

BEYOND CODIFICATION: A MAQASID AL-USRAH-BASED NORM TRANSFORMATION MODEL OF SPOUSAL RIGHTS AND OBLIGATIONS IN INDONESIA'S COMPILATION OF ISLAMIC LAW

Mufti Kamal¹; Umi Sumbulah²; Ali Hamdan³; Nisa Dian Islamiaty⁴; Musataklima⁵

Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

Email: ¹ 210201310001@student.uin-malang.ac.id; ² umisumbulah@uin-malang.ac.id; ³ hamdan@syariah.uin-malang.ac.id; ⁴ inisadian@gmail.com; ⁵ musa@syariah.uin-malang.ac.id

ABSTRACT

This study examines the transformation of spousal rights and obligations from classical fiqh into Indonesia's Compilation of Islamic Law (KHI). Using normative legal research with statutory, conceptual, and historical approaches, the study analyzes Articles 77–84 of the KHI alongside classical fiqh literature. The analysis integrates Alan Watson's legal transplant theory, Lawrence M. Friedman's legal system theory, and Jamaluddin Athiyyah's concept of *Maqasid al-Ushrah*. The findings show that the incorporation of classical fiqh into the KHI is not merely a process of codification or legal transplantation, but a normative transformation occurring through four mechanisms: adoption, modification, contextualization, and legal renewal. These mechanisms are reflected in the preservation of *qiwamah*, *nafkah*, and *mu'asyarah bi al-ma'ruf*, the expansion of family responsibilities, the strengthening of consultation and legal equality, and the development of judicial mechanisms for *nusyuz* and family protection. The study's novelty lies in proposing a *Maqasid al-Ushrah*-Based Norm Transformation Model, which reframes family leadership toward responsibility, partnership, consultation, proportional justice, and family welfare.

Keywords: *norm transformation; Islamic family law; Compilation of Islamic Law; spousal rights and obligations; Maqasid al-Ushrah*

ABSTRAK

Penelitian ini mengkaji transformasi norma hak dan kewajiban suami istri dari fikih klasik ke dalam Kompilasi Hukum Islam (KHI). Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan historis terhadap Pasal 77–84 KHI serta literatur fikih klasik. Analisis dilakukan dengan mengintegrasikan teori legal transplant Alan Watson, teori sistem hukum Lawrence M. Friedman, dan konsep *Maqasid al-Ushrah* Jamaluddin Athiyyah. Hasil penelitian menunjukkan bahwa integrasi norma fikih klasik ke dalam KHI tidak hanya merupakan proses kodifikasi atau transplantasi hukum, melainkan transformasi normatif melalui empat mekanisme, yaitu adopsi, modifikasi, kontekstualisasi, dan pembaruan hukum. Transformasi tersebut tampak pada keberlanjutan prinsip *qiwamah*, *nafkah*, dan *mu'asyarah bi al-ma'ruf*, perluasan tanggung jawab keluarga, penguatan musyawarah dan kesetaraan hukum, serta pengembangan mekanisme penyelesaian *nusyuz* dan perlindungan keluarga. Novelty penelitian ini terletak pada formulasi Model Transformasi Norma Berbasis *Maqasid al-Ushrah*, yang merekonstruksi kepemimpinan keluarga menuju pola berbasis tanggung jawab, kemitraan, musyawarah, keadilan proporsional, dan kemaslahatan keluarga.

Kata kunci: *transformasi norma; hukum keluarga Islam; Kompilasi Hukum Islam; hak dan kewajiban suami istri; Maqasid al-Ushrah*

INTRODUCTION

The reform of Islamic family law in Indonesia has been an ever-evolving process, integrating traditional fiqh teachings, the social dynamics of society, and the national legal framework. The implementation of the Compilation of Islamic Law (KHI) through Presidential Instruction No. 1 of 1991 marked a major turning point in efforts to codify Islamic family law. It signaled a shift in authority from fiqh texts to positive law, which serves as the basis for the Religious Courts. (Aulil Amri Fariqan Malhusna, Maryam Thahira, Nissa Azra Nabila, Nabila Miswar, Saniah Amatillah, 2025) Among the various topics covered in the KHI, the provisions regarding the rights and obligations of husbands and wives play a key role because they shape legal relationships within the family and, at the same time, point the way toward the reform of Islamic family law in Indonesia.

In classical fiqh, the rights and obligations of husband and wife are based on the concepts of *qiwamah*, the responsibility to provide financial support, *mu'asyarah bi al-ma'ruf*, and the division of family roles, which evolved in line with the social context of the Muslim community at the time. (Bisri Ali Mustofa, 2025) When these norms were integrated into the KHI, some were retained, some were modified, and others were reformulated to align with changes in Indonesian society, the national legal system, and the need for family protection. (Zayyadi et al., 2023) This demonstrates that the relationship between classical fiqh and the KHI is not merely a process of codification, but rather a process of legal transformation involving the reinterpretation of fiqh norms within a different social context.

These changes have sparked debate among academics regarding the essence of the KHI. Some studies view the KHI as a codification of fiqh that remains rooted in the traditional paradigm of husband-wife relations. (Prima Angkupi & Muhammad Shofwan Taufiq, 2025) In contrast, other studies argue that the KHI has incorporated legal reforms by strengthening the principles of justice, consultation, and family protection. (Majid, 2025) These studies have enriched the discourse on Islamic family law. However, they tend to focus on comparative norms, the application of the KHI in judicial practice, or issues of gender equality. (Abidin, 2025) As a result, the process of normative transformation from classical fiqh to the KHI has not been fully elaborated, particularly regarding the mechanisms of normative change underlying the establishment of the rights and obligations of husbands and wives.

This gap indicates the need for a perspective that not only compares the content of norms but also elucidates the dynamics of their formation. In this study, Alan Watson's (Alan

Watson, 2006)(Watson, 1974) theory of legal transplant is used to trace the transfer of norms from the fiqh tradition into the national legal system. In contrast, Lawrence M. Friedman's theory of legal systems explains that legal change always involves transformations in legal substance, structure, and culture(Friedman, 1975)(Friedman, 2006). These two theories are combined with Jamaluddin Athiyyah's perspective on *Maqasid al-Usrah*, which positions the rights and obligations of husbands and wives as means to achieve the welfare of the family through the protection of religion, life, reason, offspring, property, and dignity. The integration of these three perspectives enables an analysis that not only explains how norms change but also why such changes are necessary and the direction in which the development of Islamic family law should proceed.

Based on this framework, this study argues that the formation of the KHI is more appropriately viewed as a process of legal transformation rather than merely codification or legal transplantation, because fiqh norms undergo selection, modification, contextualization, and renewal in accordance with the character of Indonesian society. Based on this argument, this study presents a Model of Transformation of the Rights and Obligations of Husband and Wife, which explains that the reform of Islamic family law takes place through four mechanisms: adoption, modification, contextualization, and legal renewal. This model serves as a conceptual contribution in explaining the relationship between classical fiqh and the Compilation of Islamic Law and offers a paradigm for the reconstruction of Islamic family law based on *Maqasid al-Usrah*.

On this basis, this study aims to analyze the transformation of norms regarding the rights and obligations of husbands and wives from classical fiqh into the Compilation of Islamic Law, to describe the mechanisms of normative change that shape it, and to formulate a model for the reconstruction of Islamic family law grounded in *Maqasid al-Usrah*. It is hoped that the findings of this study will enrich the theory of Islamic family law reform and serve as a conceptual foundation for the development of the Compilation of Islamic Law that is more responsive to societal dynamics without disregarding the fundamental principles of Sharia.

