



Toward Reform; “Revamping Family Law in Muslim Nations”

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Abstract: *This research explains in more detail about family law reform in several Muslim-majority countries such as Indonesia, Malaysia, Brunei, Turkey, Egypt, Jordan, Morocco, Syria and other countries. The purpose of this article is to provide a small overview of how reforms are taking place in the field of family law in several Muslim countries. Problems that arise in family law have three important components, namely marriage, divorce and inheritance. This discussion will reveal the results of reforms or changes that arose as a result of shifts in era and power from the colonial period to the period of independence. As technology develops and new problems arise, Muslim countries also provide regulations in several ways so as to produce compatibility between law and society. This research uses a normative research type, a literature study with a descriptive analysis research type. The method is carried out by combining several descriptions of changes or reforms that occurred in the formulation of Family Law Laws in Muslim Countries so as to obtain the desired results. Laws that are in line with current developments will be very much needed, especially in the field of family law. then returning laws that deviate from the teachings that are applied is a denial. there are three typologies that can be used to describe Muslim countries' approach to family law reform. First, there are countries that continue to consider sharia as the basic law that must be applied. Second, there are countries that revise sharia law and replace it with Western secular law. Third, there are countries that try to combine elements of sharia and secular law in their legal systems.*

Keywords: *Reform, Family Law, Muslim Countries*

Abstrak : Penelitian ini menjelaskan lebih rinci tentang reformasi hukum keluarga di beberapa negara mayoritas muslim seperti Indonesia, Malaysia, Brunai, Turki, Mesir, Yordania, Maroko, Siria dan negara lain. Tujuan dari artikel ini adalah memberikan gambaran kecil tentang bagaimana reformasi yang terjadi dalam bidang hukum keluarga di beberapa negara muslim. Masalah yang timbul dalam hukum keluarga yang memiliki tiga komponen penting yakni perkawinan, perceraian dan harta warisan. Dalam pembahasan ini akan menyingkap bagaimana hasil dari reformasi atau perubahan yang timbul akibat pergeseran zaman serta kekuasaan dari masa penjajahan sampai masa kemerdekaan. Semakin berkembangnya teknologi dan masalah baru yang timbul Negara muslim juga memberikan aturan dengan beberapa cara sehingga dapat menghasilkan kesesuaian antara Hukum dan Masyarakatnya. Penelitian ini menggunakan jenis penelitian normatif, studi kepustakaan dengan tipe penelitian deskriptif analisis. Metode yang dilakukan dengan menggabungkan beberapa uraian tentang perubahan atau reformasi yang terjadi dalam perumusan Undang-Undang Hukum Keluarga di Negara Muslim sehingga mendapatkan hasil yang di inginkan. hukum yang sesuai dengan perkembangan zaman akan sangat dibutuhkan terutama dalam bidang hukum keluarga. kemudian mengembalikan hukum yang menyimpang dari ajaran yang di diterapkan adalah suatu pengingkaran. Negara muslim memiliki tiga tipologi dalam melakukan pembaharuan hukumkeluarga, di antaranya: *pertama*, negara yang masih menganggap syariah sebagai sebuah hukum dasar yang harus diterapkan; *kedua*, negara yang merevisi hukum syariah dan menggantinya dengan hukum barat yang sekuler; *ketiga*, negara yang menggabungkan antara hukum syariah dan hukum sekuler.

Kata Kunci: Pembaharuan, Hukum Keluarga, Negara Muslim.

1. Introduction

Islamic law is an important element that must be followed and recognised. The influence of Islamic law permeates other areas of Islamic studies. In Schacht's language, Islamic law became a symbol of Islamic thought, and became the most distinctive and clear manifestation of the Islamic way of life. Islamic law has given birth to the social power of Islam through the ups and downs that occurred in the history of development not only in the political realm but the social realm of Islamic society. The strong influence of Islamic law in the lives of Muslims can also be seen from the strong legal perspective that influences the perspective of Muslims in seeing the problems of daily life. The nature of Islamic law which is not only exoteric dimension of law, but also contains moral elements makes it widely influential in shaping the perspective of Muslims ¹. Between law and morals are intertwined, and in many ways impossible to separate. From here, the status of law in Islam is not only in the form of black and white boundaries such as halal and haram, but also there are other variants such as sunnah (should be done) and mubah (done or avoided) and makruh (should be avoided).

