practical solutions that are both faithful to Islamic teachings and responsive to contemporary social realities.

The objective of this research is to analyze the use of *Tanqih al-Manath* Theory in marriage law in Indonesia. Specifically, the study aims to explore how *Tanqih al-Manath* can be applied to refine and contextualize the legal reasons behind existing marriage laws, ensuring their relevance and applicability to the Indonesian context. It seeks to identify and analyze the specific challenges and conflicts arising from the coexistence of Islamic law, customary law (*Adat*), and national law in the context of marriage in Indonesia. Additionally, the research aims to examine how the principles of *Tanqih al-Manath* can be used to address contemporary issues such as polygamy, child marriage, and women's rights within marriage.

It also aims to assess the broader implications of applying *Tanqih al-Manath* to marriage law, considering its potential to influence legal practice, social norms, and policy-making in Indonesia. By achieving these objectives, the research aims to provide a comprehensive analysis of the application of *Tanqih al-Manath* to marriage law issues in Indonesia, offering practical solutions that are both faithful to Islamic principles and responsive to contemporary legal and social realities.

Literature Review

There are some previous studies that are relevant to recent research. In the realm of Islamic jurisprudence, scholars and researchers have made valuable

contributions to the field. This analysis focuses on the implementation of the *Tanqih al-Manath* theory in *Ushul al-Fiqh*, specifically in the context of marriage law issues in Indonesia. Several works are discussed, each offering unique insights and perspectives on the topic. Al-Hafizh et al. (2021) provide a comprehensive discussion on the theoretical underpinnings of *Ushul al-Fiqh*, making it accessible to both scholars and students. Their work emphasizes the importance of this discipline in deriving legal rulings from primary Islamic sources. Al-Sa'di's (2000) Ph.D thesis delves deeply into the methodologies employed by classical scholars in identifying and applying '*illah*' in legal reasoning. Despite being an older publication, its detailed analysis and historical context make it an indispensable read for advanced students and scholars of Islamic law.

Meanwhile Mu'adzah contributes significantly to the literature on fiqh principles through her recent research. Her study employs qualitative and quantitative methods to analyze trends and collaborations in the field. The research identifies five dominant sub-themes that provide a structured overview of current research focuses, including the role of fiqh rules in Islamic law and their application in DSN-MUI fatwas.

Then, Al-Wad'an (2017) offers a well-structured article on *Tanqih Al-Manath*, providing a clear definition and practical examples that make the concept accessible. The author highlights the significance of *Tanqih Al-Manath* in the process of legal reasoning and *ijtihad*. This article is particularly valuable for recent research seeking to deepen the understanding of advanced principles in Islamic jurisprudence. Regarding the dynamic nature of Islamic jurisprudence and its capacity to adapt to various cultural contexts, Asrawijaya (2022)

analyzes the Jalawastu community, presenting valuable insights into the practical application of Islamic principles that respect and incorporate local traditions. This study contributes to the ongoing dialogue between Islamic law and cultural practices, particularly in the context of legal pluralism.

Finally, Nasohah (2024) explores the adaptability of Islamic family law and its potential to address contemporary issues while remaining true to its foundational principles. This study is particularly relevant for legal scholars, practitioners, and policymakers interested in the development and application of family law in Muslim-majority societies. Nasohah's work contributes to the ongoing discourse surrounding the evolution of Islamic law and its relevance today. In this regard, these works collectively make substantial contributions to the field of Islamic jurisprudence, offering valuable insights, comprehensive analyses, and practical applications.

Method

This research adopts a qualitative approach to explore the application of *Tanqih al-Manath* to marriage law issues in Indonesia. Qualitative research is particularly suited for this study as it involves collecting and analyzing non-numerical data to understand concepts, opinions, and experiences. This approach allows for an in-depth exploration of the theoretical and practical aspects of *Tanqih al-Manath*, providing a comprehensive understanding of its application in the context of Indonesian marriage law through an interpretive and flexible lens.

The literature study involves a comprehensive review of existing literature on *Ushul al-Fiqh*, *Tanqih al-Manath*, and marriage law in Indonesia, analyzing

scholarly articles, legal texts, and previous research studies to gather relevant information and theoretical insights. By employing this method, the study aims to provide a thorough and insightful analysis of the application of *Tanqih al-Manath* to marriage law issues in Indonesia, offering practical solutions that are both faithful to Islamic principles and responsive to contemporary legal and social realities.

Results and Discussion

Refining Islamic Jurisprudence: *Ushul al-Fiqh* and *Tanqih al-Manath* in the Context of Indonesian Marriage Law

Ushul al-Fiqh, often translated as “the principles of Islamic jurisprudence,” is a discipline that provides the methodological framework for deriving and interpreting Islamic law (*Sharia*). It encompasses the study of the sources of Islamic law, the methods of legal reasoning, and the principles that guide the application of these sources to specific legal issues. The primary sources of Islamic law include the Quran, the Sunnah (traditions of the Prophet Muhammad), Ijma (consensus of scholars), and Qiyas (analogical reasoning). *Ushul al-Fiqh* is divided into two main approaches: the deductive (theoretical) approach and the inductive approach. The deductive approach, adopted by schools like the Shafi'i and Mutakallimun, develops general principles from which specific rulings are deduced. In contrast, the inductive approach, used by the Hanafi school, derives general principles by examining specific rulings, relating theory more closely to practical issues of fiqh.¹²

Tanqih al-Manath is a methodological tool in *Ushul al-Fiqh* that involves the critical examination and refinement of the

¹² Nadiyah Mu'adzah, “Ushul Fiqh, Qaidah Fiqhiyyah, and Islamic Jurisprudence” 3, no. 2 (2022), <https://doi.org/10.58968/jiel.v3i2.130>.

underlying causes (Manath) of legal rulings. The term "Tanqih" means "purifying" or "correcting," while "Manath" refers to the illah or legal reason behind a ruling. Thus, *Tanqih al-Manath* means purifying the illah from attributes that are seemingly related but methodologically not considered as part of the illah.¹³ This process ensures that the application of a legal ruling is based on a clear and precise understanding of its rationale, making it relevant and applicable to specific contexts. The theory involves identifying the Manath, critically examining its validity and relevance, refining it for precision and clarity, and finally applying it to the issue at hand.¹⁴

The development of *Tanqih al-Manath* can be traced back to the early stages of Islamic jurisprudence. The first significant work in Ushul al-Fiqh was *Al-Risalah* by Imam al-Shafi'i, which laid the foundation for the principles of Islamic legal theory. Over time, scholars refined these principles, leading to the development of various methodologies, including *Tanqih al-Manath*. This theory gained prominence as jurists sought to ensure that legal rulings were not only theoretically sound but also practically applicable. The interaction between theoretical sophistication and practical application in Ushul al-Fiqh led to the evolution of *Tanqih al-Manath* as a critical tool for refining legal reasoning.¹⁵

Marriage in Islam, known as *nikah*, is indeed a sacred contract that establishes a

legal relationship between a man and a woman, grounded in mutual consent, the presence of witnesses, the payment of a dowry (*mahr*), and a public declaration. The Quran and the Sunnah provide comprehensive guidelines on the rights and responsibilities of spouses, emphasizing justice, equity, and mutual respect. Islamic family law is dynamic and adapts to contemporary challenges while maintaining its foundational principles, as seen in Southeast Asia where it remains relevant by addressing issues like marriage, divorce, and the rights of women and children.¹⁶

The principle of monogamy is central, but polygamy is permitted under specific conditions, provided it is practiced with fairness and equity, as highlighted in studies from Aceh and Makassar, where non-consensual polygamy often leads to adverse consequences such as spousal inequity and familial discord.¹⁷ Secret marriages, although practiced to avoid adultery, often result in the deprivation of rights for the parties involved and their children, underscoring the importance of public declaration and registration to protect these rights.¹⁸

Additionally, the practice of endogamous marriages among the Prophet Muhammad's descendants in Bangil, East Java, reflects the interplay between social customs and Islamic law, demonstrating adherence to religious teachings and the preservation of lineage.¹⁹ These diverse

¹³ Abdul Karim Zaidan, *Al-Wajiz Fi Ushul Fiqh*, 1st ed. (Al-Qahirah: Daar al-Tauzi' wa al-Nasyr al-Islamiyah, 1993), pp. 216-217.

