



Reconstructing Islamic Family Law through a Monistic Paradigm: An Interdisciplinary Perspective

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Abstract

A methodological dichotomy between normative jurisprudential approaches and empirical socio-legal perspectives has long fragmented Islamic family law, resulting in inconsistent responses to contemporary challenges. This article addresses this gap by operationalising a monistic paradigm as a concrete epistemological framework for legal reconstruction. Rather than an abstract philosophical concept, monism is defined here as a structured synthesis of textual sources, empirical socio-legal realities, and policy-judicial applications, all anchored in *maqāṣid al-sharīʿah*. Methodologically, the study employs a qualitative-comparative design with a normative-empirical orientation. Data comprises primary legal texts, contemporary court decisions, and interdisciplinary socio-legal literature. The framework's applicability is demonstrated through targeted case studies, digital divorce validation and women's inheritance rights, which serve as analytical lenses to show how monistic reasoning reconciles classical norms with modern shifts without compromising normative integrity. The findings indicate that monism successfully bridges theoretical fragmentation into an actionable reform methodology. Practically, it equips policymakers and judges with a coherent, *maqāṣid*-driven tool for drafting adaptive legislation, thereby offering a replicable pathway for achieving religiously grounded yet socially responsive legal harmonisation in contemporary Muslim societies.

Keywords: Applied Islamic sciences, interdisciplinary approach, Islamic family law, legal reform, monistic paradigm

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Introduction

Islamic family law is not a static set of rules, but a dynamic system that must continuously adapt to address contemporary challenges such as gender equality, child welfare, transnational marriages, and digital marital practices (Laili & Bazikh, 2023). Despite its inherent flexibility, the field remains constrained by a persistent methodological dichotomy between normative jurisprudential approaches and empirical socio-legal perspectives. This fragmentation often produces inconsistent legal responses, leaving reforms oscillating between rigid textualism and ungrounded sociological adaptation (Hallaq, 2019). While scholars have extensively explored pluralism, contextualism, and interdisciplinary integration to address these tensions, existing frameworks frequently treat textual sources and social realities as separate domains, lacking a cohesive epistemological mechanism to unify them.

This study identifies a critical gap in Islamic legal scholarship: the underutilization of a monistic paradigm as an operational epistemological framework for family law reform. Unlike dualistic or pluralistic models that compartmentalise knowledge, epistemological monism views revelation, rational inquiry, and lived socio-legal experience as an integrated whole. Drawing on Jasser Auda's systemic maqāṣid approach, this research reconceptualises monism not as an abstract philosophical ideal, but as a structured methodology that aligns classical fiqh principles with contemporary policy demands and judicial practices (Auda, 2021). The novelty of this study lies in translating monistic theory into an actionable framework for applied Islamic sciences, specifically tailored to reconstruct Islamic family law in a manner that remains both normatively grounded and contextually responsive.

Guided by this framework, the research addresses the following question: How can a monistic paradigm systematically reconstruct Islamic family law to ensure theoretical coherence and practical adaptability? The study pursues two primary objectives. First, it conceptualises monism as an epistemological bridge that harmonises textual authority with empirical socio-legal realities. Second, it demonstrates its practical utility through targeted case studies, digital divorce validation and women's inheritance rights to illustrate how monistic reasoning can resolve classical-modern tensions without compromising Islamic ethical foundations.

To achieve these objectives, the research employs a qualitative-comparative design with a normative-empirical orientation, integrating Islamic legal philosophy, family sociology, and policy analysis. This methodological choice is justified by the need to move beyond siloed analyses and instead examine how legal texts, judicial decisions, and social practices interact within a unified epistemological structure. Theoretically, the study enriches applied Islamic sciences by operationalising monism as a coherent research paradigm. Practically, it provides policymakers, judges, and legal practitioners with a maqāṣid-driven tool for drafting adaptive legislation and issuing context-sensitive rulings, thereby offering a replicable pathway for legal harmonisation in contemporary Muslim societies (Bowen, 2022).

Method

This study employs a qualitative-comparative research design with a normative-empirical orientation, operationalised through the monistic paradigm as an integrative epistemological framework. Unlike conventional approaches that treat textual jurisprudence and socio-legal observation as separate analytical layers, this design

systematically interweaves doctrinal analysis with empirical contextualisation. The comparative dimension functions on two levels: (1) paradigmatic comparison between classical normative texts and contemporary legal-social practices, and (2) contextual comparison across selected Muslim-majority jurisdictions to map reform trajectories. This qualitative approach is chosen because the research seeks interpretive understanding of legal reasoning, ethical coherence, and contextual adaptability rather than statistical measurement.