With such an important role, Islamic law in its various aspects, ranging from business law (*mu'amalah*), criminal law (*jinayah*) and civil law (*al-ahwal al Shakhsiyyah*) became a very vital legal system and was once the only unrivalled reference in the Islamic world ². The Islamic world consistently utilised this system of religious law in their legislation for a long time. However, the Islamic world cannot avoid legal changes. Muslim countries have undertaken various legal reforms on sociological grounds, i.e. the society needs changes especially in the family field because the family is the core of a country. If there is peace and tranquillity in the family, the State will also be safe ³.

Family law has an important position in the discourse of Islamic legal studies. This is due to an understanding that states that family law is the main gate in entering further provisions of Islamic law ⁴. In the mid-20th century, family law underwent reforms and several reforms. The first country to do this was Turkey, which was then followed by Egypt and continued to be followed by various countries in reforming family law. countries in reforming family law. This family law reform can then be traced in the summary of family law in Islamic countries. This family law has several trends, it is a movement and insistence of several groups to make amendments to classical family law towards contemporary family law. This movement was spearheaded by liberal, modernist, and feminist groups as well as by convertive intellectual groups such as Grad Shaykh al-Azhar and Muhammad Sayyid Tantawi.

¹ Abdul Rahman Ghazali, *Fikih Munakahat*, Kencana Pr (JAKARTA, 2012), 67.

² Anderson, "Recent Development in Shari'a Law VIII: The Yordanian Law of Family Rights 1951," *The Muslim World*, 1952.

³ Anderson, 355.

⁴ Muhammad Ngizzul Muttaqin Lilis Hidayati, Yuli Astutik, "Positifkasi Hukum Keluarga Di Dunia Muslim Melalui Pembaharuan Hukum Keluarga," *Islamika; Ilmu-Ilmu Keislaman*, 2020, 55–56.

With regard to the enforcement of Islamic family law, especially marriage in the Islamic world, Tahir Mahmood maps it from the point of view of legislation, Islamic countries can be divided into three major groups: first, the group of countries that follow traditional Islamic family law where classical family law (Fiqh) is enforced according to various madhhabs as a hereditary legacy that has never changed nor been modified until now. Among the countries that belong to this group are Saudi Arabia, Yemen, Bahrain and Kuwait. Second, the group of secular countries where Islamic family law has been abandoned and replaced with modern legal statutes that apply to the entire population and can be said regardless of their religion, such as Turkey in addition to Albania. Third, the group of countries that have reformed Islamic family law. Egypt began to reform little by little using the Hanafi-Shafi'i school of thought which was then followed by its people ⁵.

This is because Islamic family law has its own appeal to be discussed in more depth, as well as in the texts of the Qur'an which are very supportive with 70 verses related to Islamic family law ⁶. In this discussion, the author is interested in discussing how changes appear in the field of family law in various Muslim countries. By describing some of the changes that have occurred in the family law system by uniting the legal systems of several Muslim countries so as to get a conclusion and new writings that have never been done by scholars.

2. Literature review

Family law has an important position in the discourse of Islamic legal studies. This is due to an understanding that states that family law is the main gate in entering further provisions of Islamic law ⁷. The reforms aimed to standardise codified law, take what was left of legal authority away from religious authority, and end the pluralism of sharia law from historical tradition.⁸ In modern Islamic legal scholarship, the word "reform" is used in a number of ways including the word "reform", and the word "modernisation". Of these words, reform is the most common; it comes from the English "reform", which means "to mould" or "to change". Reform also means "new" which means to improve so that it becomes new or is replaced by something new. In action leads to a process that is also synonymous with renewal ⁹.