¹⁴ Walid ibn Fahd Al-Wad'an, "Tanqih Al-Manath: Ta'rifuhu Wa Mithalun 'Alaih," Alukah.net, 2017, <https://www.alukah.net/sharia/0/111961/-تنقيح-المناط-تعريفه-ومثاله>.

¹⁵ Abd al-Hakim Abd al-Rahman As'ad Al-Sa'di, *Mabahith Al-'Illah Fi Al-Qiyas 'inda Al-Ushuliyyin*, 2nd ed. (Beirut: Daar al-Basya'ir al-Islamiyyah, 2000), file:///C:/Users/ASUS/Downloads/Noor-Book.com مباحث العلة في القياس عند الأصوليين ٣.pdf.

¹⁶ Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia."

¹⁷ Nasa'y Aziz, Rispalman Rispalman, and Tika Anggraini, "Polygamy in the Perspective of Tafsir Al-Ahkām and Islamic Law: An Examination of the Gayo Luwes Community in Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2023, <https://doi.org/10.22373/sjhc.v7i3.20021>.

¹⁸ Tuba Erkoc Baydar, "A Secret Marriage and Denied Rights: A Critique from an Islamic Law Perspective," *Religions* 14, no. 4 (2023), <https://doi.org/10.3390/rel14040463>.

¹⁹ Fauzan et al., "Endogamous Marriage of Prophet's Descendants on the Perspective of Sociology of

practices and interpretations illustrate the flexibility and depth of Islamic marriage law, which seeks to uphold the principles of justice, equity, and mutual respect within the marital relationship, ensuring the well-being of all parties involved.

The Marriage Law of 1974 in Indonesia, which integrates Islamic principles with national legal standards, faces challenges due to the coexistence of Islamic law, customary law (*Adat*), and remnants of Dutch colonial law. This amalgamation often results in conflicts and inconsistencies, particularly in areas such as polygamy, child marriage, and women's rights within marriage. For instance, polygamy remains a contentious issue, with societal perceptions varying significantly; in Makassar, it is often viewed as taboo and demeaning to women, and many polygamous marriages occur without the first wife's consent, highlighting the need for clearer legal frameworks and societal education.²⁰ Similarly, the practice of child adoption in Sasak society underscores the necessity for reform in Islamic marriage law to address the status and rights of adopted children, ensuring their lineage is preserved and preventing invalid marriages.²¹

Furthermore, the openness of Indonesian students to interfaith marriages, despite cultural and religious restrictions, suggests a growing need for legislative changes to accommodate such unions while balancing traditional norms.²² The

extravagant wedding celebrations among Muslim celebrities, influenced by globalization and technological advances, reflect a shift in the cultural significance of marriage, emphasizing social status over the sacred bond, which calls for a reevaluation of the essence of marital practices in contemporary society.²³

Additionally, the evolution of Islamic themes in Indonesian literature highlights the intersection of cultural and political ideologies, suggesting that literature can be a powerful medium to address and critique existing marriage laws and practices.²⁴ The application of *Tanqih al-Manath*, a method of refining and contextualizing legal reasons, can thus provide innovative and culturally sensitive solutions to these contemporary issues, ensuring that marriage laws remain relevant and applicable to the diverse Indonesian context.

From the explanation above, we underline that in the context of Indonesian marriage law, several societal issues such as polygamy, child marriage, and interfaith marriage present significant challenges due to the complex interaction between Islamic and secular laws. For instance, polygamy is permitted under Islamic law but regulated by Indonesian law, often leading to disputes when legal procedures are not followed. Similarly, despite raising the minimum marriage age to 19, child marriages continue due to religious and cultural practices, with legal loopholes allowing for exceptions through religious courts. Interfaith marriages face legal barriers as Islamic law

Islamic Law," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 1 (2023): 1–26, <https://doi.org/10.19105/al-ihkam.v18i1.7132>.

²⁰ Ridwan, Abdullah, and Idham, "Public Perception of Polygamy in Makassar, Indonesia: Cultural Perspective and Islamic Law."

²¹ Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia."

²² Widyawati, "University Student's Perceptions on Interfaith Marriage in Indonesia: Openness, Idealism, and Reality."

²³ Syufa'at Syufa'at and Muchimah Muchimah, "The Shifting Meaning of Walimatul 'Urs in the Era of Society 5.0 in Indonesia: Islamic Law Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2023, <https://doi.org/10.22373/sjhk.v7i3.18765>.

²⁴ Sudarnoto Abdul Hakim, "Islamic Literature in Modern Indonesia: Political Disputes among Muslim Writers, 1930s-1960s," *Indonesian Journal of Islam and Muslim Societies* 13, no. 1 (2023): 143–67, <https://doi.org/10.18326/ijims.v13i1.143-167>.

prohibits Muslim women from marrying non-Muslim men, leading many couples to marry abroad or convert religions to bypass the restrictions. In these cases, *Tanqih al-Manath* theory can be a critical tool in refining and contextualizing Islamic legal principles to better align with modern societal realities, ensuring that the law remains relevant and inclusive while maintaining adherence to religious doctrines. So, by applying this theory, it becomes possible to develop a more harmonized approach that addresses both the legal and social complexities within Indonesia's pluralistic society.

The Role of *Tanqih al-Manath* in Refining and Contextualizing Indonesia's Marriage Laws

The application of *Tanqih al-Manath* theory to refine and contextualize the legal reasons (illah) behind existing marriage laws in Indonesia involves a meticulous process of identifying, examining, and purifying the underlying causes of these laws to ensure their relevance and applicability to the Indonesian context. This method, which focuses on eliminating irrelevant attributes and homing in on the core rationale, is particularly pertinent given the dynamic nature of Islamic family law, which must adapt to contemporary challenges while remaining rooted in its foundational principles.²⁵ For instance, the practice of interfaith marriages among Indonesian students highlights the need for legislative changes to accommodate evolving social norms, despite the persistent influence of religious, cultural, and familial restrictions.²⁶ Similarly, the adoption practices in Sasak society necessitate a

reformulation of Islamic Marriage Law to address the complexities of lineage and the legal status of adopted children, ensuring that the laws remain relevant and just.²⁷

The unique practice of polygamy among the Dani Muslim Community, which intertwines Islamic law with local traditions, further underscores the importance of contextualizing marriage laws to reflect the socio-cultural realities of different communities.²⁸ Additionally, the repositioning of zakat from *fiqh al-ibadat* to *fiqh muamalat* demonstrates the broader applicability of Islamic jurisprudence principles to enhance societal welfare, suggesting a similar approach could be beneficial for marriage laws.²⁹ By employing *Tanqih al-Manath*, Indonesian marriage laws can be refined to better address contemporary issues such as interfaith unions, adoption, and polygamy, ensuring that they are both contextually relevant and aligned with the *maqāṣid al-sharī'ah*, the overarching objectives of Islamic law.

