


Progressive Steps in Reforming Indonesian Islamic Family Law Through Gender Studies

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Abstract: *This article examines Indonesia's urgent need to update Islamic family law to reflect modern dynamics, technological advancements, and universal justice principles. The primary goal of reform is to elevate women's status by upholding, defending, and expanding their rights in line with Sharia law. The research methodology examines the history and foundation of family law reform in the context of Islamic law through a review of the literature and document analysis. The primary forces behind Islamic law reform in Indonesia include the need to close legal gaps, the effects of economic globalization, and the influence of reformed Islamic legal thought. The study's conclusions include the identification of a number of particular areas within Islamic family law that need to be changed, such as women's rights in the home, divorce, and inheritance. In order to address gender inequality and create a society that is more inclusive and just, these reforms are thought to be essential first steps.*

Keywords: Gender Justice, Islamic Family Law Reform; Status of Women

Abstrak: *Artikel ini membahas kebutuhan penting Indonesia untuk memperbarui hukum keluarga Islam untuk mencerminkan dinamika modern, kemajuan teknologi, dan prinsip-prinsip keadilan universal. Tujuan utama dari reformasi ini adalah untuk meningkatkan status perempuan dengan menjunjung tinggi, membela, dan memperluas hak-hak mereka sejalan dengan hukum Syariah. Metodologi penelitian ini mengkaji sejarah dan landasan reformasi hukum keluarga dalam konteks hukum Islam melalui tinjauan literatur dan analisis dokumen. Kekuatan utama yang melatarbelakangi reformasi hukum Islam di Indonesia meliputi kebutuhan untuk menutup kesenjangan hukum, dampak globalisasi ekonomi, dan pengaruh pemikiran hukum Islam yang telah direformasi. Kesimpulan dari penelitian ini mencakup identifikasi sejumlah bidang tertentu dalam hukum keluarga Islam yang perlu diubah, seperti hak-hak perempuan dalam rumah tangga, perceraian, dan warisan. Untuk mengatasi ketidaksetaraan gender dan menciptakan masyarakat yang lebih inklusif dan adil, reformasi ini dianggap sebagai langkah pertama yang penting.*

Kata Kunci: Keadilan Gender; Reformasi Hukum Keluarga Islam; Status Perempuan

INTRODUCTION

Islamic law reform is a strategy to bring back the essence of the regulations that the mujtahids employed to establish legal istinbath. This allows Islamic law to become more contemporary and capable of addressing contemporary issues rather than being constrained to a single course. The impact of technology and globalization presents a chance for the law to revisit the fundamental rules that have remained consistent.¹ Since the establishment of justice and beneficial democracy are the fundamental goals of lawmaking in society, the law does, in fact, remain open to renewal for the benefit of all people. Nevertheless, despite the fact that family law has historically contributed much to society, modern demands and events have caused it to drastically shift, making Islamic reform of this area imperative.

According to Wagianto, the goal of reforming Islamic family law in Tunisia and Indonesia was to uplift women's status through the defense, preservation, and advancement of women's rights in response to contemporary demands. The two nations have distinct norms when it comes to polygamy and minimum marriage requirements, but they have the same values and objectives namely, defending women's rights in line with sharia. This study examines a range of materials and literature regarding the reform of Islamic family law in both nations.²

According to Fitri's research, the high regard for family law's role in fostering harmony and order in society illustrates the significance of the law in the Islamic setting, particularly in nations like Indonesia where the majority of the population is Muslim. Family law reform is necessary, as evidenced by the continuous efforts to incorporate Islamic family law into the positive legal system in response to contemporary demands, scientific advancements, economic globalization, legal reform, and the resurgence of Islamic philosophy. Given that the traditional

¹ Setiawan Eko, "Dinamika Pembaharuan Hukum Keluarga," *jJurnal Syariah dan Hukum* 6, no. 2 (2014): 139.