Some previous studies have discussed interesting themes related to family law reform in various countries. The following research from Rizqi Suprayogi with the title Reform of Islamic Marriage Law in Indonesia explains how the reforms that occur on Islamic marriage

⁵ (Mahmudin, n.d)

⁶ Arif Sugitanata, "Relavansi Pembaharuan Islam Bidang Hukum Kel Terhadap Egaliter Lauargaki- Laki Dan Perempuan," *Bilancia* Vol. 14, N (2020): 18.

⁷ Lilis Hidayati, Yuli Astutik, "Positifkasi Hukum Keluarga Di Dunia Muslim Melalui Pembaharuan Hukum Keluarga," 55–56.

⁸ Zubaida Sami., *Law And Power In The Islamic Word* (london: MPG Books, 2003), 121–22.

⁹ (Suprayogi, 2023, 35)

law laws that occur in Indonesia¹⁰. Then by Rizki Amar with the research topic Divorce and Strengthening Women's Rights: Family Law Reform in Egypt, Indonesia, and Pakistan. The findings of the study show that family law reform in the three places uses intra-doctrinal reform and extra-doctrinal reform approaches. Substantively, these reforms have strengthened women's rights in at least two aspects: first, regarding the limitation of the husband's right to divorce, and second, the expansion of women's access to apply for divorce¹¹.

Furthermore, a research by Lilis Hidayati Yuli Astutik with the title Positification of Family Law in the Muslim World through Family Law Reform. The conclusion of her research also reveals that family law reform is carried out to answer increasingly complex community problems. The consideration of Islamic family law reform in the Muslim world is to achieve the benefit of the people. The implication of the findings of this study is that the positification of family law in the Islamic world is very important, as a response to the times. In addition, the form of renewal will give birth to a fiqh or understanding that is in line with the changing conditions of society¹².

This study focuses more on family law reform in several Islamic countries such as Indonesia, Malaysia, Brunei, Turkey, Egypt, Jordan, Morocco, Syria by revealing how the reform system is used. Reforms aim to codify law in a standardised manner, take what is left of legal authority away from religious authority, and end the pluralism of sharia law from historical tradition. Legal reforms in Islamic countries have always generated debate among modernist-progressive and traditionalist-conservative circles, so these reforms cannot be separated from the social movements that surround the country, in this case Turkey and Egypt which became the mecca of reform and social movements in progressive Muslim countries¹³.

3. Research Methods

The term legal research in English is known as legal research or legal method. The research method used in this article is a literature study with descriptive analysis research type. This research is classified as a type of normative research using a library research approach. As for the data used, the primary data sources in this study were obtained from several books related to the topic theory or changes in Islamic family law in several Muslim countries, both

¹⁰ Suprayogi.

¹¹ Lisa Hertiana. Rizki Amar, Jamilatuz Zahra, "Jurnal Bidang Hukum Islam Hukum Keluarga Di Mesir , Indonesia , Dan Pakistan Divorce And Strengthening Women ' S Rights : Family Law Jurnal Bidang Hukum Islam 1961 Muslim Familiy Law Ordinance (MFLO) Ordonasi Hukum Keluarga Muslim," *BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam* 5, no. 1 (2024): 64–85, <https://doi.org/10.36701/bustanul.v5i1.1388>.

¹² Moh. Nasrun and Sulthon Fathoni, "Positifkasi Hukum Keluarga Di Dunia Muslim Melalui Pembaharuan Hukum Keluarga," *Islamika : Jurnal Ilmu-Ilmu Keislaman* 20, no. 01 (2020): 80–94, <https://doi.org/10.32939/islamika.v20i01.568>.