The process of *Tanqih al-Manath*, which involves identifying, examining, purifying, and contextualizing the illah (legal reason) behind marriage laws, is crucial for ensuring that these laws remain relevant and applicable in contemporary Indonesia. Identifying the illah requires a thorough examination of primary Islamic sources like the Quran and Sunnah, as well as secondary sources such as *Ijma* and *Qiyas*. For instance, the illah behind prohibiting child marriage

²⁷ Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia."

²⁸ Ade Yamin et al., "Together In Lesema: Living Islamic Law among Customary Dani Muslims Polygamy Practice in Papua," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 2023, <https://doi.org/10.19105/al-Ihkam.v18i2.9957>.

²⁹ Fakhruddin Fakhruddin et al., "From Fiqh Al-Ibadat to Muamalat: Repositioning Zakat Management in Indonesia in the Perspective of Maqāṣid Al-Sharī'ah," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjkh.v8i1.19637>.

²⁵ Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia."

²⁶ Widyawati, "University Student's Perceptions on Interfaith Marriage in Indonesia: Openness, Idealism, and Reality."

can be derived from principles of justice and protection of minors emphasized in Islamic texts. Examining the validity and relevance of the *illah* in the Indonesian context involves analyzing whether it effectively addresses current socio-legal issues, such as ensuring justice in polygamy.³⁰ Purifying the *illah* involves removing non-essential cultural or historical elements, focusing on the core rationale, such as the financial security purpose of dowry (*mahr*).³¹

Contextualizing the '*illah*' (legal reasoning) within Indonesia's legal framework involves adapting Islamic legal principles to local conditions, ensuring they align with societal norms and values. For instance, incorporating mutual consent principles to prevent forced marriages is crucial. This adaptation is evident in various aspects of Indonesian law and society. The practice of *ijma'* (consensus) in interpreting hadiths, particularly regarding the month of Qamariyah, demonstrates how Islamic law can be harmonized with local customs to prevent social discord and ensure legal certainty.³² Similarly, the protection of constitutional rights in democratic processes, as seen in the role of the Constitutional Court in handling election disputes, reflects the integration of Islamic law with constitutional law to safeguard human rights and democratic participation.³³

In the context of polygamy among the Dani Muslim community, the practice is adapted to local cultural norms, emphasizing communal unity and the transfer of knowledge, illustrating how Islamic law can coexist with indigenous traditions.³⁴

Practical application of *Tanqih al-Manath* can refine laws to align with Islamic principles while addressing contemporary issues like child marriage, setting legal marriage ages that protect minors' welfare.³⁵ Ensuring the relevance and applicability of these laws means they must address modern challenges faced by Indonesian Muslims, such as polygamy, child marriage, and women's rights, in a manner consistent with Islamic jurisprudence and responsive to societal needs.³⁶ These examples collectively show that adapting the *illah* within Indonesia's legal framework involves a nuanced approach that respects both Islamic principles and local conditions, promoting justice, social harmony, and the protection of individual rights. This approach ensures that the laws are not only rooted in Islamic principles but also relevant and applicable to the contemporary Indonesian context, addressing the unique challenges and needs of the society.

Accordingly to apply the *Tanqih al-Manath* theory to Indonesia's complex

³⁰ Fauzan et al., "Endogamous Marriage of Prophet's Descendants on the Perspective of Sociology of Islamic Law."

³¹ SeyedAmirHossein Asghari, "Understanding Human Dignity in Shi'i Islam: Debates, Challenges, and Solutions for Contemporary Issues," *Religions* 14, no. 4 (2023): 505, <https://doi.org/10.3390/rel14040505>.

³² Abdul Hafiz Ab Majid et al., "The Method in Understanding Hadith Through *Ijmā'* and Its Implications for Islamic Law in Indonesia: Studies on the Hadiths of the Month of Qamariyah," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 281, <https://doi.org/10.22373/sjkh.v7i1.12383>.

³³ Iskandar A Gani et al., "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights:

Constitutional and Islamic Law Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjkh.v8i1.22215>.

³⁴ Yamin et al., "Together In Lesema: Living Islamic Law among Customary Dani Muslims Polygamy Practice in Papua."

³⁵ Erwin Hafid et al., "Knowledge on the Validity of the Hadith on Veil, the Obligation to Wear and Its Application in Social Life: A Case Study at UIN Alauddin Makassar," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 479, <https://doi.org/10.22373/sjkh.v7i1.14850>.

³⁶ Emawati Emawati, "Ideological Framing, Mosques, and Conflict: Bargaining Position of Salafi Movement in Lombok, East Indonesia," *Journal of Al-Tamaddun* 18, no. 1 (2023): 231–44, <https://doi.org/10.22452/jat.vol18no1.19>.

marriage laws, it is crucial to consider the country's diverse social, cultural, and political contexts. The following steps can be taken to ensure that the application of this theory is both effective and contextually relevant. Establishing a formal platform for dialogue among religious scholars, legal experts, government officials, and civil society representatives is essential. This platform would facilitate discussions on the implications of Islamic jurisprudence in marriage law, considering diverse perspectives, including local customs (adat), human rights standards, and secular laws. Such a platform would help ensure that legal reforms or rulings using Tanqih al-Manath are contextually relevant and socially accepted.³⁷ Implementing educational programs for religious scholars and legal practitioners is vital. These programs should focus on the intricacies of Tanqih al-Manath, balancing Islamic legal principles with contemporary social issues. This education would standardize the application of the theory, ensuring alignment with both religious doctrine and modern legal practices. Understanding local traditions and the political landscape is crucial for fostering a holistic view of marriage law.³⁸ Indonesia's marriage law must account for adat, which varies across provinces and ethnic groups. Scholars and policymakers should evaluate how local customs can be harmonized with Islamic principles. For instance, practices regarding polygamy or interfaith marriages may differ based on regional beliefs. Research studies and case law analysis should be conducted to gather

insights on these regional differences, designing solutions that accommodate this diversity without compromising Islamic jurisprudence.³⁹

Challenges and Conflicts in Harmonizing Islamic, Adat, and National Marriage Laws in Indonesia

The coexistence of Islamic law, customary law (Adat), and national law in Indonesia indeed creates a multifaceted legal landscape, particularly in marriage law, leading to several challenges and conflicts. Legal pluralism in Indonesia, where multiple legal traditions operate simultaneously, often results in conflicts of jurisdiction, especially in personal status matters such as marriage, divorce, and inheritance. For instance, a marriage valid under Adat law may not meet the requirements of Islamic or national law, causing legal ambiguities and disputes, as seen in the difficulties faced by couples in legal documentation and inheritance rights.⁴⁰

Inconsistencies in legal principles further complicate the situation. Islamic law, which emphasizes justice and equity, may conflict with Adat law, which is based on local customs that vary significantly, and national law, which aims to provide a uniform legal framework. This is evident in the practice of polygamy, where Islamic law permits it under certain conditions, Adat law in some regions may restrict it, and national law imposes additional regulations, leading to conflicting interpretations and enforcement.⁴¹

³⁷ Syaifuddin Zuhdi and Rizki Widyawati, "The Islamic Legal Maxims in Consideration of Religious Court Judge," in *Advances in Social Science, Education and Humanities Research*, 2022, <https://doi.org/10.2991/assehr.k.220501.032>.