RESEARCH METHOD

This study is normative legal research (Soerjono Soekanto dan Sri Mamudji, 2006) focused on analyzing changes in the norms governing the rights and obligations of husbands and wives from classical fiqh to the Compilation of Islamic Law (KHI). This method was

chosen because the subject matter consists of legal norms that have evolved within classical fiqh literature and Indonesian positive law—specifically, the KHI as the source of substantive law for the Religious Courts. This study employs four approaches: statutory, conceptual, and historical. (Peter Mahmud Marzuki, 2010)

Using the statutory approach, the researcher examines Articles 77–84 of the KHI along with other regulations concerning Islamic family law in Indonesia. The conceptual approach examines *qiwamah*, *mu'asyarah bi al-ma'ruf*, *nafkah*, *nusyuz*, the rights and obligations of husbands and wives, and *Maqasid al-Ushrah* in classical fiqh and contemporary Islamic thought. The historical approach covers the development of the concepts of the rights and obligations of husbands and wives from classical fiqh to codification through the KHI.

Primary legal sources include the Qur'an, hadith, Presidential Instruction No. 1 of 1991 on the Dissemination of the KHI, the KHI itself, and classical fiqh texts relevant to this study. Meanwhile, secondary legal sources include scholarly articles, books, research findings, and other academic works on Islamic family law relevant to this study. Tertiary legal sources include legal dictionaries, Arabic dictionaries, the *Kamus Besar Bahasa Indonesia* (Great Dictionary of the Indonesian Language), encyclopedias of Islamic law, and scholarly indexes.

The above legal materials were collected through library research. All materials were analyzed qualitatively using content analysis and legal reasoning techniques. (Soerjono Soekanto, 1986) The analysis consisted of three stages: data reduction, categorization of norms, and legal interpretation. In the interpretation stage, grammatical, systematic, historical, and teleological methods of interpretation were used to identify patterns of relationships between classical fiqh norms and KHI norms. The results of the analysis were synthesized to construct a conceptual model of the transformation of norms regarding the rights and obligations of husbands and wives in Indonesian Islamic family law.

FINDINGS AND DISCUSSION

The Concept of Spousal Rights and Obligations in Classical Fiqh

The discussion of the rights and obligations of husband and wife is a central topic in the fiqh of *munakahat*. Most schools of Islamic jurisprudence view the marital relationship as a legal bond (*al-alaqah al-qanuniyah*) that gives rise to rights (*huquq*) and obligations (*wajibat*) that are mutually complementary. (Fauzi Rahmat Pamula & Sayehu, 2024) This bond is not

merely a biological or social relationship, but rather a contract that carries legal implications for both parties. Therefore, once the marriage is solemnized, each party assumes a new, binding legal status that must be upheld as part of the purpose of establishing a family in Islam (Hussain, Bilal, Hafiz Ghulam Abbas, 2022).

The normative basis for the rights and obligations of husband and wife is derived from the Qur'an and the Sunnah. The Qur'an describes marriage as a relationship founded on *mu'asyarah bi al-ma'ruf*—living together in a good manner—as well as love (*mawaddah*), tranquility (*sakinah*), and mercy (*rahmah*) (Muhajir & Syafiq, 2023). The fuqahā' subsequently formulated this principle into a set of norms governing the division of responsibilities between husband and wife. In classical fiqh, this bond is not built based on equality of roles, but rather on the principle of functional complementarity—that is, the division of distinct yet mutually complementary tasks (Ja'far & Hermanto, 2021).

The concept that serves as the primary foundation of the husband-wife relationship in classical fiqh is *qiwamah*, as stated in Surah al-Nisā' (4:34). Most classical scholars understand *qiwamah* as a form of the husband's leadership within the family, for two main reasons: first, because the husband bears responsibility for providing financial support, and second, because he has the obligation to ensure the continuity of family life. Thus, *qiwamah* is not merely a symbol of male superiority over women, but rather a form of legal responsibility that designates the husband as the party obligated to ensure the family's well-being (Zagidullin, 2023).

This interpretation is evident in the works of scholars from the four schools of Islamic jurisprudence. The Hanafi school views *qiwamah* as a logical consequence of the obligation placed upon the husband to provide financial support. The Maliki school emphasizes the aspects of protection (*ḥimāyah*) and care (*ri'āyah*) of the family as the core of leadership. The Shafi'i school associates *qiwamah* with the responsibilities of education, protection, and the fulfillment of the wife's rights. In contrast, the Hanbali school views the husband's leadership as a trust that must be exercised fairly and not used arbitrarily (Muhajir & Syafiq, 2023). These differences in emphasis demonstrate that although scholars may use different phrasing, they all agree that binding obligations always accompany a husband's leadership.

The first consequence of the concept of *qiwamah* is the establishment of the obligation to provide financial support. Across all schools of Islamic jurisprudence, financial support is regarded as an absolute right of the wife that the husband is obligated to fulfill

upon the establishment of a complete marital bond (*tamkīn*). Maintenance encompasses not only food but also clothing, housing, healthcare costs, protection, and various other necessities for a decent standard of living, commensurate with the husband's financial capacity (Hassan et al., 2022). Thus, the husband's authority within the family does not stand alone but is always accompanied by economic obligations that form the basis for the legitimacy of his leadership.

In addition to the obligation of maintenance, classical *fiqh* also designates the husband as the protector (*hifz*) of the family. This protection encompasses physical safety, the safeguarding of honor (*hifz al-'ird*), religious education, moral guidance, and the resolution of family conflicts. Therefore, from a *fiqh* perspective, leadership is not a privilege but a trust for which one must be accountable before Allah SWT (Anis Syuhada Mat Yusoff, 2026). The greater the authority a husband holds, the greater the legal and moral responsibilities he must bear.

On the other hand, classical *fiqh* positions the wife as the husband's partner, entitled to protection, financial support, respect, and fair treatment. These rights are balanced by the obligations to uphold the family's honor, safeguard her husband's property, manage household affairs, and obey her husband in matters that do not contradict Islamic law (Samia, 2024). The obligation of obedience (*tā'ah*) in *fiqh* literature is understood because of the *qiwamah* system, not as a form of absolute subordination to men (Ula, 2021). This obedience is limited by the principle of *la ta'ata li makhlūqin fi ma'siyat al-khaliq*, meaning there is no obligation to obey a human being in acts that contradict Allah's commandments.

Nevertheless, the construction of rights and obligations in classical *fiqh* cannot be separated from the social context in which these norms were formulated. Most *fiqh* texts were compiled during a time when societal structures were still agrarian and patriarchal, with men dominating economic activities while women primarily played roles in the domestic sphere (Awalul et al., 2025). These conditions influenced the formulation of the law, resulting in a hierarchical division of roles between husbands and wives (Čustović, 2025). Male leadership was viewed because of the division of labor prevalent at that time, not merely as an absolute theological doctrine.

Thus, many provisions of classical *fiqh* are in fact the result of a dialectic between the textual sources of sharia and social reality. This is evident in the varying views of scholars regarding the limits of a wife's obedience, the scope of women's participation in the public sphere, and the appropriate level of financial support—all of which are influenced by the

social conditions and customs ('urf) of their respective communities (Abdul mustafa et al., 2025). This fact demonstrates that fiqh possesses a dynamic dimension that allows for reinterpretation in line with the times, provided it remains within the framework of *maqasid al-syari'ah*.

From the perspective of *Maqasid al-Usrah*, the rights and obligations of husbands and wives are, in essence, aimed at preserving the continuity of the family institution. Jamaluddin Athiyyah explains that the family is formed not merely to fulfill biological needs, but also to ensure the protection of religion, life, lineage, reason, property, and human dignity (Sholihuddin et al., 2024). Therefore, the division of rights and obligations in fiqh must be understood to achieve the family's *maslahah*, not as an end. When a legal formulation can no longer realize this *maslahah* due to social changes, reinterpreting the norms becomes part of the effort to uphold the *maqasid al-syari'ah*.