¹³ Ahmad Zayyadi, "Reformasi Hukum Di Turki Dan Mesir (Tinjauan Historis-Sosiologis)," *Al-Mazaahib: Jurnal Perbandingan Hukum* 2, no. 1 (2014): 49, <https://doi.org/10.14421/al-mazaahib.v2i1.1402>.

from fiqh books that explain Islamic marriage, and laws related to it. Meanwhile, secondary data is obtained from books related to the focus of the research. The data obtained will be grouped and then analysed by conducting research and studies on various aspects of the journey and development of family law in Muslim countries. The purpose of this study is to analyse the development of marriage law in the Muslim-majority world as a response to the development and needs of the times.

4. Results and Discussion

The definition of renewal is often identified with the term contemporary or modern. This word is generally used in the sense of change brought about by encouragement in technological innovation and science¹⁴. The term modern is widely used by Islamic researchers. The terminology of modernism and modernisation is also often paired with the term modern. Most Muslim countries manifest the reform of family law in the form of legislation. M. Atho 'Mudzar argues, there are at least three types of family law reform carried out by most Islamic countries¹⁵. First, some countries made reforms based on the decision of the ruler, for example South Yemen with the king's decree in 1942. Second, some countries try to form reforms in the form of judges' decisions (Mansurat al-Qadi al Quda) such as those implemented by the Sudanese state. Thirdly, most countries implement reform in the form of legislation. In the following, the author will provide a brief overview of reforms in the field of family law in Muslim countries as follows.

a. Indonesia

The first law in Indonesia relating to marriage and divorce was Law No. 22/1946. Initially, this law was only applicable in the Java region, but was later extended to the whole of Indonesia after the enactment of Law No. 32 of 1954. The law includes provisions on the registration and recording of marriage, divorce and reconciliation. As a continuation of various previous regulations, such as Staatsblad No. 198 of 1895, Huwelijk Ordonantie Staatsblad No. 348 of 1929, Staatsblad No. 467 of 1931, and Vorstenlandse Huwelijks Ordonantie Staatsblaad No. 98 of 1933. Then, Law No. 1 of 1974 on marriage became a continuation of Law No. 22 of 1946. This law came into effect on 1 October 1975, and was followed by Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974¹⁶.

¹⁴ Wasisto Raharjo Jati, "Radicalism In The Perspective Of Islamic-Populism: Trajectory Of Political Islam In Indonesia," *OF INDONESIAN ISLAM* 7 no. 2 (2013): 268, <https://doi.org/10.15642/JIIS.2013.7.2.268-287>.

¹⁵ Lilik Andaryani, "Relasi Gender Dalam Pembaruan Hukum Keluarga Muslim," *Jurnal Diskursus Islam* 2 2 (2014): 31.

¹⁶ Rachmadi Usman, "Makna Pencatatan Perkawinan Dalam Peraturan Perundang-Undangan Perkawinan Di Indonesia," *Legasi Indonesia* 14 no.03 (2017): 20, <https://doi.org/10.54629/jli.v14i3.80>.

Subsequently, Law No. 7 of 1989 on Religious Courts was passed on 14 December 1989, which regulates the court system in general, including in matters of marriage. Then, at the end of 1991, the Compilation of Islamic Law on Marriage, Divorce, inheritance, trusts, and others was compiled in accordance with Official Presidential Instruction No. 1 of 1991. This was followed by the issuance of Regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 154 of 1991 concerning the Implementation of Presidential Instruction of the Republic of Indonesia Number 1 of 1991¹⁷.

b. Malaysia and Brunei Darussalam

After Malaysia's independence from British colonisation, it undertook a comprehensive reform in the areas of marriage and divorce. This reform effort has been started since 1982 by several states such as Kelantan, Negeri Sembilan, and Malacca. Currently, the marriage laws in Malaysia vary from state to state. Some of them include 'Malacca Islamic Family Act 1983', 'Kelantan Act 1983', 'Negeri Sembilan Act 1983', 'Wilayah Persekutuan Act 1984', 'Perak Act 1984 (No.1)', 'Kedah Act 1979', 'Pulau Pinang Act 1985', 'Trengganu Act 1985', 'Pahang Act 1987', 'Selangor Act 1989', 'Johor Act 1990', 'Sarawak Act 1991', 'Perlis Act 1992', and 'Sabah Act 1992'.