³⁸ Abdullah et al., "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia."

³⁹ Muh. Sholihuddin, Saiful Jazil, and Syamsun Ni'am, "Remarriage in the 'Iddah Perspective of Maqāṣid Al-Urah: Study in Wedoro Waru, Sidoarjo, Indonesia," *Samarah* 8, no. 2 (2024): 263–68, <https://doi.org/10.22373/sjhk.v8i2.15061>.

⁴⁰ Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review*, 2024, <https://doi.org/10.20956/halrev.v10i1.4824>.

⁴¹ Hotnidah Nasution and Ahmad Rifqi Muchtar,

Cultural and regional variations add another layer of complexity. Indonesia's diverse ethnic groups have their own customs and traditions reflected in Adat law, complicating the application of a uniform national law. For example, the practice of dowry (*mahr*) in marriage, rooted in Islamic law, is interpreted and implemented differently across regions according to local Adat customs, leading to disparities and potential conflicts.⁴² Additionally, the prohibition of interfaith marriages under national law, which aims to protect religious teachings and the basic rights of marriage, further complicates the legal landscape, as it can eliminate the basic rights of marriage for husbands, wives, and children.⁴³

The challenges are also evident in the post-divorce scenario, where ex-spouses face difficulties in remarrying within their faith due to religious restrictions, highlighting the need for a neutral marriage law to prevent human rights violations.⁴⁴ Thus, harmonizing these diverse legal systems requires careful consideration of the unique principles and customs inherent in each to ensure a cohesive and effective legal framework.

Gender inequality and women's rights in

Indonesia are significantly influenced by the interplay between Islamic law, Adat law, and national law, each with its own interpretations and implementations. Islamic law, while providing certain protections and rights for women, often faces challenges in its application due to patriarchal customs embedded in Adat law, which can limit women's rights in marriage and inheritance. For instance, in the Sasak community of Lombok, customary law prioritizes men over women in inheritance matters, although Islamic law offers a more balanced approach to economic justice for women.⁴⁵

This disparity is further complicated by the presence of national laws, which aim to promote gender equality but often face resistance from traditional and religious groups. For example, efforts to implement gender-equal inheritance rights in Bangladesh were thwarted by opposition from Islamic fundamentalist parties, highlighting the tension between progressive legal reforms and conservative religious interpretations.⁴⁶

Additionally, the coexistence of these multiple legal systems creates legal uncertainty, making it difficult for individuals to navigate marriage laws. Couples may encounter conflicting requirements from Islamic, Adat, and national laws, leading to confusion and disputes over the legal recognition of their marriage.⁴⁷

"Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024, <https://doi.org/10.24090/mnh.v18i1.10921>.

⁴² Bani Syarif Maula, Muhammad Fuad Zain, and Syifaun Nada, "Marital Property in Marriages of Different Nationalities in Indonesia According to National Law and Islamic Law," *El-Aqwal: Journal of Al-Sharia and Comparative Law* 3, no. 1 (2024), <https://doi.org/10.24090/el-aqwal.v3i1.10508>.

⁴³ Mochammad Rizky Eka Aditya et al., "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach," *El-Usrah*, 2023, <https://doi.org/10.22373/ujhk.v6i2.20059>.

⁴⁴ Elisabeth Sundari and Anny Retnowati, "The Fundamental Problems of Implementing Legal Pluralism of Religious in Indonesian Marriage Law and A Proposal to Reform Based on The Pure of Law Theory," *International Journal of Religion*, 2024, <https://doi.org/10.61707/zpnnx947>.

⁴⁵ Zainal Arifin Haji Munir, "Wealth Distribution among Sasak Communities Through Inheritance: A Quest for Justice," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1627–43, <https://doi.org/10.22373/sjhk.v7i3.10835>.

⁴⁶ Jinat Hossain and Ishtiaq Jamil, "Negotiating Gender-Equal Inheritance Rights: The Rise of Islamic Politics and the Global Feminist Landscape in Bangladesh," *Religion, State and Society* 51, no. 2 (2023): 174–93, <https://doi.org/10.1080/09637494.2023.2206341>.

⁴⁷ I Ketut Ardhana and Ni Wayan Radita Novi Puspitasari, "Adat Law, Ethics, and Human Rights in Modern Indonesia," *Religions* 14, no. 4 (2023): 443, <https://doi.org/10.3390/rel14040443>.

This legal uncertainty also affects access to justice, as individuals struggle to understand their rights and the appropriate legal avenues for resolving issues. Efforts to harmonize these legal systems face significant challenges, as reforms must balance respect for local customs with the need for a uniform legal framework that upholds justice and equality. For instance, addressing child marriage requires careful consideration of religious, cultural, and legal dimensions to ensure reforms are effective and widely accepted.⁴⁸ Thus, the coexistence of Islamic law, customary law (Adat), and national law in Indonesia presents unique challenges and conflicts in the context of marriage law. These include conflicts of jurisdiction, inconsistencies in legal principles, cultural and regional variations, gender inequality, legal uncertainty, and the complexities of harmonization efforts. Addressing these challenges requires a nuanced and contextually sensitive approach that respects the diversity of Indonesia's legal traditions while promoting justice, equity, and the protection of individual rights.

Comprehensive legal reform should be proposed, grounded in research and comparative studies of how Tanqih al-Manath and similar theories have been applied in other Muslim-majority countries. By examining the successes and failures of legal frameworks in countries like Malaysia, Tunisia, or Egypt, Indonesia could adopt a more tailored approach that reflects its unique sociopolitical environment. This reform should include stricter criteria for polygamy, child marriage, and interfaith marriage while ensuring alignment with

both Sharia and secular law.⁴⁹

Developing mediation mechanisms to address conflicting views between religious scholars, society, and the government is crucial. Advisory councils comprising legal, religious, and community leaders could mediate disputes and issue non-binding but influential recommendations. These councils can offer interpretations that consider both religious and societal concerns, ensuring that Tanqih al-Manath is applied in a balanced manner.⁵⁰

Launching public awareness campaigns to inform citizens about the purpose and benefits of applying Tanqih al-Manath in marriage law could help bridge the gap between traditional religious beliefs and modern legal expectations. These campaigns would emphasize how the theory supports justice, fairness, and gender equality, helping to resolve societal concerns about issues like polygamy and child marriage. This would encourage greater acceptance of legal reforms aligned with both Islamic principles and modern human rights standards.⁵¹

While these steps provide a structured approach to applying Tanqih al-Manath in Indonesia, it is important to recognize the potential challenges. The diverse religious and cultural landscape of Indonesia means that any legal reform must be sensitive to local contexts and adaptable to changing societal norms. Additionally, fostering collaboration and dialogue among

⁴⁸ Tasbih Tasbih et al., "Islamic Feminists' Rejection of the Textual Understanding of Misogynistic Hadiths for the Advancement of Gender Justice in Makassar, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.19856>.