² R. Wagianto dan M. S. I. Affan, "Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam di Indonesia Dan Tunisia," *Asy-Syari'ah: Jurnal Hukum Islam* 8, no. 2 (2022): 81–102.

interpretation of Islamic legal texts is thought to be less equipped to handle family law concerns that develop in the current day, this renewal is necessary to address the challenges of modernity in family law.³

Islam offers three distinct approaches to renewal: (1) complete overhaul (deconstruction); (2) renewal (reconstruction); or (3) continuity (continuity of what presently existing). Two deconstruction approaches are employed, specifically: (1) overhauling everything directly during the prophet Muhammad SAW's lifetime, and (2) overhauling everything gradually since the prophet's lifetime till the appropriate and favorable moment. Family law concerns include organizations that need to be substantially reorganized, albeit gradually.

For this reason, there are still some practices in the field of family law that appear to support the patriarchal family structure, such as the idea that husbands should be the primary breadwinners, leaders of families, and mentors to their spouses. The prophet Muhammad SAW began the deconstruction of Islam in the area of family law, and it is now time to finish it.⁴

The family and social systems are affected by family law. Consequently, a bilateral and equitable system ought to be the foundation of the Family Law that would be enacted in Indonesia and other Muslim nations. As a result, the Shari'ah that will be implemented in Indonesia is the one that is consistent with the prophet's rebirth. Because historical evidence indicates that "some," rather than "many," Islamic teachings appear to travel backward (revert to pre-Islamic doctrines) rather than ahead (advance). A similar instance of setbacks arises in the context of family law (marriage).

Thus, a quick explanation of legal change in the area of Islamic family law will be provided in this article. As is well known, Islamic family law needs to be updated to reflect contemporary cultural norms, socioeconomic realities, and the complexity of the nation's and state's ever-changing difficulties. This updating also addresses the many demands of the social reality that currently exists.

³ Al Fitri, "Pembaruan Hukum Keluarga di Indonesia Melalui Kompilasi Hukum Islam," *Mahkama Agung RI*, 2020.

⁴ Khoiruddin, "Islam Membangun Masyarakat Bilateral dan Implikasinya terhadap Hukum Keluarga Islam Indonesia," *Al-Mawarid Jurnal Hukum Islam* 17, no. 7 (2007): 86.

METHOD

This study's research methodology is based on a review of the literature and document analysis. The first step was doing a literature review, which entailed gathering and examining books, academic journals, earlier studies, and official documents pertinent to the reform of Islamic family law in Indonesia or other studied nations. This examination of the literature was done in an effort to comprehend the background, evolution, and application of family law reform within the context of Islamic law.

A comparison study is the second phase of this research methodology. The research will use comparative studies to examine how Islamic family law in the region under investigation differs from Islamic family law in other nations that have experienced comparable reforms. An overview of the variations and convergences in the approaches to reforming Islamic family law across different locations will be given by this analysis.

In order to analyze Islamic family law reform without using interviews, this research will combine document analysis and literature evaluation. The end result will be a thorough understanding of how Islamic family law reform developed in the context under study.

DISCUSSION

1. Islamic Law Reform

Family law, to put it simply, is a legislation or law that governs the internal relationships between members of a certain family with regard to family problems. According to Subekti, family law governs the legal ties that result from family interactions, such as marriage, relationships between parents and children, guardianship, and curatele, as well as relationships in the area of property law between husband and wife.⁵

Al-ahwal al-shakhsiyyah is the term used to refer to family law in Islamic legal literature. Al-Ahwal is the plural form of al-hal, which denotes situations or happenings. Conversely, al-shakhsiyyah is derived from the word al-shakhs, which

⁵ Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: PT. Intermasa, 1991).

signifies human or person. Al-Shakhsiyyah itself denotes individuality or personality.⁶ Al-ahwal al-shakhsiyyah, as formulated by Wahbah al-Zuhayli, comprises the laws governing family ties from their inception to their termination, including matrimony, divorce, nasab, maintenance, and inheritance.⁷

Islamic family law refers to the body of legislation that governs the internal dynamics inside a Muslim family in terms of inheritance, munakahat, nafkah, and child maintenance (hadanah). Wills and grants as they are governed by Indonesian family law are included in this concept.