In an effort to realise family law reform, several things are regulated, such as the issue of polygamy. Husbands who engage in polygamy but do not fulfil the requirements of the law are liable to a fine of up to 1000 ringgit or imprisonment for six months, or both. Similar penalties also apply to polygamous husbands who are unfair in their treatment of their wives. The rules also regulate marriage registration, where people who perform marriages outside Malaysia without complying with existing regulations can be penalised with a fine of 1000 ringgit or imprisonment for a maximum of six months. In addition, the law also regulates guardians and guardianship, marriage age limit, divorce, interfaith marriage, and criminal offences under the marriage law¹⁸.

Brunei Darussalam was originally a large territory, encompassing all of Borneo, the Philippines, and the Sulu islands. However, its territory was reduced due to the alliance between the Dutch, the British, and the King of Serawak, as well as pirate attacks in the 17th and 18th centuries. From the 19th century, Brunei Darussalam became a smaller country. The British presence in Brunei affected the legal system in this small country, narrowing the legal authority of Brunei's Islamic qanun. Legal changes culminated with the issuance of the Muhammadan's Law Enactment No. 1 of 1911, which regulated Muslim matters of worship, marriage and divorce. In 1913, the Muhammadan's Marriage and Divorce Enactment No. 2 of

¹⁷ Suprayogi, "Reformasi Hukum Perkawinan Islam Di Indonesia."

¹⁸ Suci Ramadhan Kholis Bidayati, Muhammad Alwi Al Maliki, "Dinamika Pembaharuan Hukum Keluarga Islam Di Negara Muslim (Studi Atas Negara Malaysia Dan Brunei Darussalam)," *Hukum Keluarga Islam*, 2021, 51–68.

1913 regulated the registration of marriages and divorces. The Muslim Ulema Council, Adat Negeri, and Supreme Court Act was then established in 1955 to incorporate all laws relating to Islamic law.

Since then, the law underwent several amendments, such as in 1957, 1960, 1961 and 1967. In 1984, during a legal revision in Brunei, the law underwent minor changes, with the name being changed to the 'Law of the Ulema Council and the Kadi Court Penggal 77'. In the law, Islamic family law issues are regulated in 29 articles, mainly in the Marriage and Divorce section from articles 134 to 157, and Maintenance of Dependent from articles 157 to 163¹⁹. So that the issue of Islamic family law in Brunei Darussalam which is regulated in law is only related to marriage, divorce and maintenance. As for the points of family law reform that occur, among others, regarding.

Firstly, the cancellation of the engagement, as in al-Umm is only explained regarding the prohibition of proposing to another person's proposal, according to the view of the Imam Shafii Mazhab, there are two meanings contained in the hadith that explains the prohibition of proposing to another person's proposal. Firstly, that when two men propose to a woman, they should do so until the woman gives her permission or the first suitor cancels his proposal. Secondly, the prohibition is due to the fact that a woman was proposed to by the first man and accepted. However, when a better man comes along, the woman leaves the first suitor.²⁰ Based on this second view, Syafii is of the view that the prohibition against proposing to another person's proposal if the woman is willing. This certainly causes losses for men, so it is considered reasonable if there is a provision for compensation for the party who feels harmed.

Second, Marriage Registration, Regarding marriage registration in Brunei, those who have the right to become registrars of divorce marriages, apart from the qadi besar and qadi-qadi are mosque imams.²⁵ The reason is that these imams have received authority as marriage officiators from the sultan or those authorised by law for Muslims²¹. This rule is a regulatory reform of family law in Brunei. However, it should be noted that the existence of this marriage registration is a form of *ijtihad istislahi* in order to maintain the benefits of the five benefits, namely *hifz nasl* and *hifz mal*.

Third, Wali nikah, In terms of consent, the bride and groom must agree to the marriage being performed. In addition, the consent of the bride's guardian must be present or the consent of the kadi who has the authority to act as the king's guardian or if there is no nasab guardian or the nasab guardian does not approve of the marriage for unreasonable

¹⁹ Cahyani, "Hukum Keluarga Islam Di Brunei Darussalam," n.d., 152.