Based on this discussion, the framework of spousal rights and obligations in classical fiqh rests on three main pillars. First, the principle of *qiwamah* is the basis for the distribution of authority and family responsibilities. Second, the principle of *mu'asyarah bi al-ma'ruf* is the ethical foundation of the spousal relationship, which emphasizes love, respect, and kind treatment (Aprilianto et al., 2024). Third, the principle of balance between rights and obligations, meaning that a proportional legal responsibility always accompanies every authority (Sar'an et al., 2024). These three principles subsequently became the main foundation for the formulation of norms governing the rights and obligations of husbands and wives in the Compilation of Islamic Law. However, during the codification process, they underwent various transformations in accordance with the characteristics of the Indonesian legal system.

Table 1 The Concept of the Rights and Obligation of Husband and Wife in Classical Fiqh

Aspect	Classical Fiqh Framework	Legal Purpose
<i>Qiwamah</i>	The husband as head of the family	Ensuring family order and responsibility
Maintenance	The Husband's absolute obligation according to his means	Economic Protection of the Family
Mu'asyarah bi al-ma'ruf	A relationship based on mutual respect and kindness	Domestic harmony
Ta'ah	A wife's obedience in matter that are ma'ruf	Family stability
Protection	A Husband is obligated to protect his wife and children	Safeguarding the well-being and dignity of the familiy

Domestik Management	The wife manages the household based on the social norms of her time	Effectiveness of Family Functions
------------------------	--	--------------------------------------

The findings in this section indicate that classical fiqh does not merely establish a hierarchical relationship between husband and wife but rather formulates a system that links authority with responsibility. The husband's leadership derives its legitimacy from his obligations to provide for, protect, and nurture the family. Conversely, the wife's obligation to cooperate in household affairs is part of the mechanism for maintaining family stability. Thus, the basic concept of classical fiqh is better understood as a division of functional responsibilities rather than the domination of one party over the other. However, when these principles were codified into the Compilation of Islamic Law, a process of adaptation to the context of Indonesian national law took place.

The Construction of Spousal Rights and Obligations in the Compilation of Islamic Law

The Compilation of Islamic Law (KHI) is a codification of Islamic family law compiled as a substantive guideline for Religious Courts in Indonesia (Bilalu et al., 2022). Unlike fiqh texts based on specific schools of thought, the KHI emerged through a codification process that integrated various scholarly opinions with the needs of the national legal system (Karimullah, 2022). Therefore, the norms regarding the rights and obligations of husbands and wives in the KHI cannot be understood as a textual reproduction of classical fiqh, but rather as the result of a legal transformation that considers the social and cultural developments and the needs of Indonesian society.

The provisions regarding the rights and obligations of husbands and wives in the KHI are concentrated in Articles 77 through 84. Taken together, these provisions form a legal framework that progresses from philosophical norms to operational norms, culminating in the legal consequences if such obligations are not fulfilled (Muhajir & Syafiq, 2023). This structure demonstrates that the drafters of the KHI did not merely compile a collection of norms but constructed a family law system featuring logical connections between the purposes of marriage, the distribution of rights and obligations, and the mechanisms for enforcing the law.

At the first level, Article 77 of the KHI establishes the fundamental principle of the husband-wife relationship as a shared obligation to build a family characterized by *sakinah*, *mawaddah*, and *rahmah*. This formulation positions marriage as a partnership built on the

foundations of love, respect, loyalty, and shared responsibility. Unlike some classical fiqh formulations that emphasize individual rights, the KHI begins its provisions by affirming the collective purpose of establishing a family. This indicates a shift in orientation from an approach based solely on individual rights and obligations toward one focused on the success of the family institution as a unified whole (Rouf et al., 2023).

This formulation also reflects the strong influence of the concept of *mu'asyarah bi al-ma'ruf* in the Qur'an (Isyaaq Maulidan & Mukhtar Adinugroho, 2024). However, the KHI does not use fiqh terminology directly; rather, it translates it into national legal language that is easier to understand and apply (Basithul Arzaq et al., 2025). The choice of phrases such as "loving one another," "respecting one another," "being faithful," and "providing material and emotional support" reflects the codification effort to transform religious ethical values into operational legal norms.

The next step is evident in Article 78, which regulates the obligation to maintain a shared residence. This provision not only includes the obligation to provide a home as a material necessity for the family but also introduces the principle of mutual consultation in determining the place of residence (Rahman, 2022). In classical fiqh literature, the authority to determine the place of residence generally rests with the husband, provided it does not cause harm to the wife. In contrast, the KHI stipulates that the determination of the place of residence is based on mutual agreement between husband and wife. This editorial change reflects a strengthening of the principles of participation and equality in domestic decision-making (Budiman et al., 2025).

The most notable transformation is evident in Article 79 of the KHI, which designates the husband as the head of the family and the wife as the homemaker, yet simultaneously affirms that the wife's rights and status are equal to those of the husband in both family life and community life. Furthermore, the KHI also recognizes that both parties possess equal legal capacity to engage in legal acts.

This formulation reveals two normative trends operating simultaneously. On the one hand, the KHI preserves the *qiwamah* structure by designating the husband as the head of the family. On the other hand, the KHI adopts the principle of legal equality by recognizing the wife's status as an independent legal subject. The combination of these two principles indicates that the drafters of the KHI sought to preserve the legal identity of Islam while adapting it to modern legal principles that recognize the equal legal capacity of men and women.

The provisions regarding a husband's obligations in Article 80 demonstrate that a husband's leadership is not understood as a privilege, but rather because of greater responsibility (Anis Syuhada Mat Yusoff, 2026). A husband is obligated to provide financial support, provide housing, meet the children's educational needs, provide protection, guide the family's religious life, and ensure the household's well-being in accordance with his economic capacity (Fauzi et al., 2025). Thus, the legitimacy of *qimamah* in the KHI is founded on the principle of responsibility (responsibility-based leadership), not domination (authority-based leadership).

This formulation represents a significant development compared to some classical fiqh constructs. Whereas in fiqh, discussions of financial support have traditionally focused primarily on food, clothing, and housing, the KHI expands the scope of a husband's obligations to include education, health, and the spiritual development of the family. This expansion demonstrates that the codification of the law has accommodated changes in the family's role within an increasingly complex modern society.

On the other hand, Article 83 retains the wife's obligation to be dutiful to her husband in matters permitted by sharia and to manage the household's daily needs (Jhon Alwi Situngkir, 2025). This norm reflects continuity with classical fiqh traditions, particularly regarding the importance of cooperation in maintaining family stability. However, unlike fiqh texts that detail domestic obligations in detail, the KHI opts for simpler wording, thereby allowing for more flexible interpretation in line with societal developments (Fatawi et al., 2024).

The evolution of Indonesian society—marked by increasing female participation in education, the workforce, and the public sector—means that the division of domestic roles can no longer be understood rigidly (Muhdi et al., 2025). Therefore, the phrase “managing household affairs” in the KHI is more accurately understood as a functional responsibility that can be carried out through mutual agreement between husband and wife, rather than as a restriction on women's freedom of action in the domestic sphere.

The aspect of law enforcement is regulated by Article 84, which sets forth the legal consequences if a wife commits *nusyūz* (Ubaidillah & Khaliq, 2025). This provision upholds the classical concept regarding the relationship between a wife's obedience and a husband's obligation to provide financial support. However, unlike classical fiqh, which largely leaves the burden of proof to family authorities, the KHI requires valid evidence of *nusyūz*. This

provision indicates that the resolution of family disputes has shifted from moral mechanisms to legal mechanisms based on evidence presented in court.