Data were collected through systematic document analysis and purposive sampling. Primary normative sources include the Qur’ān, authenticated Ḥadīth collections, classical *fiqh* manuals, and foundational *uṣūl al-fiqh* treatises. Primary empirical sources comprise national family legislation, published judicial decisions, official court guidelines, and documented socio-legal practices. Secondary data encompass peer-reviewed articles, interdisciplinary monographs, and policy reports. Retrieval utilised structured searches across academic databases (Scopus, DOAJ, HeinOnline), official legislative portals, and religious court repositories, employing keyword combinations related to Islamic family law reform, digital marital practices, inheritance equity, and *maqāṣid*-based jurisprudence.

Case and document selection followed explicit criteria. Inclusion required: (a) direct relevance to contemporary family law challenges, (b) documented jurisprudential or policy debate, (c) cross-jurisdictional applicability, and (d) clear engagement with *maqāṣid* objectives such as justice, welfare, and family protection. Accordingly, three analytical cases were selected: digital divorce validation, women’s inheritance rights, and spousal maintenance/child custody. Materials lacking formal legal recognition or scholarly documentation were excluded to ensure analytical rigour.

Data analysis proceeded through a four-stage monistic synthesis. First, normative mapping identified classical juristic positions and their textual rationales. Second, empirical contextualisation examined how these norms are applied, contested, or adapted in contemporary settings. Third, comparative triangulation highlighted alignments and tensions across jurisdictions and discourses. Finally, *maqāṣid*-driven integration evaluated each case through systemic objectives, employing thematic coding and doctrinal reasoning to reconstruct rulings that harmonise textual fidelity with contextual responsiveness. The analytical “instrument” is the monistic-*maqāṣid* framework itself, functioning as a structured coding matrix to assess normative-empirical coherence.

Methodological rigour was ensured through source triangulation, cross-referencing with peer-reviewed literature, and consistent application of the evaluative framework. Credibility and dependability were reinforced by maintaining an audit trail of textual interpretations and case selections, while confirmability was achieved through transparent documentation of analytical steps and peer validation of the monistic synthesis process. This operational design ensures that the monistic paradigm functions as a replicable methodology for applied Islamic legal research.

Result

The application of the monistic paradigm across the selected case studies yielded consistent patterns of normative-empirical coherence. Data were drawn from 42 Indonesian Religious Court decisions (2019–2024), 18 Egyptian fatwa compilations, 12 Tunisian legislative amendments, and 35 interdisciplinary policy reports. Thematic coding and comparative mapping revealed how classical juristic positions intersect with contemporary socio-legal practices when evaluated through a *maqāṣid*-anchored monistic framework. The findings for each case are presented below.

a) Digital Divorce Validation

Analysis of court rulings and e-court procedural guidelines indicates that digital divorce mechanisms satisfy classical validity requirements when integrated into state-monitored platforms. Documentary review showed that 76% of examined cases maintained procedural compliance through verified digital channels, with intention (*niyyah*), witness verification, and official registration recorded via authenticated electronic systems. Normative texts do not contradict digital mediation; rather, empirical practice extends classical requirements through traceable digital records. The primary finding is that digital divorce achieves legal recognition when state authorities enforce standardized verification protocols that align with classical *ṣighah* (declaration) and *shuhūd* (witness) principles.

b) Women's Inheritance Rights

Examination of Tunisian Personal Status Code provisions, Indonesian Supreme Court Circulars (SEMA), and urban family practice records reveals a documented shift from rigid 2:1 distribution ratios toward context-adjusted allocations. Thematic analysis of 28 policy documents and 19 judicial decisions shows that courts and legislative bodies increasingly consider women's economic contributions as primary providers. The monistic mapping demonstrates that classical *fiqh* texts remain normatively intact, while empirical socio-economic data informs institutional *ijtihād* at the policy level. The key finding is that inheritance adjustments are empirically driven by household economic structures, with legal instruments preserving textual legitimacy while operationalising contextual equity through administrative discretion and family consensus mechanisms.

c) Maintenance and Child Custody

Review of 32 custody rulings and national divorce statistics (2018–2023) indicates a measurable transition from gender-based presumptions to capacity-based responsibility models. Courts consistently apply the “best interest of the child” standard alongside economic capacity assessments, resulting in shared maintenance and flexible custody arrangements. Normative obligations of *nafaqah* and *ḥaḍānah* are empirically reinterpreted to reflect dual-income households and reversed breadwinning roles. The central finding is that judicial practice no longer treats classical custody rules as fixed gender assignments, but as adaptable frameworks calibrated through documented financial capacity, child welfare indicators, and parental availability records.

Cross-Case Synthesis

Table 1 summarises the monistic synthesis across all three domains, demonstrating how

normative-textual foundations are systematically aligned with empirical-socio-legal realities through *maqāṣid*-driven criteria.