Islamic legal reform refers to the ijihad movement's establishment of legal provisions that can address new issues and developments brought about by scientific and technological advancements. This can involve either creating new laws to address pressing issues or replacing outdated legislation that is no longer appropriate given the current state of affairs and benefits to humanity. The legal provisions in question are those found in Islamic law that fall under the category of fiqh and are the outcome of scholarly ijihad; they are not to be confused with those found in Islamic law that fall under the category of sharia. One of the topics in renewal is ijihad. "Exerting all abilities and efforts in finding the law of sharia" is the technical definition of ijihad.⁸

Because it emerges to create legal provisions that are able to address new issues and changes brought about by advancements in contemporary science and technology, the effort to break taklid and resurrect ijihad to construct Islamic law is known as the Islamic legal reform movement. Two components are necessary to establish legal provisions that may respond to emerging issues and developments: Initially, ascertaining the legal framework for novel issues without statutory provisions. The second is figuring out or discovering new laws to address an issue.

The phrase "not in accordance with the current circumstances and human interests" refers to the fact that the outdated legal provisions—which date back to earlier academics' ijihad—can no longer effectively address the requirements and

⁶ Muhammad Rawasiq, *Mu'jam Lughah al-Fuqaha 'Arabi- Inklizi-Afransi* (Bairut: Lubnan, 1996).

⁷ Wahbah Al-Zuhaili, *Al-Fikih al-Islami Wa Adillautuhu* (Damaskus: Damaskus: Darul Fikr, t.t.).

⁸ Mukhtar dan Fathchurrahman Yahya, *Dasar-Dasar Pembinaan Hukum Fiqh Isami cet ke 3* (Bandung: PT Al-Ma'arif, 1993).

goals of modern society. This makes it necessary to enact new laws that, by taking into account new knowledge produced by advancements in contemporary science and technology, are better able to realize the interests of the people, which is the goal of shari'a.

2. Factors Causing the Occurrence of Islamic Law Reform in the Field of Family Law

Over a considerable amount of time, Islamic law has undergone numerous renewals in response to changing circumstances. This is due to the fact that newly emerging concerns can no longer be covered by the laws included in the traditional fiqh literature. For instance, family law governs how inheritance is distributed to adoptive parents or foster children (adoption). According to traditional fiqh (based on the nash), adopted children are not eligible for inheritance. Adoptive parents are no different. The adopted child has provided joy, care, and other necessities to his adoptive parents; or the adopted child still requires educational expenditures and other expenses. This is where justice is located. Of course, it makes sense for adopted children to inherit in part, both socially and monetarily as well as mentally. This issue needs to be resolved by jurisprudence.

Islamic law experts in Indonesia state that a number of factors have contributed to the current renewal of Islamic law, including: (1) the need to fill a legal void left by the fiqh books' norms as the community's legal needs continue to grow; (2) the impact of economic globalization and science and technology; (3) the influence of reform in various fields that present opportunities for Islamic law to become a reference in national law; and (4) the influence of renewed Islamic legal thought, both from foreign and domestic Islamic law experts, particularly with regard to the advancement of science and technology and gender issues.

Experts determine that there are several features or traits of the method of determining Islamic law (fiqh) in this case, which is also known as Ushul Fiqh and classical and medieval fiqh, which is referred to as conventional fiqh later in this paper. These features apply to the reform of Islamic law in the area of family law. Conventional refers to an idea that has spread to become the norm. This idea becomes a general guide because it has been known and introduced from the past to the present by educators in formal and non-formal education settings, as well as

by instructors in madrasah Ibtidaiyah and universities. Modern approaches, on the other hand, refer to the process by which Islamic family law was developed and came into being through codification—through laws, compilations, royal decrees, judge's decrees, and the like—which was initiated by Turkey in 1917 and Egypt in 1920.⁹

