

Reconstructing Islamic Family Law through Maqāṣid al-Sharī'ah in Contemporary Muslim Societies

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Abstract: Islamic family law continues to face challenges arising from changing family structures, gender relations, individual rights, and state legal institutions in contemporary Muslim societies. These developments raise questions about how classical fiqh can remain relevant while preserving the normative foundations of Islamic law. This study examines the reconstruction of Islamic family law through *maqāṣid al-sharī'ah* and develops a conceptual framework connecting Islamic legal tradition with contemporary social realities. The study employed a qualitative library research design using scholarly articles, academic books, legal documents, and classical and contemporary Islamic jurisprudential works. Data were analyzed through thematic analysis following Braun and Clarke's six-phase framework. The findings indicate that classical fiqh remains an important foundation of Islamic family law, but changing social circumstances require contextual reinterpretation of inherited legal formulations. *Maqāṣid al-sharī'ah* functions as a conceptual bridge between legal tradition and contemporary realities by emphasizing justice, protection, human dignity, and family welfare. The study proposes a conceptual model consisting of classical fiqh, contemporary social transformation, *maqāṣid al-sharī'ah*, critical reinterpretation, and legal reconstruction. The model contributes a conceptual basis for developing Islamic family law that remains grounded in Sharia while responding to contemporary Muslim societies.

Keywords: Islamic family law, *maqāṣid al-sharī'ah*, classical fiqh, legal reconstruction, Muslim societies, Sharia.

INTRODUCTION

Islamic family law constitutes a significant area of Islamic law because it regulates fundamental dimensions of Muslim social life, particularly marriage, divorce, spousal responsibilities, child protection, and inheritance. Its significance extends beyond private relationships, as family law is closely connected with social structures, gender relations, individual rights, and state legal institutions. As Muslim societies experience social, economic, and demographic transformations, Islamic family law increasingly encounters circumstances that differ from those in which many classical legal formulations were developed. Sezgin (2023)

demonstrates that reforms of Muslim family law have developed through diverse trajectories, reflecting the interaction between Islamic jurisprudence, state institutions, legal traditions, and changing conceptions of rights.

The changing character of Muslim societies has consequently generated new debates concerning the interpretation and application of Islamic family law. Contemporary scholarship increasingly examines marriage, divorce, family relations, gender, legal reform, and legal pluralism as interconnected dimensions of family-law development. Mohamad et al. (2026), for instance, identify these themes as prominent areas within recent global scholarship on Islamic family law. This development indicates that Islamic family law cannot be viewed merely as a static collection of inherited rules but as a dynamic field in which Islamic legal traditions continuously interact with changing social realities.

One of the central challenges concerns the relationship between classical fiqh and contemporary family problems. Classical jurisprudence represents an important intellectual heritage of Islamic law, yet many of its legal formulations emerged within particular historical and socio-cultural contexts (Darmawan & Al Mu'allif, 2025). Applying these formulations to contemporary circumstances may therefore require methodological reflection capable of distinguishing enduring Islamic legal objectives from historically specific forms of legal expression. Laili and Bazikh (2023) highlight the importance of methodological renewal in Islamic family law because social transformation continues to produce legal questions that cannot always be adequately addressed through conventional formulations of fiqh.

In this context, *maqāṣid al-sharī'ah* provides an important conceptual framework for reconsidering Islamic family law. The *maqāṣid* approach directs attention not only to the formulation of legal rules but also to the purposes and values that Islamic law seeks to realize, including justice, protection, human dignity, family welfare, and the preservation of offspring and property. Tohari and Kholish (2020) explain that *maqāṣid al-sharī'ah* can provide a conceptual foundation for the renewal of Islamic family law while maintaining its connection with the normative tradition of Islamic jurisprudence. Its application therefore creates space for engaging contemporary family issues without necessarily separating legal reform from the foundations of Sharia.

Nevertheless, existing scholarship tends to examine Islamic family-law reconstruction through particular issues or national contexts, such as marriage age, divorce, polygamy, inheritance, women's rights, or judicial reform. Although these studies provide important insights, the broader relationship between classical fiqh, maqāsid al-sharī'ah, and contemporary social transformation remains insufficiently synthesized. The issue is not simply whether Islamic family law should be reformed, but how it can be reconstructed in a manner that preserves its Islamic normative foundations while responding to changing family structures and social circumstances across contemporary Muslim societies.

Against this background, this study examines the reconstruction of Islamic family law through maqāsid al-sharī'ah in contemporary Muslim societies. Using library research, the study analyzes relevant scholarly, juridical, and conceptual literature to explore how maqāsid can function as a framework for reinterpreting Islamic family law. The study focuses on the relationship between classical fiqh, the objectives of Sharia, and contemporary social change, with the aim of developing a conceptual understanding of Islamic family law that remains grounded in Islamic legal tradition while being responsive to the realities of contemporary Muslim families.