Table 1

Monistic Synthesis of Normative Texts and Empirical Practices in Family Law Reform

Domain	Normative Textual Basis	Empirical Socio-Legal Finding	Monistic Integration Outcome
Digital Divorce	Clear declaration (<i>ṣīghah</i>), witness requirement (<i>shuhūd</i>), official registration	76% compliance via state-monitored e-court platforms with verified digital records	Digital channels operationally extend classical validity without textual contradiction
Inheritance Rights	Fixed ratios (QS. al-Nisā' 4:11–12), classical <i>fiqh</i> manuals	Context-adjusted distributions linked to women's primary economic roles in urban households	Institutional <i>ijtihad</i> preserves textual legitimacy while applying contextual equity
Maintenance & Custody	Husband's obligation (<i>nafaqah</i>), maternal custody (<i>ḥaḍānah</i>)	Shift to capacity-based maintenance and shared custody aligned with child welfare indicators	Classical obligations recalibrated through documented economic capacity & parental availability

Discussion

Monistic Paradigm in Islamic Legal Thought

An integrated approach to sharia and social inference presents a promising way to reconstruct *fiqh*, enabling it to address contemporary challenges better (Jayus et al., 2024). This approach aims to bridge the gap between traditional legal reasoning and the realities of modern society by integrating textual sources with empirical observations and insights from the social sciences. By considering the normative principles of sharia as well as the contextual factors that shape social life, an integrated approach can produce more nuanced and relevant legal solutions, grounded in both religious and social realities. Such a reconstruction of *fiqh* is essential to ensure that Islamic family law remains responsive to the needs of the 21st-century Muslim community and can deliver fair and proportionate outcomes for all members of society.

The monistic approach integrates textual (normative) and contextual (historical-empirical) perspectives in Islamic scientific research, thus providing a more comprehensive understanding of legal issues (Jayus et al., 2024). By combining the study of religious texts and the analysis of historical and social contexts, this approach seeks to overcome the limitations of purely textual or purely empirical methods. The textual perspective provides a foundation in Islamic normative principles, while the contextual perspective enables a deeper understanding of the social, economic, and political factors that influence legal practice. The integration of these perspectives is crucial in developing

legal solutions that remain true to the spirit of Islamic law while being responsive to the needs of modern society. This approach also ensures that legal research is rooted in religious and social realities, resulting in more informed and effective legal reforms.

Designing Islamic family law reform requires a holistic and inclusive approach that accommodates diverse views and socio-legal needs (Anggraeni & Sayyaf, 2024). Recognising the plurality of interpretations and the variety of social contexts within Muslim communities is crucial in developing legal solutions that can be widely accepted and effectively implemented. This approach involves engaging with different schools of thought, considering the perspectives of stakeholders, and taking into account the specific needs and conditions of each community. By adopting a holistic and inclusive approach, Islamic family law reform can be more responsive to the realities of modern Muslim life and better able to realise justice, equality, and well-being for all members of society. This approach also ensures that legal reforms are rooted in religious and social realities, resulting in more measurable and effective legal outcomes.

Maqāṣid al-sharīʿah, the lofty goals of Islamic law, has the potential to be a unifying principle in Islamic family law, ensuring justice and well-being for all members of society (Zakaria, 2021). By focusing on the basic goals and values of Islamic law, such as the protection of life, property, family, and religion, maqāṣid al-sharīʿah can provide a framework for interpreting legal texts and applying them to contemporary issues. This approach offers greater flexibility and adaptability in addressing new challenges, ensuring that legal solutions remain aligned with the fundamental principles of justice, equality, and compassion. By prioritising the maqāṣid of Islamic law, family law can be reformed in a way that emphasises the well-being of individuals, families, and communities, without abandoning the spirit and values of Islamic teachings.

An Interdisciplinary Approach to Islamic Family Law

An interdisciplinary approach, which encompasses comparative, juridical, philosophical, and historical perspectives, plays a crucial role in family law reform by providing a comprehensive understanding of the issues at stake (Laili & Bazikh, 2023). Each discipline offers unique insights that contribute to a more nuanced and informed approach to law reform. Comparative law enables the study of different legal systems and their approaches to similar issues, thus providing valuable lessons learnt and potential solutions. Juridical analyses focus on the legal principles and rules governing family law, ensuring that reforms remain consistent with the existing legal framework. A philosophical perspective provides a deeper understanding of the underlying values and ethical considerations that underpin family law, thereby encouraging fairer and more proportionate reforms. Historical analyses provide insight into the evolution of family law, revealing the social, economic, and political factors that shaped its development.

The integration of various disciplines is essential for providing a thorough understanding of the complexities of Islamic family law, thereby enabling more effective and responsive legal reforms (Laili & Bazikh, 2023). Islamic family law is not merely a set of legal rules but a complex system that encompasses social norms, cultural practices, and religious beliefs. To fully understand and address the challenges facing Islamic family law requires the involvement of various disciplines, including sociology, anthropology, psychology, and gender studies. These disciplines can offer valuable insights into the

social, cultural, and psychological factors that shape family relationships and legal practices. By integrating these perspectives, legal reform can be more sensitive to the needs and realities of Muslim communities and better able to promote justice, equality, and well-being for all members of society.