Nevertheless, the provisions regarding *nusyūz* remain one of the most heavily criticized parts of the KHI. The provisions focus solely on the possibility of a wife’s *nusyūz*, while a husband’s breach of obligations has not been met with equivalent sanctions (Fitri et al., 2021). Consequently, some observers argue that the KHI’s legal framework still exhibits an asymmetrical tendency in the balance of rights and obligations between husband and wife. This situation indicates that the process of legal transformation has not yet fully achieved a normative balance between the rights and obligations of both parties.

Overall, the construction of the rights and obligations of husbands and wives in the KHI reflects a blend of continuity and renewal. Continuity is evident in the retention of the principle of *qiwamah*, the obligation of financial support (*nafkah*), the concept of *mu’asyarah bi al-ma’ruf*, and the mechanism for addressing *nusyūz*. Conversely, renewal is evident in the strengthening of the principle of *musyawarah*, the recognition of the wife’s legal capacity, the expansion of the meaning of *nafkah*, and a more comprehensive orientation toward family protection. Thus, the KHI does not merely replicate classical *fiqh* norms but rather engages in selection, simplification, and adaptation to ensure these norms are compatible with Indonesia’s national legal system.

Table 2. The Framework of Spousal Rights and Obligations in the Compilation of Islamic Law

Aspects	Formulation in the KHI	Character of Norms
Purpose of Marriage	Sakinah, mawaddah, wa rahmah	Philosophical
Husband-Wife Relationship	Partnership and shared responsibility	Ethical-legal
Head of the Family	The husband as head of the household	Structural
Status of the Wife	Equal status and legal capacity	Egalitarian
Spousal Support	Covering economic, educational, health, and protective aspects	Operational
Residence	Determined by mutual agreement	Participatory
Nusyūz	Requires legal proof	Procedural

Based on the above, an analysis of Articles 77–84 of the KHI shows that the codification of Islamic family law in Indonesia does not merely adopt classical *fiqh* norms but also involves a process of normative reconstruction. This reconstruction is evident through three main trends: the simplification of legal wording, the strengthening of the principle of partnership within the family, and the adaptation of norms to the national legal

system. These three trends serve as a crucial foundation for understanding that the relationship between classical fiqh and the KHI is not one of mere reproduction of norms, but rather one of legal transformation.

The Transformation of Norms Governing the Rights and Obligations of Husbands and Wives from Classical Fiqh to the Compilation of Islamic Law

An examination of the construction of the rights and obligations of husbands and wives in classical fiqh and the Compilation of Islamic Law (KHI) reveals that the relationship between the two is not merely reproductive but transformational. While the KHI does indeed treat classical fiqh as the primary source for the formulation of norms, the codification process was not carried out by adopting texts (Abidin, 2025). Instead, the drafters of the Compilation of Islamic Law (KHI) undertook a process of selection, simplification, adaptation, and updating of various fiqh concepts, resulting in legal formulations suited to the character of Indonesian society and the national legal system.

This transformation demonstrates that the Islamic law codified in the KHI is the result of a dialectic between the authority of religious texts, fiqh traditions, social developments, and national legal needs. Thus, the relationship between classical fiqh and the KHI is more accurately understood as a process of legal transformation rather than legal transplantation in the sense of a wholesale transfer of norms (Maysarah & Laia, 2025). This finding also demonstrates that the formation of Indonesian Islamic family law is a creative process that seeks to uphold the authority of sharia while responding to the demands of social change.

Based on an analysis of Articles 77 through 84 of the KHI, this study identifies four patterns of normative transformation: adoption, modification, contextualization, and legal reform. First, Normative Adoption (Lukito, 2025). The first pattern is adoption, which involves incorporating classical fiqh norms into the Compilation of Islamic Law with relatively minor changes. In this pattern, the substance of the law is retained because it remains relevant to the needs of Indonesian society.

The concept of *qiwamah* is the most vivid example of this form of adoption. Although the term *qiwamah* is not used explicitly, Article 79(1) of the KHI retains the substance of the norm by stipulating that the husband is the head of the family and the wife is the homemaker. This formulation demonstrates a direct continuity with the classical fiqh framework, which positions the husband as the head of the family based on his responsibility for financial support and protection.

Similarly, the provision on financial support in Article 80 of the Compilation of Islamic Law adopts a universal principle agreed upon by all schools of Islamic jurisprudence. The obligation to meet the family's economic needs remains the husband's responsibility because of his leadership role. Thus, the legitimacy of *qiwamah* continues to rest on the husband's ability to fulfill his economic and social responsibilities within the family.

The concept of *mu'āsarah bi al-ma'rūf* is also among the norms adopted. The KHI preserves the essence of a relationship grounded in love, respect, loyalty, and cooperation between husband and wife, even though it is framed in the simpler language of national law. This finding indicates that the process of formulating the KHI has preserved the fundamental principles of Islamic family law as a normative identity that has not undergone substantive change.

Second, Normative Modification. The second pattern is modification, which involves changing the formulation of a norm without altering its legal purpose (Kaharudin et al., 2025). This modification is clear in the provisions regarding the family's place of residence. In classical fiqh literature, the authority to determine the place of residence essentially rests with the husband, provided it does not cause harm to the wife. In contrast, Article 78(2) of the KHI stipulates that the family residence is determined jointly by the husband and wife.

This change indicates a shift in the decision-making mechanism from an authoritative model toward a consultative model. Although the substance of protection for the wife remains intact, the means of achieving it have undergone a shift toward a more democratic approach. Modification is also evident in the concept of the husband's leadership. In classical fiqh, *qiwamah* was primarily described as an authority derived from the obligation to provide financial support. The KHI subsequently expanded this meaning to include responsibilities for education, protection, health, religious guidance, and family welfare. Thus, the husband's leadership has shifted from a concept of authority to one of service (servant leadership). This editorial change indicates that the KHI does not alter the fundamental principles of Islamic law but rather broadens the scope of the husband's responsibilities to align with the needs of the modern family.

Third, Normative Contextualization. The third pattern is the dominant form of transformation: contextualization. Contextualization is the process of adapting classical fiqh norms to Indonesia's social, cultural, political, and legal characteristics without compromising the objectives of sharia (*maqasid al-syari'ah*) (Mokodenseho et al., 2024). This is evident in Article 79(2) of the KHI, which states that the rights and status of a wife are equal to those

of a husband in both family life and community life. This formulation is not explicitly found in classical fiqh texts. The recognition of the equal status of husband and wife is a response to developments in national law that uphold the principle of equality of citizens before the law.

Contextualization is also evident in the recognition that both husband and wife possess equal legal capacity to engage in legal acts. This provision reflects the integration of the fiqh principle of legal capacity (*ahliyyah*) with the modern legal system, which recognizes women as independent legal subjects. Furthermore, the KHI employs legal language that is neutral, simple, and easily applied by judicial officials. Various complex fiqh terms have been translated into operational legal norms so they can be effectively utilized in religious judicial practice. Thus, the process of contextualization demonstrates Islamic law's ability to adapt to societal developments without compromising its religious legitimacy.

Fourth, Normative Innovation. The final pattern is legal innovation (Mazhorina, 2023) —that is, the creation of new norms not explicitly found in classical fiqh. This innovation is evident in the mechanisms for resolving family disputes through the judicial system. In classical fiqh, the resolution of domestic conflicts is generally carried out through family mechanisms, *hakam*, or the authority of the ruler. In contrast, the KHI links the exercise of the rights and obligations of husbands and wives to the formal mechanisms of the Religious Courts—similarly, provisions regarding the proof of *nusyūz*. Classical fiqh does not recognize standards of proof as found in modern legal systems. The KHI subsequently requires that the status of *nusyūz* be proven through valid evidence before it can give rise to legal consequences. Other innovations are evident in the integration of principles of child protection, family education, and social responsibility, which are far more comprehensive than those found in classical fiqh literature. These changes demonstrate that Indonesian Islamic family law has shifted from a paradigm of individual relationships toward a paradigm of protecting the family as a social institution.