METHOD

This study employed a qualitative approach with a library research design to examine the reconstruction of Islamic family law through maqāsid al-sharī'ah in contemporary Muslim societies. A qualitative approach was selected because the study seeks to interpret concepts, arguments, and legal developments rather than measure relationships between variables. As explained by Creswell and Poth (2018) in Hariani & Jabbar (2026), qualitative inquiry enables researchers to explore meanings and interpret phenomena within their relevant contexts. Accordingly, this study examines Islamic family law through an interpretive reading of scholarly and juridical literature concerning classical fiqh, maqāsid al-sharī'ah, legal reform, and contemporary family relations.

The study used secondary data derived from peer-reviewed journal articles, academic books, book chapters, legal documents, and relevant works of classical and contemporary Islamic jurisprudence. The literature was obtained primarily from Scopus, Web of Science, and Google

Scholar, supplemented by relevant legal and Islamic jurisprudential sources. The selection was conducted purposively by considering the relevance of each source to the central themes of the study, particularly Islamic family law, maqāṣid al-sharī'ah, classical fiqh, legal reform, family rights, and contemporary Muslim societies. Publications that were duplicated, insufficiently related to the research focus, or did not provide substantive scholarly discussion were excluded.

Data collection was conducted through documentary and literature review techniques. Relevant publications were identified using combinations of keywords, including “Islamic family law,” “maqāṣid al-sharī'ah,” “Islamic family law reform,” “classical fiqh,” “Muslim family law,” and “contemporary Muslim societies.” The retrieved literature was screened according to its relevance to the research questions and conceptual contribution. Selected sources were subsequently organized and classified according to their subject matter, theoretical orientation, legal issues, and contribution to discussions of Islamic family-law development. This process enabled the study to construct a structured body of literature for subsequent thematic analysis.

The collected literature was analyzed using thematic analysis developed by Braun and Clarke (2006). The analysis followed six phases: familiarization with the literature, generation of initial codes, searching for potential themes, reviewing themes, defining and naming themes, and producing the final analysis. The analysis began with an intensive reading of the selected literature to identify recurring concepts, arguments, and legal issues. Relevant information was then coded and grouped into themes concerning classical fiqh, maqāṣid al-sharī'ah, Islamic family-law reform, and contemporary social transformation. The themes were subsequently reviewed and compared to identify patterns, relationships, differences, and conceptual tensions within the literature. The final stage involved synthesizing the themes to develop an integrated interpretation of the reconstruction of Islamic family law through maqāṣid al-sharī'ah.

Following the thematic analysis, the findings were subjected to conceptual synthesis to establish relationships between Islamic legal tradition and contemporary family-law developments. Maqāṣid al-sharī'ah was positioned as the substantive conceptual framework through which the identified legal debates were interpreted. The synthesis examined how the objectives of Sharia can mediate between established fiqh formulations and changing social realities without separating contemporary legal development from the normative foundations of



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Islamic law. The resulting synthesis provided the basis for formulating the study's conceptual argument concerning the reconstruction of Islamic family law in contemporary Muslim societies.

1. The Changing Landscape of Islamic Family Law in Contemporary Muslim Societies

The literature further shows that contemporary research on Islamic family law is concentrated around marriage, divorce, family relations, gender, legal reform, and pluralism. Mohamad et al. (2026) identify these themes as important clusters in global scholarship on Islamic family law between 2014 and 2024. This pattern demonstrates that contemporary family-law scholarship is increasingly concerned with the interaction between Islamic legal traditions and changing social conditions. Consequently, the transformation of Islamic family law cannot be understood simply as a process of replacing traditional rules with modern legislation. It represents an ongoing negotiation between religious authority, juridical traditions, state regulation, and the changing needs of Muslim families.

The transformation is also characterized by significant differences among Muslim jurisdictions. Indonesia, Malaysia, Brunei, and other Muslim societies, for example, have developed different institutional arrangements for regulating family relations. Comparative research in Southeast Asia shows that these jurisdictions differ in their approaches to marriage, divorce, inheritance, women's rights, and the relationship between religious and civil legal

institutions (Haji Puteh & Kurniawan, 2025). The diversity suggests that Islamic family law possesses a contextual dimension: the application of Islamic legal principles is shaped not only by textual sources but also by institutional structures and social circumstances.

2. Classical Fiqh and the Challenges of Contemporary Islamic Family Law

The second thematic finding concerns the position of classical fiqh in the reconstruction of Islamic family law. Classical fiqh remains an essential intellectual foundation because it contains extensive discussions concerning marriage, divorce, maintenance, inheritance, guardianship, and other family relations. However, the literature indicates that the continued relevance of classical fiqh does not necessarily require every historical formulation to be applied unchanged to contemporary circumstances. The diversity of juristic reasoning among the classical schools itself demonstrates that Islamic family law has historically developed through different interpretive methodologies.