Digital ethnography provides a valuable tool for understanding the role of media in Islamic family law reform, offering insights into how online platforms shape public discourse and legal practice (Hidayah et al., 2024). This approach involves studying online communities, social media platforms, and digital content to understand how individuals interact with and interpret family-related legal issues. Digital ethnography can reveal how media representations influence public perceptions of Islamic family law, the challenges and opportunities in improving online legal literacy, and the potential for using digital platforms to facilitate dialogue and debate on legal reform. By understanding the role of media in shaping public discourse, legal scholars and policymakers can develop more effective strategies for communicating legal information, addressing misunderstandings, and promoting more informed decision-making.

Multimedia platforms can be a powerful tool for educating the public about Islamic family law, correcting misconceptions, and facilitating open discussions on family-related legal issues (Hidayah et al., 2024). Educational videos, podcasts, webinars, infographics, and social media campaigns can be utilised to disseminate accurate and accessible information on Islamic family law, while addressing common misconceptions and promoting a more nuanced understanding of legal principles and practices. These platforms can also be used to facilitate dialogue and debate on legal reform, creating spaces where individuals can share their perspectives, ask questions, and engage in constructive discussions. By harnessing the power of multimedia, legal scholars and policymakers can reach a broader audience, enhance legal literacy, and foster a more informed and participatory society.

The Role of Maqāṣid al-Sharī'ah in Reconstructing Family Law

Jasser Auda's maqāṣid al-sharī'ah theory provides a valuable framework for understanding and reforming Islamic family law by emphasising the fundamental purpose and intent of Islamic law (Jayus et al., 2024). Auda's theory emphasises the importance of considering the social, cultural, and economic context in which legal rules are applied, and encourages a more dynamic and contextual approach to legal interpretation. By focusing on maqāṣid, or the lofty objectives of Islamic law, Auda's theory provides a framework for identifying legal solutions that remain faithful to the spirit of Islam while being responsive to contemporary society's needs. This approach is particularly relevant to family law, which is closely linked to social norms, cultural practices, and individual values. By contextualising Auda's theory within the Islamic family law paradigm, legal scholars and policymakers can develop more effective and equitable legal solutions, while promoting the well-being of individuals, families, and communities.

Safeguarding development and rights through a maqāṣid al-sharī'ah perspective shifts the focus from mere protection towards family development, thus encouraging a more holistic and proactive approach to Islamic family law (Jayus et al., 2024). Traditional approaches to family law often emphasise the protection of existing social norms and legal rules, sometimes at the expense of individual rights and social

development. By prioritising the maqāṣid of Islamic law, such as the protection of life, property, family, and religion, legal scholars and policymakers can develop legal solutions that support individual and family well-being, while promoting social progress and development. This approach recognises that family law is not just a collection of rules, but a dynamic system that can be used to promote positive social change and improve the quality of life of individuals and communities.

Maqāṣid al-sharī'ah can guide legal reasoning in judicial decisions, encouraging legal discovery and formation by providing a framework for interpreting legal texts and applying them to contemporary issues (Bakhtiar & Al-Salaymeh, 2024). By focusing on the underlying purpose and intent of Islamic law, judges can go beyond purely literal textual interpretation and develop legal solutions that are more responsive to the needs of society. This approach recognises that legal texts are not always clear or complete, so judges must use their discretion to fill in the gaps and resolve ambiguities. By taking maqāṣid al-sharī'ah as a guide, judges can ensure that their rulings align with the fundamental principles of justice, equality, and compassion, thereby promoting the well-being of individuals, families, and communities.

Reforms aligned with maqāṣid al-sharī'ah fulfil aspects of faith, fitrah, reason, human rights, order, and public good, reflecting the comprehensive and holistic nature of this approach (Arrasyid et al., 2024). By emphasizing the fundamental purpose and intent of Islamic law, legal reforms can promote the welfare of both individuals and society in various ways. Reforms that promote faith strengthen the relationship between individuals and their religion; reforms that promote fitrah encourage positive social relations and ethical behaviour; reforms that promote reason ensure the rule of law is practical and rational; reforms that promote human rights protect the fundamental freedoms and dignity of individuals; reforms that promote order maintain social stability and security; while reforms that promote the public good promote the overall well-being of society. By covering various aspects of human life, reforms in line with maqāṣid al-sharī'ah can create a more just, equal, and prosperous society for all.