The transformation of norms regarding the rights and obligations of husbands and wives in the Compilation of Islamic Law (KHI) indicates that the process of forming Islamic family law in Indonesia did not occur through the literal adoption of fiqh norms. Although most of KHI's provisions are rooted in classical fiqh literature, the formulation of its norms has undergone selection, reinterpretation, and adaptation to the national legal system and the dynamics of Indonesian society. This finding demonstrates that Alan Watson's (Alan Watson, 2006) theory of legal transplant can only explain the initial stage of the transfer of

norms from the fiqh system into positive law. In practice, the adopted norms undergo modifications, resulting in a legal character distinct from that of their source. Therefore, the relationship between classical fiqh and the KHI is more accurately understood as a process of legal transformation rather than merely a legal transplant, as the changes that occur not only transfer norms but also shape new legal meanings appropriate to the Indonesian social context.

Changes in the formulation of the rights and obligations of husbands and wives in the KHI demonstrate that the reform of Islamic family law not only addresses the substance of the norms but also alters the way the law functions within society. This perspective aligns with Lawrence M. Friedman's theory of legal systems, which identifies legal substance, legal structure, and legal culture as three interrelated elements that influence one another. In terms of legal substance, the KHI reformulates the concepts of family leadership, the obligation to provide financial support, and the relationship between the rights and obligations of husbands and wives to suit the needs of Indonesian society better. In terms of legal structure, the codification of the KHI provides more uniform guidelines for the Religious Courts, thereby strengthening legal certainty in resolving family disputes. Meanwhile, regarding legal culture, these normative changes reflect a shift in public understanding from authority-oriented family relationships toward relationships that emphasize responsibility, deliberation, and cooperation. Thus, the transformation of norms in the KHI constitutes a systemic change that simultaneously encompasses legal substance, institutions, and legal culture.

Table 3. Model of the Transformation of Spousal Rights and Obligations

Forms of Transformation	Characteristics	Examples in the KHI
Adoption	Norms are preserved almost intact	<i>Qiwamah</i> , nafkah, <i>mu'asyarah bi al-ma'ruf</i>
Modification	Wording changes, substance remains the same	Consultation to determine place of residence; expansion of the husband's responsibilities
Contextualization	Adaptation to the national legal system	Equality of legal status; legal capacity of the wife
Modernization	New norms tailored to modern needs	Proof of nusyūz; mechanisms of the Religious Court; protection of the family

The findings of this study indicate that the relationship between classical fiqh and the Compilation of Islamic Law cannot be understood in dichotomous terms—as a choice between preserving or abandoning fiqh traditions. Rather, the Compilation of Islamic Law is the result of a normative reconstruction that combines continuity and change. Continuity is realized through the preservation of the fundamental principles of sharia. At the same time, change is achieved through modification, contextualization, and renewal to ensure that these norms remain relevant to the dynamics of Indonesian society.

The model of four patterns of transformation identified in this study demonstrates that the reform of Islamic family law in Indonesia has proceeded in an evolutionary, rather than revolutionary, manner. This approach allows Islamic law to maintain its theological legitimacy while remaining adaptable to social developments, principles of justice, the protection of human rights, and the objectives of *Maqasid al-Usrah*. Thus, the Norm Transformation Model developed in this study represents an innovation that not only explains the process of KHI formation but also serves as an analytical framework for examining the reform of Islamic family law in other Muslim countries.

The Implications of Normative Transformation for the Reconstruction of Islamic Family Law in Indonesia

The transformation of the norms governing the rights and obligations of husbands and wives from classical fiqh to the Compilation of Islamic Law (KHI) demonstrates that the development of Islamic family law in Indonesia has taken place through a dynamic process of adaptation. The findings of this study demonstrate that the KHI is not merely a codification of classical scholars' opinions but rather a product of legal *ijtihad* that integrates Islamic normative sources with developments in the national legal system, social changes, and demands for the protection of human rights. Therefore, the transformation of norms that has occurred is not merely a matter of editorial changes but also reflects a paradigm shift in understanding the legal relationship between husband and wife.

First, a Paradigm Shift from Authority to Responsibility. The research findings indicate that the concept of *qiwamah* (Islamiyah et al., 2024) has undergone a significant shift in meaning during its codification into the KHI. In classical fiqh, *qiwamah* was primarily understood as legitimizing the husband's leadership, grounded in his obligation to provide financial support. In contrast, the KHI has developed this concept into "responsibility-based leadership." Leadership is no longer interpreted as a privilege but rather as a trust to protect, guide, provide for, educate, and ensure the well-being of the family.

This paradigm shift has significant implications for the practice of family law. The husband's leadership cannot be used as a basis to restrict the wife's rights but must be understood as an instrument to fulfill the objectives of marriage as formulated in Article 77 of the KHI. Thus, the legitimacy of *qiwamah* is not determined by gender alone but by the fulfillment of the responsibilities borne by the husband as head of the family.

Second, Strengthening the Principle of Partnership in Family Life. The second implication is the strengthening of the partnership paradigm in the husband-wife relationship (Majidi et al., 2024). An analysis of Articles 77 through 80 of the KHI shows that the drafters no longer view the family as a subordinate relationship but rather as an institution built on cooperation, consultation, and mutual complementarity.

The principle of partnership is reflected in the recognition of the balance of rights and status between husband and wife, the mechanism of consultation in determining the place of residence, and the recognition of each party's legal capacity. Thus, family relations under the KHI are moving toward a model of shared responsibility—that is, the division of responsibilities based on ability, family circumstances, and mutual agreement. These changes have significant implications for the practice of resolving family disputes in Religious Courts. Judges no longer merely assess whether one party has formally violated fiqh norms but must also consider the principles of partnership, justice, and the overall welfare of the family.

Third. The Integration of *Maqasid al-Usrah* in the Formulation of Legal Norms. This transformation of norms also reflects the increasingly strong orientation toward *Maqasid al-Usrah* as the foundation for the formulation of Indonesian Islamic family law (Suaib Lubis & Alang Sidek, 2026). From Jamaluddin Athiyyah's perspective, the family is established to safeguard the religion, life, intellect, lineage, property, and honor of all family members (Nor Ipansyah, 2025). These objectives can only be realized if the rights and obligations of husbands and wives are viewed as instruments for achieving the common good, rather than merely as a formal division of roles.

In this context, the expansion of the meaning of nafkah in the KHI serves as a concrete example of the integration of *Maqasid al-Usrah*. Nafkah is no longer understood merely as the fulfillment of basic needs for food, clothing, and shelter, but also encompasses education, health, protection, spiritual guidance, and family well-being (Musadad et al., 2025). Thus, the transformation of norms in the KHI is, in essence, an effort to expand the family's role as an institution for human development. Another implication is that interpretations of the rights and obligations of husbands and wives must always be directed toward achieving

the family's best interests. When an interpretation leads to injustice, violence, or discrimination, it contradicts the *Maqasid al-Usrah*, the primary objectives of Islamic law (Purnomo, 2020).

Fourth, the Reconstruction of Islamic Family Law to Be Responsive to Social Change (Fatawi et al., 2024). Social changes—marked by increased education among women, women's participation in the workforce, technological advancements, and shifts in the family's economic structure—demand a more adaptive reconstruction of Islamic family law. The findings of this study indicate that the mechanisms of normative transformation within Islamic Family Law (KHI) provide space for legal renewal without severing ties with classical fiqh traditions.