Recent comparative scholarship reinforces this point. Arsyad et al. (2026) show that the four major Sunni schools developed different approaches to balancing individual rights and social obligations in family law. Their differences concern the scope of individual autonomy, legal authority, and reciprocal responsibilities, while nevertheless maintaining broader concerns with justice and social welfare. This finding is significant because it indicates that the Islamic legal tradition contains methodological diversity that can become a resource for contemporary reconstruction rather than being treated solely as a fixed collection of historical rules.

The central challenge, therefore, lies in distinguishing between the normative objectives of Islamic law and historically conditioned legal formulations. Contemporary family problems such as changing marital relationships, new understandings of family rights, evolving economic roles, and enhanced protection of children may require reinterpretation of inherited legal positions. In this context, reconstruction does not necessarily imply abandoning classical fiqh. Rather, it involves reassessing how juristic formulations can be interpreted in relation to the purposes of Sharia and the circumstances of contemporary Muslim societies.

3. Maqāṣid al-Sharī'ah as a Framework for Reconstructing Islamic Family Law

The thematic synthesis identifies maqāṣid al-sharī'ah as an important conceptual bridge between Islamic legal tradition and contemporary social transformation. The significance of

maqāṣid lies in its capacity to direct legal interpretation toward the purposes and values underlying Islamic law rather than limiting analysis to the literal application of individual legal rules. Within family law, these purposes include the protection of family members, preservation of offspring, justice, human dignity, welfare, and the maintenance of stable social relations.

The contemporary literature increasingly applies maqāṣid to family-law reform. Aghbalou (2026), for example, emphasizes the relationship between maqāṣid, family stability, and legislative reform across Muslim jurisdictions. The study highlights the need to move beyond merely discussing the five essential necessities (al-ḍarūriyyāt al-khams) at a philosophical level and to examine how maqāṣid can be operationalized within concrete family-law frameworks and legislative policies. This provides an important basis for understanding maqāṣid not simply as a theoretical classification but as a framework for evaluating whether particular legal arrangements continue to realize the purposes of Islamic law.

From this perspective, reconstruction can be understood through three interconnected dimensions: text, context, and purpose. Text provides the normative foundation; context identifies the social conditions in which a legal rule operates; and maqāṣid provides the purposive dimension through which the relationship between the two can be interpreted. Such an approach allows Islamic family law to maintain continuity with Sharia while accommodating legitimate changes in social circumstances. The reconstruction is therefore not a movement from “traditional” to “modern” law in a linear sense, but a process of reinterpreting legal norms according to their objectives and contemporary conditions.

4. Reconstructing Marriage, Divorce, and Family Rights

The application of the maqāṣid framework becomes more visible when examining concrete areas of Islamic family law, particularly marriage, divorce, and family rights. Marriage cannot be understood solely as a contractual relationship governed by formal legal requirements; it also represents an institution through which justice, mutual responsibility, dignity, and family welfare are expected to be realized. Contemporary scholarship on marital rights using Ibn ‘Āshūr's maqāṣid perspective, for example, places family harmony and reciprocal spousal responsibilities at the center of its analysis. This perspective illustrates how maqāṣid can shift the discussion from the

formal validity of marriage toward the broader purposes that marriage is expected to fulfill (Muttaqin et al., 2026).

Divorce presents a similar challenge because its legal regulation involves competing interests involving spouses, children, and the wider family. Contemporary reform debates increasingly consider whether existing divorce mechanisms adequately protect the rights and dignity of vulnerable family members. Zafri and Ismail (2026) demonstrate that contemporary divorce reform can be understood through a dialectic involving classical fiqh authority, maqāṣid al-sharīʿah, and gender justice. The finding suggests that reconstruction should not simply determine whether a particular divorce mechanism has a classical legal precedent, but should also examine whether its contemporary implementation fulfills the objectives of justice and protection.

Family rights constitute another important dimension of reconstruction. Contemporary debates increasingly address women's rights, children's interests, maintenance, and the distribution of responsibilities between family members. Research on women's rights in contemporary Indonesian Islamic family law, for instance, emphasizes the continuing need to examine the relationship between normative Islamic texts, classical fiqh constructions, and the contextual requirements of contemporary society (Malik & Juwita, 2026). Thus, maqāṣid provides a basis for evaluating family-law arrangements according to their consequences for justice, protection, dignity, and welfare rather than solely according to their historical legal formulation.