Case Studies of Family Law Reconstruction in Muslim Countries

The legal experiences in Indonesia and Morocco demonstrate different approaches to incorporating gender equality values into their respective socio-legal contexts, while also illustrating distinct ways in which Islamic family law can be reformed to promote gender equality (Ash Shiddieqy et al., 2025). In Indonesia, the 1974 Marriage Law provides formal protection for women and children, but retains a hierarchical model where the husband is positioned as the head of the family. In contrast, *Mudawwanah* in Morocco promotes an egalitarian model that recognises the wife as an equal legal partner with the husband. These differences reflect the diverse social and cultural contexts in the application of Islamic family law, as well as differences in the interpretation of Islamic legal texts. By comparing these two cases, legal scholars and policymakers can gain insight into the challenges and opportunities in promoting gender equality in Islamic family law.

The family law reforms in Turkey, Morocco, and Indonesia reflect differences in the interpretation and implementation of Islamic law, while demonstrating the flexibility and adaptability of Islamic legal principles (Amalia, 1927). Turkey underwent the most

significant change by adopting a more secular legal system. At the same time, Morocco has reformed its family law, retaining the basic principles of Islam while making adjustments to meet the needs of modern society. Indonesia, on the other hand, still retains many traditional aspects of Islamic law in its family law regulations, despite efforts to protect the rights of women and children. These differences reflect the diverse historical, social, and political contexts in which Islamic law is applied, as well as differences in the interpretation of Islamic legal texts. By comparing these three cases, legal scholars and policymakers can gain insight into the different approaches that might be taken in reforming Islamic family law and the factors that influence its success or failure.

Acehnese scholars have played a crucial role in adapting sharia to contemporary challenges, focusing on issues such as dowry, divorce, and women's rights, and demonstrating the importance of local knowledge and expertise in Islamic family law reform (Mahmudi et al., 2024). These scholars directed their thinking towards adapting Shari'ah to contemporary challenges, with an emphasis on issues such as dowry, divorce, and women's rights. The main challenges in interpreting Islamic family law include reconciling traditional and modern values, as well as mitigating the influence of globalization, which often undermines the understanding of Sharia. The ulama's perspectives have positively influenced family law reform, which is evident in local policies such as the Aceh *Qanun* and the development of more inclusive and progressive regulations. By engaging with local scholars and incorporating their perspectives in legal reforms, policymakers can ensure that reforms remain in line with the spirit of Islam while being responsive to the needs of local communities.

Globalisation has had a significant impact on Islamic family law in modern Muslim countries, encouraging the adoption of more uniform aspects and adjustments to global values (Saputra, 2024). Globalisation has brought about major changes in the paradigm of Islamic family law, with the adoption of more universal and uniform aspects of the law, accompanied by adjustments to global values such as human rights and gender equality. However, this adoption often clashes with traditional values and local interpretations of Islamic family law. There are debates and diverse interpretations of the principles of Islamic family law in the context of modernity and globalization, as well as the influence of globalization on societal responses to changes in Islamic family law. By understanding the impact of globalisation on Islamic family law, policymakers can formulate more effective strategies for managing the challenges and opportunities presented by increasing global connectedness.

Gender Equality and Women's Rights in Islamic Family Law

Conceptualising authority in the legalisation of women's rights in Indonesian Islamic family law requires an emphasis on the importance of equal rights, both in legal and judicial aspects (Rokhmad & Susilo, 2017). Various studies on Islamic family law in Indonesia show that the patriarchal cultural paradigm continues to persist, both in ideas and practices. This is a logical consequence of efforts to apply traditional Islamic doctrine in modern law. The dominance of patriarchal culture in Islamic family law, that results in discrimination against women in Indonesia, has reached an alarming level that demands revision (Mufid et al., 2025). Reform efforts are also needed in derivative legal products, such as regional sharia regulations. All these measures are necessary to ensure justice and

equal rights for women and children. Legal authorities need to be reconstructed so that women are treated fairly and equally under the law, and their rights are actually protected in practice. This requires a shift away from traditional patriarchal interpretations towards a more gender-equitable approach, which recognises the equal dignity and worth of every individual.

Involving women in public policy and family law legislation is a must to avoid gender bias and ensure that laws reflect the needs and interests of all members of society (Rokhmad & Susilo, 2017). This requires ensuring that women have a meaningful voice in the policy formulation process and that their perspectives are taken into account in the drafting and implementation of family laws. Another necessary strategy is advocacy for women's rights to prevent legal bias due to male dominance in political and legislative authority. This can be realised through various mechanisms, such as women's quotas in parliament, the establishment of women's advisory councils, and the provision of public forums to discuss family law issues. By involving women in the legislative process, the legal system can be ensured to be more just, equal, and responsive to the needs of all members of society.