⁴⁹ Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia."

⁵⁰ Bukhari Bukhari et al., "The Mediating Role of Religiosity on the Big Five Personalities and Marital Satisfaction in Indonesia: A Perspective of Da'wah Psychology," *Islamic Guidance and Counseling Journal* 6, no. 2 (2023): 1-17, <https://doi.org/10.25217/0020236369600>.

⁵¹ Yamin et al., "Together In Lesema: Living Islamic Law among Customary Dani Muslims Polygamy Practice in Papua."

stakeholders is crucial to overcoming resistance and ensuring the successful implementation of reforms.

Applying *Tanqih al-Manath* to Modern Issues: Polygamy, Child Marriage, and Women's Rights in Indonesian Marriage

Applying the principles of *Tanqih al-Manath* to modern issues such as polygamy, child marriage, and women's rights within marriage in Indonesia involves refining and contextualizing the legal reasons (illah) behind these practices to ensure they align with core Islamic principles and contemporary socio-legal contexts. For polygamy, the illah is rooted in ensuring justice and fairness among wives, as emphasized in Surah An-Nisa 4:3. However, contemporary studies indicate that polygamy often results in unequal treatment and emotional distress for women, highlighting the need for stricter enforcement of justice.⁵² By purifying the illah through *Tanqih al-Manath*, we remove non-essential cultural or historical attributes, focusing solely on the principle of justice. This approach aligns with the dynamic nature of Islamic family law, which adapts to current challenges while maintaining its foundational principles.⁵³

In Indonesia, this could involve implementing stricter legal requirements for polygamy, such as mandatory court approval and ensuring the financial and emotional well-being of all wives, thereby addressing concerns about gender equality and women's rights.⁵⁴ Additionally, the unique practices of polygamy among the

Dani Muslim community, where wives live harmoniously in the same house, illustrate how local traditions can be integrated with Islamic law to maintain communal unity and social stability.⁵⁵ By contextualizing the illah to fit Indonesia's current legal and social framework, we can ensure that the practice of polygamy upholds the principle of justice and addresses contemporary concerns, thus making Islamic law both faithful to its core principles and responsive to modern issues.

The prohibition of child marriage in Islamic law is fundamentally rooted in the principles of protection and welfare of minors, as emphasized by the Quran and the Sunnah. This illah remains highly relevant today, given the detrimental health, educational, and social outcomes associated with child marriage, particularly for young girls.⁵⁶ Contemporary research highlights that child marriage is driven by factors such as safety concerns, economic challenges, and preservation of family honor, especially within refugee populations.⁵⁷ The practice is widely recognized as a violation of children's rights and a barrier to their development and well-being. In Indonesia, reformulating Islamic Marriage Law to include provisions against child marriage and setting a legal minimum age for marriage aligns with the core Islamic principles of protecting minors.⁵⁸ This approach involves *Tanqih al-Manath*, which purifies the illah by removing

⁵² Ridwan, Abdullah, and Idham, "Public Perception of Polygamy in Makassar, Indonesia: Cultural Perspective and Islamic Law."

⁵³ Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia."

⁵⁴ Tasbih et al., "Islamic Feminists' Rejection of the Textual Understanding of Misogynistic Hadiths for the Advancement of Gender Justice in Makassar, Indonesia."

⁵⁵ Yamin et al., "Together In Lesema: Living Islamic Law among Customary Dani Muslims Polygamy Practice in Papua."

⁵⁶ Kara Hunersen et al., "Child Marriage and Displacement: A Qualitative Study of Displaced and Host Populations in the Kurdistan Region of Iraq," *Journal of Refugee Studies*, 2024, <https://doi.org/10.1093/jrs/feae020>.

⁵⁷ Jabbar Abdulrahman Qahar, Dr Azlin Hillaluddin, and Dr Fatimah Ramli, "Factors Contributing to Child Marriage among Syrian Refugees in Domiz Camp-Kurdistan-Iraq," *Journal of International Students*, 2024, <https://doi.org/10.32890/jis2024.20.1.1>.

⁵⁸ Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia."

outdated cultural practices and focusing on the core principle of child protection. Additionally, the dynamic nature of Islamic family law allows it to adapt to contemporary challenges, ensuring its relevance in promoting the welfare of minors and addressing issues like child marriage.⁵⁹

Implementing educational and social programs to prevent child marriage further supports this goal. Similarly, the illah behind women's rights within marriage is based on justice, equity, and mutual respect. Addressing contemporary issues such as unilateral divorce, unequal inheritance rights, and limited access to education and employment for women requires purifying the illah by removing patriarchal interpretations and focusing on core principles of justice and equity. Legal reforms and social programs in Indonesia can promote gender equality and protect women's rights within marriage, ensuring that these principles are upheld in a way that addresses contemporary concerns and promotes the well-being of women.⁶⁰

In this regard, the principles of *Tanqih al-Manath* can be effectively applied to address contemporary issues such as polygamy, child marriage, and women's rights within marriage in Indonesia. By identifying, examining, purifying, and contextualizing the illah behind these practices, it is possible to develop innovative and culturally sensitive solutions that are both faithful to Islamic principles and responsive to the current socio-legal context. This approach ensures that the application of Islamic law promotes justice,

equity, and the protection of individual rights in a way that is relevant and applicable to contemporary Indonesian society.

Apart from it, in Saudi Arabia, Islamic law (Sharia) is the foundation of the legal system, and scholars frequently apply **Tanqih al-Manath** or similar methods of refining and contextualizing Islamic legal principles to address modern legal issues. A specific area where this is evident is in **family law**, particularly regarding **marriage and divorce**. In cases involving complex family matters, Saudi courts often rely on Islamic legal principles but must adapt them to contemporary social and economic contexts. For example, Saudi legal scholars use reasoning based on the **Maqasid al-Sharia (objectives of Islamic law)** and *Tanqih al-Manath* approaches to refine the application of traditional laws on issues like **guardianship, inheritance, and women's rights** within marriage. While Saudi Arabia has not formally labeled the use of *Tanqih al-Manath* as such, the process of contextualizing rulings to modern circumstances aligns closely with the theory. The country is an example where scholars systematically examine and refine Islamic legal rulings to make them more applicable to modern life, while maintaining strict adherence to Sharia principles. This balancing act between tradition and modernity reflects the practical utility of *Tanqih al-Manath* in the real world.⁶¹ However, this section does not allow the author to include it in the body text, as the diverse implementations occurring in various provinces and ethnic groups in Indonesia are already sufficient to discuss, without the need to seek comparisons in other Islamic countries with similar cases.

⁵⁹ Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia."

⁶⁰ Wafaa' Yusof, "A Pre-Trial Standard Operation Procedure for Children in Conflict with Sharia Criminal Law in Malaysia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.16097>.

⁶¹ Majed Al-Shaibani, "The Applications of Intention (Qaedat Al- Umu:R Bi Maqasidaha) in Saudi Law: A Comparative Study," *Journal of Politics and Law* 13, no. 2 (2020): 1, <https://doi.org/10.5539/jpl.v13n2p1>.