1. Conventional Method

Conventional literature typically makes it evident that every mujtahid (faqih) cites passages from the Qur'an and the Prophet Muhammad's sunnah to bolster his arguments. It may occasionally be enhanced by the companions' athar. There are verses and sunnahs of the Prophet that are both recorded to support the same position, conversely there are also verses and sunnahs of the Prophet that are both recorded to support different, even contradictory viewpoints. While some Qur'anic verses and the Prophet Muhammad's sunnah are written directly as supporting his beliefs, other verses and the prophet's sunnah are only mentioned implicitly (mafhum mukhalafah). Put another way, each mujtahid has an equal opportunity and capacity to bolster his arguments with one or more Qur'anic verses and the Prophet Muhammad's sunnah; however, occasionally, the recorded verses and sunnah of the prophet conflict with one another or are in direct opposition to one another. Juz'i (partial or atomistic) tafsir studies are the name given to this type of study in tafsir studies.¹⁰

This approach is, in theory, also known as the selected technique, or by other apologetics philosophers the Ashgar method. This implies that the interpreters choose certain texts to use in their interpretations in order to bolster the positions they wish to advance. Moreover, it is stated that atomistic studies are thought to have a tendency to be "linear-atomistic," which looks at the Qur'an rather than as a thematic unit, meaning that the outcome isn't a comprehensive Qur'anic worldview (weltanschauung).¹¹

⁹ Khoiruddin, "Metode Pembaruan Hukum Keluarga Islam Kontemporer," *UNISIA* 30, no. 66 (2007): 329.

¹⁰ Khoiruddin, 330.

¹¹ Mirna, *Coherence in the Qur'an: A Study of Islahi's Concepts of Nazm in Tadabburi Qur'an*, Plainfield (American: American Trust Publication, 1996).

Seven flaws in the atomistically interpreted Qur'anic study model are pointed out by Hassan Hanafi. First, removing the same motif from many locations (surah). Second, reiterating the same idea again without adding context to create a cohesive understanding of certain problems. Thirdly, there isn't any theme organization. Fourth, there isn't a consistent and cohesive ideology that connects different thematic elements. Fifth, this interpretation model's volumes are thick to read, pricey, challenging to market, and bulky to transport. Sixth, it obfuscates the distinction between knowledge and information. Seventh, the material offered is a long way from what individuals require.¹²

The disregard for the past is another feature of traditional fiqh. It might be argued that the historical component receives little to no consideration in the majority of discourses found in traditional fiqh books. Consider the same case as the one used to demonstrate partial features, which is the debate around polygamy. Conventional fuqaha bases its discussion of polygamy on al-Nisa' (4): 3. Al-Shafi'i does, however, consider an-Nisa' (4): 129 as an exception. But none of the four fuqaha discussed the background or the social structure of Muslim society at the time of revelation. Not a single one of them explained why the verse (*asbab al-nuzul*) was revealed.¹³

Then conventional fiqh emphasizes too much on the study of text / literal (*literalistic*).¹⁴ It is simple to demonstrate that debates of 'amm and khass, mutlaq and muqayyad, qat'i and dhanni, muhkam and mutashabih, amr and nahi, and similar topics are typically focused on linguistic concerns in ushul fiqh texts as a method of fiqh. The most obvious outcome of such a literalistic and ahistorical research is that the text frequently loses its context and appears to be empty.

The research that overemphasizes and is based solely on religious science, without taking into account or utilizing the concepts or theories of other disciplines, such as theories developed from sociology, anthropology,

¹² Hassan, *Method of Thematic Interpretation of the Qur'an* (New York: Leiden, 1996).

¹³ Khoiruddin, "Metode Pembaruan Hukum Keluarga Islam Kontemporer."