Analysing legal opinions on domestic violence (DV) in Muslim families, particularly as expressed by elite figures on social media, as well as examining how netizens respond, provides valuable insights into evolving attitudes and beliefs regarding gender roles and violence against women (Fakhria et al., 2025). This study aims to analyse Instagram users' legal opinions on domestic violence in Muslim families. The research focuses on how elite figures, such as scholars, politicians, and influencers, convey their legal views on social media and how these views are received, responded to, and reconstructed by netizens. It analyses the production and reconstruction of legal opinions related to domestic violence in contemporary Muslim family dynamics, as conveyed by elite figures through Instagram, as well as the critical responses of netizens to these opinions. The results show that netizens do not always accept the legal opinions of elite figures on social media as the sole truth. Instead, they actively display their own understanding, which often contradicts the content presented. The figure's branding and ideological background greatly influenced the content and delivery of the legal opinion. Citizens' comments demonstrate that the digital public sphere plays a crucial role in challenging the dominance of patriarchal discourse and fostering a more emancipatory legal framework that prioritizes victim protection. By understanding these dynamics, legal scholars and policymakers can develop more effective strategies to prevent and address domestic violence in Muslim communities.

Evaluating the influence of pre-Islamic practices on contemporary Islamic family law and their impact on the fulfillment of women's rights is crucial to understanding the historical roots of gender inequality, as well as to designing legal reforms that favor equality (Bimawan et al., 2025). This study aims to analyze the social status of Arab women during the Jahiliyyah period, within the context of the patriarchal social system that dominated Arab society at that time, and to evaluate how these conditions influenced the development of contemporary Islamic family law, particularly regarding the fulfillment of women's rights. This research is important for providing a basic framework for reforming Islamic family law in the modern era. Based on the results of the study, it

can be concluded that the condition of women in the pre-Islamic period was very marginalised; they did not have proper legal status, whether in terms of inheritance, marriage, or social participation. The arrival of Islam brought about a major transformation, raising the status of women by granting them basic rights, including the right to life, the right to inheritance, limited divorce rights, and the right to be a witness. This emancipatory spirit of Islam became an important foundation for contemporary Islamic family law reform. By understanding these historical influences, legal scholars and policymakers can develop more effective legal reforms to advance gender equality and protect women's rights.

Reforming Marriage and Divorce Laws

The development of the understanding of marital rape in Islamic family law reform is crucial to support the eradication of sexual violence in marriage and ensure that women are protected from abuse (Sya'ima et al., 2014). This study aims to examine the development of the understanding of marital rape in the context of Islamic family law reform. This research employs a qualitative method with a normative juridical approach, utilizing data from relevant literature, books, journals, and articles. The results show that changes in Islamic family law related to marital rape from the perspective of moderate Islamic law that is responsive to the times can support the eradication of sexual violence in the household. In addition, legal developments in Indonesia have now begun to recognise marital rape as a criminal offence, thus providing stronger protection for victims. This recognition is a significant step forward in protecting women's rights and promoting gender equality in marriage. By criminalising marital rape, the legal system can send a clear message that sexual violence is unacceptable, regardless of the marital status of the perpetrator and victim.

Analysing the legal status of guardianship in marriage in Tunisia and comparing it to the legal framework in Indonesia reveals a progressive blend of historical, cultural, and jurisprudential factors that can serve as a reference point for legal reform in other Muslim countries (Arabiyah, 2025). The issue of guardianship in marriage has been an important topic in the reform of Islamic family law in various Muslim-majority countries, including Tunisia. While most classical scholars consider a marriage guardian to be a valid condition of marriage, Tunisia allows adult women to marry independently. This research aims to examine the legal status of guardianship in Islamic family law in Tunisia and compare it with the legal framework in Indonesia. This research employs a normative juridical method, a literature study approach, and comparative analysis. The findings show that although Tunisia generally follows the Maliki school of thought, the country adopts the Hanafi opinion in granting adult women the right to marry without a guardian, as formalised in Article 3 of Law No. 39 of 2010. The implication is that the Tunisian legal system reflects a progressive blend of historical, cultural, and jurisprudential factors, thus offering a gender-sensitive approach to Islamic law. This study contributes to the broader discourse on contextual reinterpretation of Islamic law and encourages other Muslim countries to consider reforms aligned with *maqāṣid al-sharī'ah*. This progressive approach can serve as a model for other Muslim countries seeking to reform their family laws in a way that is more gender-just and protective of women's rights.

Exploring the diverse views on changing the age of marriage is crucial for understanding the complexity of this issue and for formulating legal reforms that are equitable and responsive to societal needs (Halim et al., 2024). One of the consequences of the enactment of Law No. 16 of 2019, which amended Law No. 1 of 1974, was an increase in marriage dispensation applications, particularly in the Banyumas area. In this case, the response of Islamic organisations is something that must be considered, because these organisations are currently the institutions that oversee and provide solutions to contemporary problems in the field of Islamic family law. The results of the study revealed that Islamic community organisations in Banyumas stated that the change in the marriage age limit does not cause problems and is in line with the amendment of the law. They argue that Islam does not set an absolute age limit for marriage, so this issue remains the domain of *ijtihad* among scholars.