Impact of *Tanqih al-Manath* on Indonesian Marriage Law and Society

The application of *Tanqih al-Manath* to Indonesian marriage law can significantly enhance legal practice and influence social norms by refining the legal reasons (illah) behind Islamic rulings. This methodological tool can lead to greater legal consistency and clarity, as seen in the potential for clearer legal standards regarding child marriage, emphasizing the protection and welfare of minors, thus reducing legal ambiguities and conflicts.⁶² Additionally, *Tanqih al-Manath* can improve the legal framework by harmonizing Islamic law, customary law (Adat), and national law, addressing contemporary issues while remaining faithful to Islamic principles. For instance, stricter regulations on polygamy that emphasize justice can be incorporated into national law, ensuring the protection of all parties involved.⁶³

Socially, the promotion of gender equality is a significant implication, as refining the illah behind marriage laws to emphasize justice and equity can lead to legal reforms that protect women's rights, promoting equal treatment and opportunities within marriage and society.⁶⁴ Furthermore, the reduction of harmful practices such as child marriage and forced marriages can be achieved by purifying the illah behind these practices, emphasizing individual protection and welfare. Legal reforms, such as raising the legal age for marriage and ensuring mutual

consent, can help protect minors and reduce the prevalence of child marriage, leading to a gradual shift in social norms where such harmful practices are no longer accepted.⁶⁵ The integration of these refined principles into the legal system can also align with the broader objectives of Islamic law, as seen in the Aceh Province's regulatory framework for halal trade, which ensures adherence to Sharia principles while respecting national law.⁶⁶

The principles of *Tanqih al-Manath* can significantly inform evidence-based policy development by providing a clear and rational basis for legal reforms, particularly in the context of marriage laws. By refining and contextualizing the illah (legal reasoning) behind these laws, policymakers can develop culturally sensitive and effective policies. For instance, regulating polygamy based on the refined illah of justice and fairness ensures that policies address the specific needs and concerns of the community, leading to more effective and widely accepted outcomes that promote social welfare and justice.⁶⁷ Additionally, applying *Tanqih al-Manath* can help align Indonesian marriage laws with international human rights standards by emphasizing principles such as justice, equity, and the protection of individual rights. This alignment can help Indonesia comply with international conventions on human rights

⁶² Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia."

⁶³ Ridwan, Abdullah, and Idham, "Public Perception of Polygamy in Makassar, Indonesia: Cultural Perspective and Islamic Law."

⁶⁴ Halimatussa'diyah Halimatussa'diyah et al., "Minangkabaunese Matrilineal: The Correlation between the Qur'an and Gender," *Hts Teologiese Studies-Theological Studies*, 2024, <https://doi.org/10.4102/hts.v80i1.8643>.

⁶⁵ Abdullah et al., "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia."

⁶⁶ Teuku Ahmad Yani, Abdurrahman Abdurrahman, and Ida Mulyana, "Aceh as a Model of Halal Trade in Financial Goods and Services Regulation Based on Pancasila within the Framework of National Law in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 361–85, <https://doi.org/10.22373/sjhk.v8i1.17680>.

⁶⁷ Nasrullah Nasrullah, Wawan Andriawan, and Musawar Musawar, "The Character of Legal Products in Indonesia: A Study of Changes to the Marriage Law from a Political-Law Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjhk.v8i1.17302>.

and gender equality, thereby enhancing its reputation and standing in the international community.⁶⁸

Furthermore, the application of *Tanqih al-Manath* can strengthen social cohesion by harmonizing different legal traditions, such as Islamic law, Adat law, and national law, promoting a more just and equitable legal system. Ensuring consistency and fairness in marriage laws across different regions and communities can reduce legal conflicts and promote social harmony.⁶⁹

Empowering communities is another significant impact, as involving community leaders and stakeholders in the process of refining and contextualizing the illah behind marriage laws ensures that legal reforms reflect the values and aspirations of the community. This involvement enhances community ownership and support for legal reforms, leading to more effective and sustainable outcomes.⁷⁰ Moreover, the rapid growth of Islamic fintech in Indonesia highlights the importance of a comprehensive policy and regulatory framework that can be informed by principles like *Tanqih al-Manath* to ensure that financial products and services are Shariah-compliant, promoting innovation and consumer protection.⁷¹

As a whole, we highlight that the use of *Tanqih al-Manath* in Indonesia's marriage law holds significant consequences for the wider legal and social framework. It can improve legal coherence and understanding, support gender equality, diminish harmful practices, guide policy development based on evidence, align with global standards, strengthen community bonds, and empower local populations. By clarifying and situating the legal justifications for marriage laws, *Tanqih al-Manath* acts as a robust tool for creating innovative and culturally relevant solutions that foster justice, equity, and the protection of individual rights in Indonesia.

Conclusion

The study has demonstrated that the application of *Tanqih al-Manath* to Indonesian marriage law can significantly influence contemporary issues such as polygamy, child marriage, and women's rights within marriage. By critically analyzing these issues through the lens of *Tanqih al-Manath*, the research has highlighted both the potential benefits and challenges of integrating traditional Islamic jurisprudence with modern legal frameworks. This synthesis has provided a nuanced understanding of how religious principles can be harmonized with contemporary legal and social norms to address pressing societal issues.

The primary objective of this research was to explore the implications of applying *Tanqih al-Manath* to marriage law in Indonesia and its broader impact on the legal and social landscape. Reflecting on this objective, it is evident that the research has successfully achieved its goals. The study has not only identified main areas where *Tanqih al-Manath* can be applied but also evaluated its effectiveness in addressing contemporary

⁶⁸ Syarifah Rahmatillah Aljamalulail, Faisal A Rani, and Muazzin Muazzin, "The Politics of Law on the Fulfillment of Restitution Rights for Rape Victims Based on the Qanun Jinayat in Aceh," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024, <https://doi.org/10.22373/sjkh.v8i1.16307>.

⁶⁹ Mohammad Arif Kamal, Tahsinur Rahman Warsi, and Osama Nasir, "Islamic Principles As a Design Framework for Urban System: Environmental Concern and Sustainable Development," *Journal of Islamic Architecture* 7, no. 4 (2023): 699–712, <https://doi.org/10.18860/jia.v7i4.21187>.

⁷⁰ Ranjan Kumar and Bablu Kumar, "Empowering Communities: A Socio-Economic Analysis of Self-Help Groups (SHGs)," *International Journal for Multidisciplinary Research* 6, no. 3 (2024): 1–8.

⁷¹ Dwi Fidhayanti et al., "Exploring The Legal Landscape of Islamic Fintech in Indonesia: A Comprehensive Analysis of Policies and Regulations," *F1000Research*, 2024,

<https://doi.org/10.12688/f1000research.143476.1>.

issues. The findings suggest that while there are significant opportunities for positive change, there are also substantial challenges that need to be addressed to ensure the successful integration of these principles into the existing legal framework.

While this research has provided valuable insights, it has also uncovered several areas that warrant further investigation. Future research could focus on a more detailed analysis of the practical implementation of *Tanqih al-Manath* in different regions of Indonesia, considering the diverse cultural and social contexts. Additionally, longitudinal studies could be conducted to assess the long-term impact of these legal changes on societal norms and individual behaviors. Another potential area of research is the comparative analysis of similar applications in other Muslim-majority countries, which could provide a broader perspective and identify best practices that could be adapted to the Indonesian context.