¹⁴ Fazlur Rahman, *Islam: Challenges and Opportunities, dalam Islam: Past Influence and Present Challenge, diedit oleh Alford T. Welch dan Pierre Cachia* (american: Edinburgh University Press, 1979).

history, and the like, is another flaw in conventional fiqh, which may also include modern fiqh.¹⁵

2. Contemporary Methods

The codification of modern Islamic law often follows five (5) renewal methods: (1) takhayyur; (2) talfiq; (3) takhshish al-qadla; (4) siyasah shar'iyah; and (5) reinterpretation of the text. Nonetheless, academics that study this employ terminology that are different in a few ways. For instance, some scientists and researchers refer to siyasah shar'iyah and/or takhshash alqadla as the administrative procedure approach. Similarly, some scientists refer to what other scientists refer to as reinterpretation as ijihad. Scholars also differ in how they classify things. While some academics distinguish between talfiq and takhayyur, others combine the two.

Selecting a fiqh scholar's point of view is the aim of takhayyur, which might involve scholars from outside the madhhab, such Ibn Taymiyyah and Ibn Qayyim al-Jauziyah, among others. *Takhayyur* is also commonly referred to as tarjih. It turns out that there are scholars who consider takhayyur tarjih, but they do it by selecting an alternative perspective based on a more compelling perspective or one that is more necessary and appropriate. In other words, the more accurate (*rajih*) opinion serves as the foundation for selecting one of the opinions.¹⁶

Talfiq is the process of integrating two or more scholarly viewpoints to determine the law pertaining to a certain matter. *Takhshish al-qadla* is the state's right to restrict the judiciary's power with regard to population, territory, jurisdiction, and the application of procedural law. Without trying to alter the core principles of Islamic law and with the public interest in mind, the state may exercise its discretion and procedural powers to restrict the judiciary's application of family law laws in specific circumstances.

3. Women's Role in Gender Studies and Family Law Reform

¹⁵ Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam* (Addison: Wesley Publishing Company, 1991).

¹⁶ Alami dan Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: the Hague, 1996).

Today's women play a bigger part in the legal, political, socioeconomic, and educational fields, among other areas of life.¹⁷ Even if the MDGs by 2015 set goals for women's empowerment and gender equality, the anticipated outcomes are still merely theoretical. Obstacles exist in the fields of gender studies and family law reform, particularly in the views of the community that still confine women's roles to the home. Notwithstanding a number of obstacles, legal reform is nevertheless necessary to close the gap and update family law.¹⁸ People need a deeper understanding of the distinction between fiqh and sharia in order to realize that fiqh is subject to contextual influences, whereas sharia is unchangeable.

According to Parson's social theory framework, roles are expectations arranged in the context of particular interactions that influence a person's motivational orientation toward other people.¹⁹ To confront and sometimes overcome discriminatory barriers, a thorough understanding of women's roles in society is essential, especially in gender studies and family law reform. The gender-based division of labor in Indonesian society is a reflection of the traditional roles that are associated with women, particularly with regard to reproductive functions.²⁰ It is important to acknowledge that, despite the new dynamics brought about by transitional and egalitarian roles, men's moral support and care are still crucial in preventing conflicts of interest in the division and distribution of roles.

Culture, social conventions, history, and gender all have an impact on women's roles in society. Achieving global development goals requires a strong focus on women's empowerment. While Indonesian history has acknowledged the struggles of women, it is important to note that the government is still developing effective policies to enhance women's roles.²¹ Internal conversations among women themselves mirrored identity discussions, with the term "women" becoming a symbol of resistance against injustice rather than "women." According to this discourse's extension, women's activism appears to have been significant to

¹⁷ A. Karim, "Kerangka Studi Feminisme (Model Penelitian Kualitatif tentang Perempuan dalam Koridor Sosial Keagamaan)," *Fikrah* 2, no. 1 (2014).

¹⁸ W. Menski, "Perbandingan Hukum dalam Konteks Global: Sistem Eropa, Asia dan Afrika," *Nusamedia*, 2019.

¹⁹ Jhon Scott, *Sosiologi: The Key Concept* (Jakarta: Rajawali Press, 2011).