From the perspective of Lawrence M. Friedman's legal systems theory, this transformation of norms not only addresses the substantive aspects of the law but also affects legal structure and legal culture. In terms of substance, the KHI updates the formulation of the rights and obligations of husbands and wives to better align with societal developments. In terms of structure, the Religious Courts gain a clearer normative basis for resolving family disputes. Meanwhile, regarding legal culture, society is encouraged to view the relationship between husband and wife as a partnership based on shared responsibility.

These implications suggest that the reform of Islamic family law need not be carried out through revolutionary changes. Rather, legal reform can proceed evolutionarily through the reinterpretation of fiqh norms within the framework of *maqasid al-syari'ah* and the Indonesian Constitution.

Fifth, the Norm Transformation Model as a Framework for Reconstructing the KHI. The main contribution of this study is the formulation of the Norm Transformation Model for the Rights and Obligations of Husband and Wife, comprising four stages: adoption, modification, contextualization, and legal reform. This model demonstrates that the formation of Islamic family law in Indonesia occurs through a gradual process that maintains continuity with classical fiqh while simultaneously opening space for legal innovation.

The model has practical implications as a framework for evaluating provisions of the KHI that remain controversial, such as regulations regarding *nusyūz*, the division of domestic roles, family leadership, and women's economic rights. By employing this transformation model, the reform of the KHI is no longer understood as an effort to replace classical fiqh norms, but rather as a process of legal refinement that remains rooted in the values of Sharia and *Maqasid al-Usrah*.

Based on the analysis, the transformation of the norms governing the rights and obligations of husbands and wives in the KHI demonstrates that Indonesian Islamic family law evolves through normative reconstruction that integrates the continuity of classical fiqh teachings with the needs of modern society. This finding confirms that the renewal of family law is not synonymous with a disregard for fiqh traditions, but rather constitutes a process of reinterpretation that preserves the objectives of Sharia (*Maqasid al-Usrah*) through legal formulations that are more responsive, just, and adaptive to social dynamics.

A Model for Reconstructing the Rights and Obligations of Husband and Wife Based on *Maqasid al-Usrah*

The research findings indicate that the transformation of norms regarding the rights and obligations of husbands and wives in the KHI is a process that has not yet been fully completed. Although the KHI has undertaken various forms of adaptation to classical fiqh, several provisions still reveal normative imbalances, particularly in the regulations concerning the division of domestic roles, the concept of *nusyūz*, and the formulation of family leadership. These provisions essentially originated in a social context different from that of contemporary Indonesian society; therefore, they require a reconstruction that remains grounded in Sharia values without neglecting the developments of modern society.

The legal reconstruction in this study is not intended to replace the fundamental principles of classical fiqh, but rather to refine the formulation of its norms so that they are more in line with the purpose of family formation in Islam. Therefore, the reconstruction is aimed at strengthening *Maqasid al-Usrah* as the primary paradigm in formulating the rights and obligations of husbands and wives. This paradigm shift indicates that the primary goal of normative transformation is not merely to adapt the law to social developments, but to direct Islamic family law toward achieving the public interest, which is the objective of sharia. From Jamaluddin Athiyyah's perspective on *Maqasid al-Usrah*, the rights and obligations of husbands and wives serve as instruments to realize the protection of religion (*hifz al-dīn*), life (*hifz al-nafs*), reason (*hifz al-'aql*), lineage (*hifz al-nasl*), property (*hifz al-māl*), and honor (*hifz al-'ird*). Therefore, the reformulation of the concept of *qiwamah*, the strengthening of the principle of consultation (*musyawarah*), the expansion of the meaning of financial support (*nafkah*), and the recognition of a wife's legal capacity cannot be understood as a deviation from classical fiqh, but rather as a form of actualizing the objectives of Islamic family law within the context of Indonesian society. By this measure, the success of a norm

is determined not only by its conformity with classical fiqh formulations but also by its ability to ensure justice, protection, and the sustainability of the family.

From this perspective, the husband-wife relationship is no longer understood as a subordinate relationship based on the division of authority, but as a legal partnership built on the foundation of shared responsibility. The husband's leadership is retained as part of the legal identity of the Islamic family, but its meaning shifts from the concept of power to that of servant leadership. Thus, *qiwamah* is no longer interpreted as a justification for male dominance, but rather as a trust to ensure the well-being, protection, and continuity of the family.

This reconstruction also positions the wife as a legal subject with full capacity in both family and public life. Recognition of the wife's legal capacity is not a deviation from Islamic teachings, but rather an implementation of the principles of justice (*al-'adl*) and the public interest (*al-maṣlaḥah*), which are the primary objectives of Sharia. Therefore, the division of domestic and public roles should be understood as the result of mutual consultation based on the objective circumstances of each family, not as an absolute division.

Based on the research findings, the model for reconstructing the rights and obligations of husbands and wives is built on five main principles—first, the Partnership Principle. The relationship between husband and wife is a cooperative one grounded in mutual respect, mutual support, and mutual responsibility in achieving the goals of marriage. This principle positions the family as a collective institution built through collaboration, not subordination. Second, the Responsibility Principle. A corresponding obligation always accompanies every right. A husband's leadership derives its legitimacy from his responsibility to provide for the family's financial needs, protection, education, and upbringing. Conversely, the wife also bears responsibilities commensurate with her abilities and based on mutual agreement in maintaining the family's well-being.

Third, the Consultative Principle. All strategic decisions within the family—such as financial management, children's education, employment, and housing—are made through consultation. This principle reinforces the implementation of the Quranic Surah Ali 'Imran, verse 159, within the family context.

Fourth, the Principle of Justice. Justice within the family does not always mean an equal division of tasks, but rather proportionality based on the abilities, needs, and actual circumstances of each family member. Thus, the division of roles is flexible if it ensures that the rights of all family members are fulfilled. Fifth, the *Maqasid al-Ushrah* Principle (*Maqāṣid-*

Based Principle). All the rights and obligations of husbands and wives are directed toward realizing the purposes of family formation as developed by Jamaluddin Athiyyah, namely, safeguarding the family’s religion, life, intellect, lineage, property, and honor.

The reconstruction model that can be implemented is shown in the table below:

Table 4. Model for Reconstructing the Rights and Obligations of Husband and Wife

Current KHI Norms	Issues	Proposed Reconstruction
The husband as head of the household	Potentially interpreted as superiority	Interpreted as responsibility-based leadership
The wife as a homemaker	Potentially understood as a restriction on public space	Understood as family functions that can be carried out flexibly through mutual consultation
The husband is responsible for providing financial support	Does not yet accommodate dual-income families	Financial support remains the husband’s primary obligation, but the wife’s economic contribution is recognized as a form of family cooperation without negating the husband’s obligation to provide financial support.
Nusyūz applies only to the wife	Creates normative imbalance	Developed into a concept of breach of family obligations by both parties, with a fair resolution mechanism
Division of domestic roles	Tends to be interpreted rigidly	Based on agreement, ability, and the family’s best interests

CONCLUSION

This study confirms that the changes to the norms governing the rights and obligations of husbands and wives in the Compilation of Islamic Law (KHI) are not merely an imitation of traditional fiqh, but rather a process of legal transformation that integrates the teachings of fiqh, the needs of Indonesian society, and the national legal system. The KHI retains fundamental principles such as *qiwamah*, the obligation to provide financial support, and *mu’asyarah bi al-ma’ruf*, but reframes them with a more contextual, flexible, and family-protection-focused approach. The main findings of the study indicate that this transformation occurs through four mechanisms: adoption, modification, contextualization, and legal reform. These four mechanisms create a paradigm shift from authority-centered relationships toward relationships that emphasize responsibility, partnership, and family well-

being. Within the framework of *Maqasid al-Usrah*, the rights and obligations of husbands and wives are no longer viewed as a static division of roles, but rather as a means to realize a just, harmonious, and sustainable family.