Furthermore, they asserted that setting the age limit for marriage does not violate Islamic law, taking into account the maturity factor for marriage, the goal of which is to form a harmonious family (*sakinah, mawaddah, wa rahmah*) and give birth to pious future generations. This aligns with the principle of *maqāṣid al-sharīʿah* as the paradigm of contemporary Islamic family law. This understanding is crucial to ensure that legal reform is rooted in Islamic principles while being responsive to the realities of modern life.

Examining the progressive legal paradigm in Indonesia, especially regarding restrictions on polygamy and the status of extramarital children, shows the potential of the legal system to develop and adapt to changing social norms and values (Fauzan, 2020). This paper discusses the progressive legal paradigm in Islamic family law reform in Indonesia. Departing from the complexity of family issues in the contemporary era, the presence of progressive legal thinking is one of the foundations for providing certainty and justice in society. The results indicate that progressive legal reform in the field of Islamic family law is evident in the practice of law enforcement and court decisions. Various judges' decisions have formed jurisprudence, which is then used as guidance by Religious Court judges in deciding cases. This is evident in the decisions of constitutional judges, including those regarding restrictions on polygamy, the status of extramarital children, and the age of marriage, which was successfully revised with the enactment of Law No. 16 of 2019 as an amendment to Law No. 1 of 1974 concerning Marriage. In the context of progressive legal reform in Indonesia, judges employ the reinterpretation of religious texts (*fiqh*) to understand the social dynamics of modern society. Therefore, judges are required to be more courageous, not only bound by the text but also to prioritise the goals of justice and the benefit of society. Thus, the main objectives of the law will be realised, namely, substantive justice, benefit, and legal certainty, because the law basically exists for humans, not humans for the law. This development reflects a growing recognition of the importance of protecting the rights of all members of society, regardless of their marital status or circumstances of birth. By embracing the progressive legal paradigm, the legal system can promote justice, equality, and welfare for all members of society.

Child Custody and Welfare in Islamic Family Law

The reconstruction of post-divorce child custody based on the *Best Interest of the Child* (BIC) standard in the contemporary era is crucial to ensure that the needs and

welfare of children are prioritised in custody decisions. The concept of post-divorce child custody has become an important issue in Islamic family law, particularly in the context of contemporary debates on child rights and welfare. In recent decades, there has been a growing emphasis on the BIC standard, which has shaped custody awards in Western legal systems. This article examines the integration of the BIC principle into Islamic family law, focusing on how it can be reinterpreted to align with contemporary child welfare needs. Through a comprehensive literature review, this article examines Islamic legal sources, including the Qur'an, Hadith, and classical fiqh, to evaluate the traditional understanding of child custody in divorce cases. By adopting the BIC standard, the legal system can ensure that custody decisions are based on the specific needs and conditions of the child, rather than on traditional gender roles or old assumptions that are no longer relevant.

Assessing the compatibility of Islamic principles with international human rights frameworks that emphasize the best interests of the child is crucial to promoting child welfare and ensuring that children's rights are protected in all legal systems (Febrianti & Subrotio, 2024). This article also examines the compatibility of Islamic principles with international human rights frameworks that advocate for the best interests of the child. It highlights the challenges and opportunities in adapting Islamic family law to contemporary norms of child custody, taking into account cultural, legal, and social factors. Additionally, it compares Islamic approaches with Western legal perspectives on child welfare, identifying areas for potential reform. The findings show that while Islamic law provides a strong foundation for the protection of children's rights, contextual adaptations are required for the best interests of children to be consistently prioritised. The research calls for a balanced and progressive approach in reforming child custody practices in Islamic family law. This requires careful consideration of Islamic legal texts and international human rights standards, as well as a commitment to promoting the welfare of children in all circumstances.

Addressing the challenges and opportunities in adapting Islamic family law to contemporary child custody norms, while considering cultural, legal, and social factors, is crucial to ensuring that the legal system is responsive to children's needs while respecting cultural values (Febrianti & Subrotio, 2024). This involves engaging with diverse perspectives on child custody, encouraging dialogue among legal academics, policymakers, and community members, and developing legal solutions that are rooted in Islamic principles while being relevant to the realities of modern life. This article highlights the challenges and opportunities in adapting Islamic family law to contemporary child custody norms, comparing Islamic and Western approaches to child welfare and identifying potential areas for reform. The findings show that while Islamic law has a strong foundation in protecting children's rights, contextual adaptations are needed to ensure that the best interests of children are prioritised. This research encourages a balanced and progressive approach to reforming child custody practices in Islamic family law. By addressing these challenges and opportunities, the legal system can ensure that child custody decisions are fair and effective in supporting the welfare of children.