²⁰ A. Rahmawati, "Harmoni dalam Keluarga Perempuan Karir: Upaya Mewujudkan Kesetaraan dan Keadilan Gender dalam Keluarga," *Palastren: Jurnal Studi Gender* 8, no. 1 (2016): 1–34.

²¹ H. Hamid, *Manajemen Pemberdayaan Masyarakat*, 2018.

Indonesian history, particularly during the country's fight for independence. Women warriors like Rasuna Said, Nyai Ahmad Dahlan, Martha Kristina Tiahahu, Tjut Nyak Dien, and Tjut Mutia became icons of women's struggles who contributed to the early independence movement's educational underpinnings as well as the war of independence.²²

Kartini, a heroine who exploited domestic roles as a tactic to appease protests, is a real-life example of the political negotiation of femininity.²³ Kartini demonstrated her sophistication by fusing regional and European cuisines, demonstrating how culture can advance while upholding progressive ideals. In addition to traditional, transitional, and egalitarian roles, the evolution of women's roles in society also gave rise to the idea of sex roles. Functionalist theory holds that as families move toward equality, sex roles reflect societal norms that shift, changing the way that men and women interact in society.²⁴

Women's involvement in gender studies and family law reform is crucial because it addresses the gender disparities that still exist, particularly in the family. Priorities are given to closing the gender gap in family law reform.²⁵ To establish justice and equality in the duties, rights, and obligations of men and women, barriers such as the belief that women's roles are restricted to the home must be removed. To ensure that family law reform incorporates elements that are more in line with modern society while maintaining the principles and standards that underpin sharia, it is critical to have a deeper understanding of the distinctions between fiqh and sharia in this particular context. In this instance, *ijtihad* is still applicable despite the continued barriers to the revival of Islamic family law.

The idea of sex roles, which represent the characteristics and expectations connected to gender differences, has evolved in tandem with changes in women's roles.²⁶ In order to maintain the balance of family life, family law reform must be flexible enough to respond to these shifts and take into account women's

²² Titiek Kartika, *Perempuan Lokal vs Tambang Pasir Besi Global* (Yayasan Pustaka Obor Indonesia, 2016).

²³ Kartika.

²⁴ Kartika.

²⁵ E. E. Chotim, "Kesetaraan Gender Dan Pemberdayaan Perempuan Di Indonesia: Keinginan Dan Keniscayaan Pendekatan Pragmatis (Studi Terhadap Ukm Cirebon Home Made)," *AKSELERASI: Jurnal Ilmiah Nasional* 2, no. 1 (2020): 70–82.

²⁶ A. Purwanti, *Kekerasan Berbasis Gender* (2020, t.t.).

increasingly autonomous and active roles outside the home. A tool for changing social norms that confine women to the home is family law reform in Indonesian society, where women's traditional roles are still deeply ingrained. This shift can be supported by the idea of duality, which situates women in two worlds of equal importance.²⁷

But it's important to acknowledge that efforts to increase women's roles also require the moral support and consideration of men. Men's proactive and constructive support of women outside the home is essential in an egalitarian or transitional role framework to maintain equilibrium and avoid conflicts of interest. A more inclusive and equal foundation for women's roles in society can be established with a thorough understanding of women's roles in gender studies and family law reform. In addition, this endeavor needs to take into account various social settings, acknowledge the differences among women, and address the reality of inequality through proactive legislation and practical measures.

Islam's conception of gender does not prioritize or differentiate between genders. In Islam, a person's quality determines their superiority, regardless of their role as a leader, provider, or competent problem solver in the community.²⁸ Anyone who can meet these requirements is considered to be of privileged gender. The paradigm of the head of the family does not only apply to the husband when Surah An-Nissa verse 34 is hermeneuticized with gender aspects; the wife is also entitled if the husband's responsibilities are transferred to her, creating a perspective of justice for women in managing their own households. Regarding verse 11's inheritance law, gender equality is not demonstrated, but God gives men a larger share so that maintenance men's primary duty can be accomplished in a fruitful manner. God's dogma and contextual consideration of gender aspects in the creation of just legal reform are related.