The theoretical contribution of this study lies in the development of the Model of the Transformation of Norms Regarding the Rights and Obligations of Husbands and Wives, which explains that the reform of Islamic family law in Indonesia takes place through a process of normative transformation, rather than merely a transplantation of law. This Model enriches the study of Islamic family law reform by integrating legal transformation theory, Lawrence M. Friedman's legal systems theory, and *Maqasid al-Usrah* as an analytical framework for reconstructing the Compilation of Islamic Law. Thus, the reform of Islamic family law in Indonesia can no longer be understood merely as a codification of classical fiqh, but rather as a process of normative transformation that positions *Maqasid al-Usrah* as the primary paradigm for building fair, responsive, and adaptable husband–wife relationships capable of adapting to social change.

REFERENCE

- Abdul mustafa, Muhammad ishaque, Rehan Raza, Samiullah, & Muhammad Irfan Raza. (2025). When Culture Meets Fiqh: Examining the Legal Authority of 'Urf in Contemporary Engagement Traditions. *Global Islamic Research Journal*, 1(1), 01–21. <https://doi.org/10.65960/girj.1.1.2025.6>
- Abidin, S. (2025). The Transformation of Islamic Law through the Compilation of Islamic Law: Between Codification and Social Dynamics. *Formosa Journal of Science and Technology*, 4(12), 4017–4028. <https://doi.org/10.55927/fjst.v4i12.345>
- Alan Watson. (2006). *Legal Transplants and European Private Law*. University of Belgrade School of Law.
- Anis Syuhada Mat Yusoff, T. F. M. T. M. (2026). Leadership Roles of Husband and Wife in Promoting Family Wellbeing from the Qur'anic Perspective. *International Journal of Research and Innovation in Social Science (IJRISS)*, 10(19), 41–57. <https://doi.org/10.47772/IJRISS>
- Aprilianto, D., Na'imah, F. U., Fauzi, A., & Maknuun, L. Il. (2024). The Controversy of Child Marriage Culture in The Perspective of *Maqasid al-Usrah*: A Case Study of The Authority of Lebe' in Brebes. *Al-Manahij: Jurnal Kajian Hukum Islam*, 18(2), 199–218. <https://doi.org/10.24090/mnh.v18i2.11554>
- Aulil Amri, Fariqan Malhusna, Maryam Thahira, Nissa Azra Nabila, Nabila Miswar, Saniah Amatillah, & Ibrahim Adeyemi Adewumi. (2025). Eksplorasi Komprehensif Hukum Keluarga Islam di Indonesia: Sejarah, Prinsip, dan Praktik Kontemporer. *An-Nisa: Journal of Islamic Family Law*, 2(2), 138-151. <https://doi.org/10.63142/an-nisa.v2i2.227>
- Awalul, A., Mawariza, P., Syah, J. A., & Nuranisah. (2025). Maqāṣidī's Approach to *Qiwamah* and Nafaqah: Finding Gender Justice in Modern Islamic Family Law. *Al Hairy: Islamic of Law*, 1(2), 161–179. <https://doi.org/10.64344/hry.v1i2.69>
- Basithul Arzaq, F. W., Sukti, S., & Norhadi, M. (2025). Duties and Rights of Husband and Wife According to KH. Hasyim Asy'ari in the Book *Dau' Al-Misbah* Gender Perspective. *Journal of Law, Politic and Humanities*, 5(6), 4415–4424. <https://doi.org/10.38035/jlph.v5i6.2187>
- Bilalu, N., Jamal, R., Harun, N., & Subeitan, S. M. (2022). Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia. *Samarah*, 6(2), 514–536. <https://doi.org/10.22373/sjhk.v6i2.12441>
- Bisri Ali Mustofa. (2025). Reconstructing *Qiwamah* and Wilāyah in the Shāfi'ī Legal Tradition: Toward a Reform of Islamic Family Law in Indonesia. *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 10(2), 345–358. <https://doi.org/10.25217/jm.v10i2.6846>
- Budiman, A., Amin, S., & Fahmi, K. (2024). The Role of the Marriage Act and the Compilation of Islamic Law in Shaping National Legislation. *Jurnal AL-AHKAM*, 15(2), 40-54. <https://doi.org/10.15548/alakhkam.v15i2.9429>
- Čustović, A. (2025). Equal Before God but Not Equal Before His Law? Sharia Law and Women's Right to Interpretation in the Light of the Human Rights Debate. *Religions*, 16(3). <https://doi.org/10.3390/rel16030362>
- Fatawi, F., Usman, S., Hidayat, A., & Tarihoran, N. (2024). The Intersection Between Normative and Empirical: Madhhab Orientation in Marriage and Divorce Law in

- Indonesia. *International Journal of Nusantara Islam*, 12(2), 140–149. <https://doi.org/10.15575/ijni.v12i2.44643>
- Fauzi, A., Choeri, I., & Hudi, H. (2025). The Obligation of Husband to Provide Financial Support in Islamic Family Law Perspective toward a Financially Independent Wife. *MAQASIDI: Jurnal Syariah Dan Hukum*, 5(2), 282–290. <https://doi.org/10.47498/maqasidi.v5i2.5838>
- Fauzi Rahmat Pamula, & Sayehu. (2024). Rights and Obligations of Husband and Wife (Theological Normative and Sociological Approach). *Jurnal Hukum Keluarga*, 1(02), 1–9. <https://doi.org/10.63731/jhk.v1i02.13>
- Fitri, A., Alamsyah, A., Sadari, S., & Susanto, I. (2021). Reconstruction of Nusyúz Concept in Compilation of Islamic Law in Indonesia (Gender Equality Perspective Analysis). *SMART: Journal of Sharia, Traditon, and Modernity*, 1(2), 143. <https://doi.org/10.24042/smart.v1i2.10992>
- Friedman, L. M. (1975). *The Legal System: A Social Science Perspective*. Russell Sage Foundation.
- Friedman, L. M. (2006). Law, Lawyers, and Popular Culture. In *Popular Culture and Law* (pp. 3–30). Routledge. <https://doi.org/10.4324/9781315089645-1>
- Hassan, A., Fatima, S., & Bilal, M. (2022). the Issue of Qawamah in Traditional and Modern Legal Discourse. *The Scholar Islamic Academic Research Journal*, 8(1), 1–15. <https://doi.org/10.29370/siarj/issue14aren1>
- Hussain, Bilal, Hafiz Ghulam Abbas, K. H. (2022). Legal Competency for Marriage : In an Islamic and Pakistan Law Perspective. *Islamic Studies & Humanities*, 01(22), 12–24. <https://dx.doi.org/10.2139/ssrn.6965538>
- Islamiyah, A., Mubin, A. F., & Sholeh, Z. M. N. (2024). Concept of *Qiwamah* in the Perspective of Feminist Activists Amina Wadud and Zainab al-Ghazali. *An-Nur International Journal of The Quran & Hadith*, 2(1), 1–16. <https://doi.org/10.62032/aijgh.v1i1.31>
- Isyaaq Maulidan, & Mukhtar Adinugroho. (2024). The Relationship of Husband and Wife in The Perspective of Mubadalah: Is A Study of The Concept of Rights and Obligations According To KH. Hasyim Asy'ari. *Journal of Islamic Civilization*, 5(2), 192–207. <https://doi.org/10.33086/jic.v5i2.5081>
- Ja'far, A. K., & Hermanto, A. (2021). Reinterpretation Of The Rights And Duties Of Contemporary Husbands And Wives. *Samarah*, 5(2), 648–667. <https://doi.org/10.22373/sjhk.v5i2.9124>
- Jhon Alwi Situngkir. (2025). Telaah Kritis Pasal 28 Kompilasi Hukum Islam Perspektif Keadilan Gender Dalam Perkawinan. *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora*, 2(1), 76–84. <https://doi.org/10.62383/progres.v2i1.1310>
- Kaharudin, K., Wiratama, M. N., Ali, M. D. K., & Wijaksono, A. (2025). The Problem of Normative Inconsistency in Legislation in Indonesia: An Analysis from the Perspective of Legal Science. *JIHAD: Jurnal Ilmu Hukum Dan Administrasi*, 7(4), 1024–1029. <https://doi.org/10.58258/jihad.v7i4.9886>
- Karimullah, S. S. (2022). Pursuing Legal Harmony: Indonesianization of Islamic Law Concept and Its Impact on National Law. *Mazhab Jurnal Pemikiran Hukum Islam*, 21(2), 213–244. <https://doi.org/10.21093/mj.v21i2.4800>