5. A Conceptual Model for Reconstructing Islamic Family Law

The synthesis of the four preceding themes leads to a conceptual model in which the reconstruction of Islamic family law occurs through the interaction of classical fiqh, contemporary social transformation, and maqāṣid al-sharīʿah. The model does not position classical fiqh and contemporary reform as mutually exclusive alternatives. Instead, classical jurisprudence functions as an important normative and intellectual foundation, while contemporary social transformation provides the context requiring legal reflection, and maqāṣid serves as the purposive framework connecting the two. The proposed conceptual model can be represented as follows:

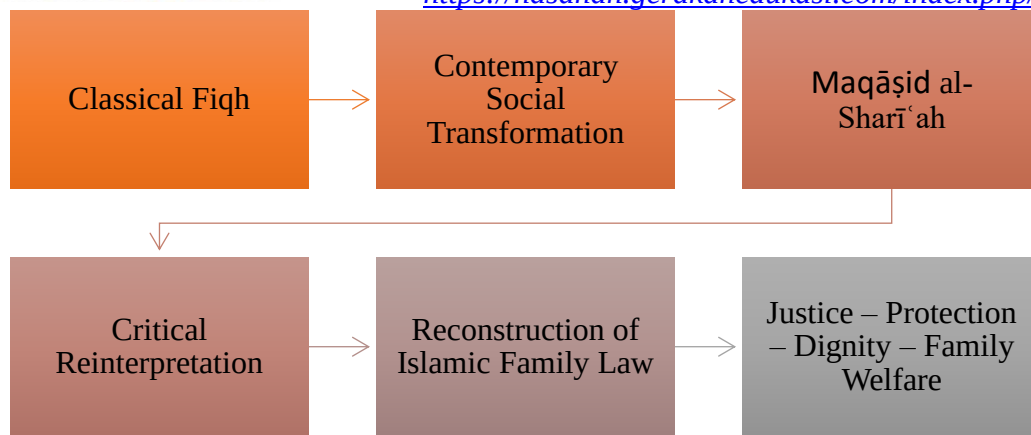


Figure 1. Conceptual Model for Reconstructing Islamic Family Law through Maqāṣid al-Sharī'ah

The model indicates that reconstruction begins neither with the rejection of classical fiqh nor with the uncritical adoption of contemporary legal concepts. Instead, the process begins by recognizing classical fiqh as the inherited intellectual foundation while identifying contemporary social changes that generate new legal questions. Maqāṣid al-sharī'ah then functions as the interpretive mechanism through which inherited legal formulations can be critically examined in relation to their underlying objectives. The resulting reconstruction is expected to produce family-law formulations that remain connected to Islamic legal tradition while responding to contemporary requirements of justice, protection, dignity, and family welfare.

This conceptual direction is consistent with recent scholarship that identifies a movement toward more contextual and purposive approaches to Islamic family-law reform. The reconstruction of Islamic family law can therefore be understood as a continuous interpretive process, rather than a one-time replacement of classical law. Its principal contribution lies in establishing a conceptual relationship between legal tradition, social context, and Sharia objectives. In this formulation, maqāṣid al-sharī'ah functions as the central bridge that enables Islamic family law to preserve normative continuity while remaining responsive to contemporary Muslim societies.

CONCLUSION

The study concludes that the reconstruction of Islamic family law is closely connected to the changing social realities of contemporary Muslim societies. The thematic synthesis demonstrates that classical fiqh remains an essential intellectual and normative foundation, but its historical formulations cannot always be applied without contextual consideration. Contemporary developments in marriage, divorce, family rights, gender relations, and child protection require a legal approach capable of maintaining continuity with Islamic jurisprudence while responding to changing social circumstances.

The findings further demonstrate that *maqāṣid al-sharī'ah* provides a conceptual bridge between classical fiqh and contemporary social transformation. Rather than replacing established jurisprudential traditions, the *maqāṣid* approach enables inherited legal formulations to be critically reconsidered according to their underlying purposes, particularly justice, protection, dignity, and family welfare. Through this perspective, reconstruction becomes a process of contextual reinterpretation in which textual foundations, legal tradition, social realities, and the objectives of Sharia are considered together.

The principal contribution of this study is the formulation of a conceptual model consisting of classical fiqh, contemporary social transformation, *maqāṣid al-sharī'ah*, critical reinterpretation, and the reconstruction of Islamic family law, leading toward justice, protection, dignity, and family welfare. The model offers a conceptual framework for understanding Islamic family law as a dynamic field that can preserve its normative Islamic foundations while remaining responsive to contemporary circumstances. Future research may further examine the applicability of this model through comparative analysis of specific Muslim jurisdictions and concrete areas of family-law legislation.

Conflict of Interest

The author declares no conflict of interest.

Generative AI Statement

The author declares that no generative artificial intelligence (AI) tools were used in the preparation, writing, or editing of this manuscript.

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