Credit Authorship Contribution

Ismail Jalili: Conceptualization, Methodology, Investigation, Writing - Original Draft, and Supervision. Badrun Taman: Methodology, Data Collection, and Writing - Review & Editing. Fadillah Ulfa: Formal Analysis, Resources, and Writing - Review & Editing. Abdul Kabir Hussain Solih: Formal Analysis, Writing - Review & Editing, and Visualization...

Declaration of Competing Interest

The authors declare no competing interests related to this study. No financial or personal conflicts of interest are present.

Acknowledgements

The authors thank the Faculty of Islamic Studies, Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia, and Universitas Muhammadiyah Bengkulu,

Indonesia, for their support and resources throughout this research.

References

- Abdullah, Abdullah, Nurhayati Nurhayati, Fadli Andi Natsif, Hasbi Siddik, and Fathurrahman Fathurrahman. "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjhk.v8i1.20621>.
- Aditya, Mochammad Rizky Eka, Dinda Khoirunnisa, Fawwas Fawwas, Ajid Qiston, and Aulia Rahmatika Nur Azizah. "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach." *El-Usrah*, 2023. <https://doi.org/10.22373/ujhk.v6i2.20059>.
- Al-Hafizh, Rasyid, Fachrul Rozy, and Zaim Rais. "Ushul Al-Fiqh: Its Epistemology, Purpose, and Use." *Diktum: Jurnal Syariah Dan Hukum* 19, no. 1 (2021): 1–15. <https://doi.org/10.35905/DIKTUM.V19I1.1529>.
- Al-Sa'di, Abd al-Hakim Abd al-Rahman As'ad. *Mabahith Al-'Illah Fi Al-Qiyas 'inda Al-Ushuliyyin*. 2nd ed. Beirut: Daar al-Basya'ir al-Islamiyyah, 2000.
- Al-Shaibani, Majed. "The Applications of Intention (Qaedat Al-Umu:R Bi Maqasidaha) in Saudi Law: A Comparative Study." *Journal of Politics and Law* 13, no. 2 (2020): 1. <https://doi.org/10.5539/jpl.v13n2p1>.
- Al-Wad'an, Walid ibn Fahd. "Tanqih Al-Manath: Ta'rifuhu Wa Mithalun 'Alaih." *Alukah.net*, 2017.
- Aljamalulail, Syarifah Rahmatillah, Faisal A Rani, and Muazzin Muazzin. "The Politics of Law on the Fulfillment of Restitution Rights for Rape Victims Based on the Qanun Jinayat in Aceh." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjhk.v8i1.16307>.
- Ardhana, I Ketut, and Ni Wayan Radita Novi Puspitasari. "Adat Law, Ethics, and Human Rights in Modern Indonesia." *Religions* 14, no. 4 (2023): 443. <https://doi.org/10.3390/rel14040443>.

- Asghari, SeyedAmirHossein. "Understanding Human Dignity in Shi'i Islam: Debates, Challenges, and Solutions for Contemporary Issues." *Religions* 14, no. 4 (2023): 505. <https://doi.org/10.3390/rel14040505>.
- Asrawijaya, Enkin. "Harmonization Between Customs and Islam in the Jalawastu Community." *Journal of Indonesian Islam* 16, no. 2 (2022): 378–98. <https://doi.org/10.15642/JIIS.2022.16.2.378-398>.
- Aziz, Nasaiy, Rispalman Rispalman, and Tika Anggraini. "Polygamy in the Perspective of Tafsir Al-Ahkām and Islamic Law: An Examination of the Gayo Luwes Community in Aceh, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2023. <https://doi.org/10.22373/sjkh.v7i3.20021>.
- Bakar, Alyasa Abu, and S Sahman. "The Renewing of Usul Al-Fiqh: Challenges, Limitations and Future Directions." *Indonesian Journal of Islamic Economic Law* 1, no. 2 (2024): 105–22. <https://doi.org/10.23917/ijoe.v1i2.5334>.
- Bukhari, Bukhari, Shovia Lintina, Sabiruddin Sabiruddin, Mistarija Mistarija, A'Dawiyah Ismail, and K. Septin Maisharah. "The Mediating Role of Religiosity on the Big Five Personalities and Marital Satisfaction in Indonesia: A Perspective of Da'wah Psychology." *Islamic Guidance and Counseling Journal* 6, no. 2 (2023): 1–17. <https://doi.org/10.25217/0020236369600>.
- Dahlan, Abdurrahman, Bagus Haziratul Qodsiyah, Azizah Azizah, Asmawi Asmawi, and Djawahir Hejaziey. "Al-Būti's Thoughts on Maslāhah and Its Application in the Fatwa of World Fatwa Institutions." *Samarah* 7, no. 2 (2023): 1148–70. <https://doi.org/10.22373/sjkh.v7i2.17552>.
- Djawas, Mursyid, Abidin Nurdin, Muslim Zainuddin, Idham Idham, and Zahratul Idami. "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism." *Hasanuddin Law Review*, 2024. <https://doi.org/10.20956/halrev.v10i1.4824>.
- Emawati, Emawati. "Ideological Framing, Mosques, and Conflict: Bargaining Position of Salafi Movement in Lombok, East Indonesia." *Journal of Al-Tamaddun* 18, no. 1 (2023): 231–44. <https://doi.org/10.22452/jat.vol18no1.19>.
- Erkoc Baydar, Tuba. "A Secret Marriage and Denied Rights: A Critique from an Islamic Law Perspective." *Religions* 14, no. 4 (2023). <https://doi.org/10.3390/rel14040463>.
- Fakhruddin, Fakhruddin, Sudirman Hasan, Dwi Hidayatul Firdaus, and Hakmi Hidayat. "From Fiqh Al-Ibadat to Muamalat: Repositioning Zakat Management in Indonesia in the Perspective of Maqāṣid Al-Sharī'ah." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.19637>.
- Fauzan, Abdul Qodir Zaelani, M. Harir Muzakki, Imam Syafi'i, and Bustomi. "Endogamous Marriage of Prophet's Descendants on the Perspective of Sociology of Islamic Law." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 1 (2023): 1–26. <https://doi.org/10.19105/al-ihkam.v18i1.7132>.
- Fidhayanti, Dwi, Mohd Shahid Mohd Noh, Ramadhita Ramadhita, and Syabbul Bachri. "Exploring The Legal Landscape of Islamic Fintech in Indonesia: A Comprehensive Analysis of Policies and Regulations." *F1000Research*, 2024. <https://doi.org/10.12688/f1000research.143476.1>.
- Gani, Iskandar A, Romi Asmara, Sulaiman Sulaiman, and Asmaul Husna. "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.22215>.
- Hafid, Erwin, Mahmuddin Mahmuddin, Tarmizi M Jakfar, and Syahabuddin Syahabuddin. "Knowledge on the Validity of the Hadith on Veil, the Obligation to Wear and Its Application in Social Life: A Case Study at UIN Alauddin Makassar." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 479. <https://doi.org/10.22373/sjkh.v7i1.14850>.
- Hakim, Sudarnoto Abdul. "Islamic Literature in Modern Indonesia: Political Disputes among Muslim Writers, 1930s-1960s." *Indonesian Journal of Islam and Muslim*