- Lukito, R. (2025). Legal Transplants in Indonesia: Bridging Tradition and Modernity. *Social Sciences*, 14(2), 60–77. <https://doi.org/10.11648/j.ss.20251402.11>
- Majid, A. (2025). Islamic Legal Reform Based on Maqāṣid Syarī'ah: a Study of Al-Ghazālī's Thoughts and Its Relevance in the Context of Indonesian Family Law. *USRAH: Jurnal Hukum Keluarga Islam*, 6(4), 1–11. <https://doi.org/10.46773/usrah.v6i4.2195>
- Majidi, A., Laili, N. K., & Jaime, D. N. (2024). Redefining Equality in Marriage Laws: An Analysis of Husband-Wife Relations Through Qira'ah Mubādalah. *Indonesian Journal of Islamic Law*, 7(2), 43–63. <https://doi.org/10.35719/dvnwmw07>
- Maysarah, & Laia, R. (2025). Development of Islamic Law in Indonesia. *Jurnal Multidisiplin Madani*, 5(11), 1273–1279. <https://doi.org/10.55927/mudima.v5i11.682>
- Mazhorina, M. V. (2023). The Legal Innovation Theory and Legal Education. *Lex Russica*, 76(4), 9–17. <https://doi.org/10.17803/1729-5920.2023.197.4.009-017>
- Mokodenseho, S., Siregar, R., Muslim, S., Hasibuan, K., & Rahman, R. (2024). Analysis of the Influence of Fiqh and Maqasid al-Syariah in the Formation of Islamic Legal Policy in Indonesia. *West Science Islamic Studies*, 2(01), 30–37. <https://doi.org/10.58812/wsiss.v2i01.590>
- Muhajir, A., & Syafiq, M. A. (2023). Right and Obligation Husband Wife in Perspective Islam and State Law. *Journal Analytica Islamica*, 12(2), 250. <https://doi.org/10.30829/jai.v12i2.17546>
- Muhdi, Sabiq, F., Hadiningrum, L. P., & Zuhroh, D. (2025). The Dual Role of Career Women in Strengthening Family Resilience: A Study in Tulung District, Klaten Regency. *Jurnal Al-Hakim*, 2(2), 1–22. <https://doi.org/10.22515/jurnalalhakim.v7i1.11034>
- Musadad, A., Choiri, M., Qomaro, G. W., Fauzi, A. Z., Imamuddin, I., & Pujiati, T. (2025). Reorienting Jamāluddīn 'Aṭīyyah's *Maqasid al-Ushrah* in the Regulation of Polygamy in the Indonesian Compilation of Islamic Law. *Sakina: Journal of Family Studies*, 9(4), 429–447. <https://doi.org/10.18860/jfs.v9i4.19984>
- Nor Ipansyah, A. H. (2025). Reform of Islamic Family Law in Indonesia: Integrating Maqasid Al-Shariah and the Principles of Justice in the Digital Era. *AL-SYAKHSHIYYAH: Jurnal Hukum Keluarga Islam Dan Kemanusiaan*, 7(2), 3264–3268. <https://doi.org/10.1093/osco/instance.00208803>
- Peter Mahmud Marzuki. (2010). *Penelitian Hukum*. Prenada Media Group.
- Prima Angkupi, & Muhammad Shofwan Taufiq. (2025). Direction of Islamic Law Compilation Reform: Efforts to Codify Indonesian Islamic Family Law. *SMART: Journal of Sharia, Tradition, and Modernity*, 5(1), 69–79. <https://doi.org/10.24042/smart.v5i1.26261>
- Purnomo, B. (2020). Maqāshid Al-Syarī'ah and Human Rights Problems. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 20(1), 1–12. <https://doi.org/10.19109/nurani.v20i1.5631>
- Rahman, N. F. (2022). Kewajiban Nafkah Menurut Hukum Islam Dan Perundang-Undangan Di Indonesia. *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, 3(2), 193–206. <https://doi.org/10.15575/as.v3i2.20160>
- Rouf, A., Ch, M., & Mahmudi, Z. (2023). Joint Property Division in Indonesia: A Gender Equality Viewpoint. *De Jure: Jurnal Hukum Dan Syariah*, 15(2), 230–250.

<https://doi.org/10.18860/j-fsh.v15i2.23050>

- Cheurfa, S. (2025). Family Jurisprudence Codification is a Modern Necessity for Family Protection. "Rights and duties of the wife as a model". *Journal of Science and Knowledge Horizons*, 4(2), 156–174. <https://doi.org/10.34118/jskp.v4i02.4016>
- Sar'an, M., Hidayatulloh, Y., Gussevi, S., Indrawan, R., & Zuhri, N. A. U. (2024). Implementation of Harmonious Family in the Concept of Proportionality of Obligations and Rights of Husband and Wife Relations: A Perspective on the Compilation of Islamic Law. *El-Usrah*, 7(2), 695–712. <https://doi.org/10.22373/ujhk.v7i2.24662>
- Sholihuddin, M., Jazil, S., & Ni'am, S. (2024). Remarriage in the 'Iddah Perspective of *Maqasid al-Usrah*: Study in Wedoro Waru, Sidoarjo, Indonesia. *Samarah*, 8(2), 726–749. <https://doi.org/10.22373/sjhk.v8i2.15061>
- Soerjono Soekanto. (1986). *Pengantar Penelitian Hukum*. UI Press.
- Soerjono Soekanto dan Sri Mamudji. (2006). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. PT Rajagrafindo Persada.
- Suaib Lubis, & Alang Sidek. (2026). Implementasi Maqashid Syariah dalam Regulasi Hukum Keluarga di Indonesia: Antara Normativitas dan Realitas Sosial. *Jurnal Cendekia Hukum Indonesia*, 2(1), 630–641. <https://doi.org/10.71417/jchi.v2i1.145>
- Ubaidillah, U., & Khaliq, R. (2025). Reinterpreting The Concept of Nusyuz From The Perspective of Islamic Family Law Hermeneutics. *TATHO: International Journal of Islamic Thought and Sciences*, 2(4), 364–374. <https://doi.org/10.70512/tatho.v2i4.140>
- Ula, S. K. (2021). Qiyama dalam Rumah Tangga Perspektif Teori Mubadalah dan Relevansinya di Indonesia. *Mahakim: Journal of Islamic Family Law*, 5(2), 135–148. <https://doi.org/10.30762/mahakim.v5i2.138>
- Watson, A. (1974). *Legal Transplants an Approach to Comparative Law*. Scottish Academic Press.
- Zagidullin, I. I. (2023). Interpretation of the Quranic verse “al-Qiwamah” (“Guidance in the family”) by Islamic modernists. *Minbar. Islamic Studies*, 15(4), 899–908. <https://doi.org/10.31162/2618-9569-2022-15-4-899-908>
- Zayyadi, A., Hidayat, A., & Masuwd, M. A. (2023). Understanding of Legal Reform on Sociology of Islamic Law: Its Relevance to Islamic Family Law in Indonesia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 17(2), 249. <https://doi.org/10.24090/mnh.v17i2.7584>