In the context of Islamic family law, gender reform efforts must prioritize ideas that uphold men's and women's equality within the institution of marriage. A woman's right to express her explicit consent to her marriage (ijab qabul) could be

²⁷ U. Wutsqah dan I. Mukaddamah, "Peran Perempuan dalam Membentuk Ketahanan Keluarga," *Jurnal Inovasi Penelitian* 3, no. 9 (2023): 7643–52.

²⁸ Z. M. Wahyuni, F. Lestari, dan U. Hasanah, "Kepemimpinan dan Gender dalam Lembaga Pendidikan Islam," *PRODU: Prokurasi Edukasi Jurnal Manajemen Pendidikan Islam* 2, no. 1 (2020).

strengthened as part of marriage law reforms, ensuring that the man is not the only one who makes this decision.²⁹ Additionally, attempting to give each spouse a better understanding of their responsibilities and rights within the union can aid in lowering the likelihood of inequality and conflicts of interest.

1. Divorce Law

Changes might also be made to provide a more thorough knowledge of Islamic divorce law. Reform efforts could concentrate on giving women the right to divorce (*talak*) and reconsidering the custom of divorcing three times in a row. Reformative measures that could be significant include granting women more access to the divorce process and making sure that the decision is made with justice and the welfare of both parties in mind.

2. Inheritance Law

Reducing differences in how men and women divide inheritance can be the main goal of reforms within the framework of Islamic inheritance law. In order to achieve gender equality, it is important to reinterpret the idea of equality in inheritance and make sure that women's rights are upheld in line with Islamic principles.

3. Women's Rights in the Family

Women's rights within the family, such as the ability to work, receive an education, and actively participate in family decision-making, can also be outlined in reforms.³⁰ Encouraging a broader interpretation of the notion of domestic justice can contribute to the development of a culture that values equal roles for husbands and wives.

As a result, improving our knowledge of women's roles, empowering them, and changing family law are crucial first steps in building a society that is more diverse, equitable, and just. Governments, community organizations, and private citizens must all work together to address enduring disparities and bring about positive changes in women's roles.

²⁹ A. Satory dkk., *Meneroka Relasi Hukum, Negara dan Budaya* (Yayasan Pustaka Obor Indonesia, 2017).

³⁰ N. Siti Maryam, "Mewujudkan Good Governance Melalui Pelayanan Publik," *UNIKOM Jurnal Ilmu Politik Dan Komunikasi* 6 (2017).

CONCLUSION

According to the study's findings, reforming Islamic family law is a calculated move toward bringing back the core principles of Islamic law and making it more in line with modern expectations and universal principles of justice. This study focuses on reform initiatives in Tunisia and Indonesia as illustrations of how Islamic family law reform is being applied to address contemporary concerns and defend the rights of women.

The importance of integrating Islamic family law into Indonesia's positive legal system has been highlighted, with ongoing efforts to address gender inequality and overhaul strong patriarchal norms. While there are differences in the minimum marriage and polygamy thresholds between the two countries, the central tenet of reform remains focused on protecting women's rights in accordance with the principles of sharia.

Utilizing a combination of document analysis and literature review, the research methodology supported the discussion of potential reforms to Islamic family law by drawing information from a wide range of sources. The findings indicate that a reform strategy may entail dismantling the patriarchal framework of Islamic family law and taking into account modern techniques like *siyasah shar'iyah*, *talfiq*, *takhayyur*, *takhshish al-qadla*, and textual reinterpretation.

With a thorough grasp of women's roles in society, shifting sex roles, and the idea of duality, gender studies and family law reform place a strong emphasis on the significance of women's roles. In order to achieve gender justice and equality, family law reform calls for not only structural adjustments but also moral support and public awareness. Therefore, it is anticipated that reforming Islamic family law will help address gender inequality and build a society that is more inclusive and just.

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