- Societies* 13, no. 1 (2023): 143–67. <https://doi.org/10.18326/ijims.v13i1.143-167>.
- Halimatussa'diyah, Halimatussa'diyah, Kusnadi Kusnadi, Ai Y Yuliyanti, Deddy Ilyas, and Eko Zulfikar. "Minangkabaunese Matrilineal: The Correlation between the Qur'an and Gender." *Hts Teologiese Studies-Theological Studies*, 2024. <https://doi.org/10.4102/hts.v80i1.8643>.
- Hossain, Jinat, and Ishtiaq Jamil. "Negotiating Gender-Equal Inheritance Rights: The Rise of Islamic Politics and the Global Feminist Landscape in Bangladesh." *Religion, State and Society* 51, no. 2 (2023): 174–93. <https://doi.org/10.1080/09637494.2023.2206341>.
- Hunersen, Kara, Allison Jeffery, Luqman Saleh Karim, Katherine Gambir, Janna Metzler, Ali Zedan, and W C Robinson. "Child Marriage and Displacement: A Qualitative Study of Displaced and Host Populations in the Kurdistan Region of Iraq." *Journal of Refugee Studies*, 2024. <https://doi.org/10.1093/jrs/feae020>.
- Jumarim, Jumarim. "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.18581>.
- Kamal, Mohammad Arif, Tahsinur Rahman Warsi, and Osama Nasir. "Islamic Principles As a Design Framework for Urban System: Environmental Concern and Sustainable Development." *Journal of Islamic Architecture* 7, no. 4 (2023): 699–712. <https://doi.org/10.18860/jia.v7i4.21187>.
- Kumar, Ranjan, and Bablu Kumar. "Empowering Communities: A Socio-Economic Analysis of Self-Help Groups (SHGs)." *International Journal for Multidisciplinary Research* 6, no. 3 (2024): 1–8.
- Majid, Abdul Hafiz Ab, Sitti Sagirah, Novizal Wendry, Edi Safri, and Syafruddin Syafruddin. "The Method in Understanding Hadith Through Ijmā' and Its Implications for Islamic Law in Indonesia: Studies on the Hadiths of the Month of Qamariyah." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 281. <https://doi.org/10.22373/sjkh.v7i1.12383>.
- Makhlouf, Ahmed Gad. "Continuity and Change of Traditional Islamic Law in Modern Times: Tarjih as a Method of Adaptation and Development of Legal Doctrines." *Oxford Journal of Law and Religion* 12, no. 1 (2023): 55–74. <https://doi.org/10.1093/ojlr/rwado10>.
- Masud, Muhammad Khalid, Brinkley Messick, and David S Powers. "Islamic Legal Interpretation: Muftis and Their Fatwas." *The Journal of Law and Religion* 15 (2000): 421–24. <https://doi.org/10.2307/1051538>.
- Maula, Bani Syarif, Muhammad Fuad Zain, and Syifaun Nada. "Marital Property in Marriages of Different Nationalities in Indonesia According to National Law and Islamic Law." *El-Aqwal: Journal of Al-Sharia and Comparative Law* 3, no. 1 (2024). <https://doi.org/10.24090/el-aqwal.v3i1.10508>.
- Mu'adzah, Nadiyah. "Ushul Fiqh, Qaidah Fiqhiyyah, and Islamic Jurisprudence" 3, no. 2 (2022). <https://doi.org/10.58968/jiel.v3i2.130>.
- Munir, Zainal Arifin Haji. "Wealth Distribution among Sasak Communities Through Inheritance: A Quest for Justice." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1627–43. <https://doi.org/10.22373/sjkh.v7i3.10835>.
- Nasohah, Zaini. "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 1–19. <https://doi.org/10.22373/sjkh.v8i1.16553>.
- Nasrullah, Nasrullah, Wawan Andriawan, and Musawar Musawar. "The Character of Legal Products in Indonesia: A Study of Changes to the Marriage Law from a Political-Law Perspective." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.17302>.
- Nasution, Hotnidah, and Ahmad Rifqi Muchtar. "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts." *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024. <https://doi.org/10.24090/mnh.v18i1.10921>.
- Qahar, Jabbar Abdulrahman, Dr Azlin Hillaluddin, and Dr Fatimah Ramli. "Factors Contributing to Child Marriage among

- Syrian Refugees in Domiz Camp-Kurdistan-Iraq.” *Journal of International Students*, 2024. <https://doi.org/10.32890/jis2024.20.1.1>.
- Ridwan, Muhammad, Wahidah Abdullah, and Idham Idham. “Public Perception of Polygamy in Makassar, Indonesia: Cultural Perspective and Islamic Law.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.15419>.
- Sholihuddin, Muh., Saiful Jazil, and Syamsun Ni’am. “Remarriage in the ‘Iddah Perspective of Maqāṣid Al-Usrah: Study in Wedoro Waru, Sidoarjo, Indonesia.” *Samarah* 8, no. 2 (2024): 263–68. <https://doi.org/10.22373/sjkh.v8i2.15061>.
- Sundari, Elisabeth, and Anny Retnowati. “The Fundamental Problems of Implementing Legal Pluralism of Religious in Indonesian Marriage Law and A Proposal to Reform Based on The Pure of Law Theory.” *International Journal of Religion*, 2024. <https://doi.org/10.61707/zpnnx947>.
- Syufa’at, Syufa’at, and Muchimah Muchimah. “The Shifting Meaning of Walimatul ‘Urs in the Era of Society 5.0 in Indonesia: Islamic Law Perspective.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2023. <https://doi.org/10.22373/sjkh.v7i3.18765>.
- Tasbih, Tasbih, Abbas Langaji, Saidah A Hafid, Andi Faisal Bakti, and Abdul Haris. “Islamic Feminists’ Rejection of the Textual Understanding of Misogynistic Hadiths for the Advancement of Gender Justice in Makassar, Indonesia.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.19856>.
- Widyawati, Fransiska. “University Student’s Perceptions on Interfaith Marriage in Indonesia: Openness, Idealism, and Reality.” *Religions*, 2024. <https://doi.org/10.3390/rel15060745>.
- Yamin, Ade, Mufliha Wijayati, Ahmad Syarif Makatita, and Marwan Sileuw. “Together In Lesema: Living Islamic Law among Customary Dani Muslims Polygamy Practice in Papua.” *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 2023. <https://doi.org/10.19105/al-Ihkam.v18i2.9957>.
- Yani, Teuku Ahmad, Abdurrahman Abdurrahman, and Ida Mulyana. “Aceh as a Model of Halal Trade in Financial Goods and Services Regulation Based on Pancasila within the Framework of National Law in Indonesia.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 361–85. <https://doi.org/10.22373/sjkh.v8i1.17680>.
- Yusof, Wafaa’. “A Pre-Trial Standard Operation Procedure for Children in Conflict with Sharia Criminal Law in Malaysia.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 2024. <https://doi.org/10.22373/sjkh.v8i1.16097>.
- Zaidan, Abdul Karim. *Al-Wajiz Fi Ushul Fiqh*. 1st ed. Al-Qahirah: Daar al-Tauzi’ wa al-Nasyr al-Islamiyah, 1993.
- Zuhdi, Syaifuddin, and Rizki Widyawati. “The Islamic Legal Maxims in Consideration of Religious Court Judge.” In *Advances in Social Science, Education and Humanities Research*, 2022. <https://doi.org/10.2991/assehr.k.220501.032>.