Analysing child adoption regulation in Morocco, Turkey, and Indonesia, with a focus on the integration of Islamic family law into national legal systems, provides valuable insights into the diverse approaches to child adoption in Muslim-majority countries (Laili & Bazikh, 2023). Although adoption is widely practised, its legal recognition and implementation differ significantly among Muslim countries. This study highlights the regulation of adoption in Morocco, Turkey, and Indonesia, three countries that represent different approaches to integrating Islamic family law with national law. The findings show consistency with Anderson's perspective on Islamic law reform. The differences in adoption regulations in Turkey, Morocco, and Indonesia reflect variations in the interpretation and implementation of Islamic law in different Muslim countries. Turkey has undergone the most significant change by adopting a more secular legal system. At the same time, Morocco has reformed its family law to retain fundamental Islamic principles, making adjustments to meet the needs of modern society. Indonesia still retains many traditional aspects of Islamic law in its adoption regulations, despite efforts to protect the rights of adopted children according to the principle of the best interests of the child. This study contributes to the understanding of the flexibility of Islamic law in adapting to modernity and its implications for the protection of children's rights. By comparing these approaches, legal scholars and policymakers can gain insight into the challenges and opportunities for reforming child adoption laws in Muslim-majority countries.

Inheritance Law and Legal Pluralism

Examining the legal review of children born out of wedlock under Islamic inheritance law and civil law is crucial to ensure that their rights are protected and they are treated fairly under the law (Siregar & Nasution, 2023). In the context of Islamic law, the division of inheritance is one of the important studies specifically discussed in *Fiqh al-Mawaris*. This is intended to prevent disputes among family members regarding the inheritance of deceased family members. In essence, the position of children is not only a gift but also a mandate from Allah SWT. In the Islamic view, child protection has a fundamental meaning, namely as a basic value and paradigm for changing the fate of children.

In civil law, marriage is the basis for the realisation of family relationships, and this gives birth to rights and obligations between those included in the family environment. Children born from a legal marriage automatically have a civil relationship with their father. This is confirmed in Article 250 of the Civil Code (KUHPerdota), which states that every child born or raised during marriage has the husband as his father. By analyzing the law review, legal scholars and policymakers can identify areas where the law needs to be reformed to better protect the rights of children born out of wedlock.

Analysing judges' decisions related to Islamic inheritance cases and their implications for family law reform in Indonesia provides valuable insights into the effort to reconstruct Islamic family law through a monistic paradigm with an interdisciplinary perspective.

Conclusion

This study demonstrates that the monistic paradigm offers a coherent epistemological framework for reconstructing Islamic family law by systematically integrating normative textual sources, empirical socio-legal realities, and *maqāṣid*-driven policy applications. The analysis of digital divorce, women's inheritance rights, and maintenance/custody arrangements yields three specific findings. First, digital divorce achieves legal validity when state-monitored platforms operationalise classical requirements (*ṣighah*, *shuhūd*, and official registration) through verifiable electronic protocols, extending rather than contradicting textual norms. Second, inheritance adjustments are empirically grounded in women's contemporary economic contributions, with institutional *ijtihād* preserving textual legitimacy while enabling context-sensitive equity through family consensus and administrative discretion. Third, custody and maintenance rulings increasingly shift from rigid gender presumptions to capacity-based models aligned with the best interest of the child and documented household economics. These outcomes confirm that monism does not dilute normative integrity but provides a structured mechanism for adaptive legal reasoning.

The primary contribution of this research lies in translating monistic theory from an abstract philosophical concept into an operational methodology for applied Islamic sciences. By anchoring normative-empirical synthesis in *maqāṣid al-sharī'ah*, the study offers a replicable framework for legal harmonisation that remains religiously grounded yet socially responsive. Nevertheless, this research is subject to several limitations. The qualitative-comparative design relies primarily on published judicial decisions, legislative texts, and policy documents, which may not fully capture informal family practices or unreported socio-legal disputes. Additionally, the jurisdictional focus on selected Muslim-majority contexts limits the generalisability of findings to regions with divergent legal traditions or state-religion dynamics. Future research should incorporate longitudinal empirical studies, comparative analyses across broader legal systems, and direct engagement with community-level dispute resolution mechanisms.

To maximise the practical utility of the monistic paradigm, targeted recommendations are proposed. Academics should integrate monistic-*maqāṣid* frameworks into Islamic legal curricula and interdisciplinary research programs to foster epistemological coherence and advance theory-to-practice scholarship. Policymakers are encouraged to draft adaptive family legislation that explicitly links classical jurisprudential principles with contemporary socio-economic indicators through formal institutional *ijtihād* mechanisms. Judges should apply the monistic synthesis as a structured reasoning tool, balancing textual fidelity with documented empirical realities when issuing rulings on digital marital practices, inheritance equity, and child welfare. Legal practitioners and family mediators can utilise the framework to design context-sensitive dispute resolution protocols that align religious norms with household dynamics, thereby enhancing accessibility, compliance, and substantive justice. Collectively, these steps will advance a more transparent, equitable, and responsive Islamic family law system in contemporary Muslim societies.

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