²⁰ Muhammad Hasbi Ash-Shiddieqy, *Hukum-Hukum Fiqh Islam, Edisi Kedua* (Semarang: Pustaka Rizki Putra, 1997).

²¹ Cahyani, "Hukum Keluarga Islam Di Brunei Darussalam," 154.

reasons. This is in accordance with the Syafii school of thought which requires the consent of the guardian. This is also the rule in Brunei. However, there is no further explanation whether the guardian requirement is for girls only or widows as well.

Fourthly, divorce, whether it is done by the husband, redemption of divorce, annulment of divorce, hakam, reconciliation and death certificate. In addition, even if the wife has obtained a statement from the high court, she is still not allowed to remarry. This rule is in order to safeguard that no party will one day be disadvantaged and will cause regret in the future.

c. Turkey

The reform of family law in Turkey, especially with regard to inheritance law, is interesting to uncover further. One of the main principles of the Turkish Civil Code is equality between men and women, including in terms of inheritance. Therefore, Turkish Civil law stipulates the equal division of inheritance for men and women, replacing the previous system that provided a two-to-one share for men. Along with Turkey's transformation into a secular state, the Swiss law of 1912 was adopted as an Act, which came into force on 4 October 1926. This law implemented monogamy, prohibited polygamy, and asserted equal rights between men and women in matters of marriage and divorce. Consequently, the 'Islamic' system of inheritance law was abolished, and the civil code allowed for interfaith marriages²².

In the context of inheritance law, Turkey no longer adopts Islamic law, but instead uses Swiss legislation that guarantees equal rights for men and women. The inheritance law in the Turkish Civil Code remained in force until it was amended by the Turkish National Assembly on 27 November 2001, which was then disseminated through the Turkish Daily Newspaper on 8 December 2001. The amendments to inheritance law in Turkey involved 1030 articles covering various important aspects of family structure and property inheritance. Some of the important points related to Turkish inheritance law include:

Firstly, husbands and wives have equal status in the family, with either of them having the right to represent the family before the law or courts²³.

Secondly, family members suffering from mental illness or alcoholism, as well as having other mental disorders that pose a threat to the family or the surrounding environment, can be placed in a rehabilitation centre by court decree. They still have inheritance rights like healthy family members²⁴.

²² Akbar S. Ahmed, *Discovering Islam, Hlm. 66-67; Idem, Hlm. 100- 104.; J.N.D. Anderson, Hukum Islam, Hlm. 21-27* (living islam, n.d.).

²³ (The Turkish Civil Code, n.d., pasal. 188)

²⁴ (The Turkish Civil Code, n.d., pasal. 432–437)

Thirdly, pre-determined provisions can be cancelled to expand the inheritance rights of other heirs²⁵.

Fourth, in accordance with the tradition of family structure in Turkey, aunts or uncles who take care of the testator's children have the right to acquire a portion of the estate²⁶.

Fifth, if one of the husband or wife dies, the survivor can claim the inheritance to maintain the survival of the heirs left behind, especially for housing purposes²⁷.

Sixth, inherited property, especially agricultural property, is left to heirs who are capable of managing it to generate profit. If possible, the property can be divided among those who are able to manage it well²⁸.

Seventh, joint heirs are advised to make a joint agreement to avoid dissatisfaction and disputes regarding the division of inheritance²⁹.

Thus, the amendments to inheritance law in Turkey pay special attention to gender equality in the family and the maintenance of sustainability and fair and efficient management of the estate. After observing the results of the above amendments, we can conclude a few things³⁰; First, in the context of heirs, those recognised as primary heirs are members of the nuclear family, such as the surviving husband or wife, and children (nuclear family). However, relatives outside the nuclear family can also become heirs if they are proven to have contributed in maintaining the heirs or the inheritance. Secondly, regarding the status of men and women, it is still emphasised that the position of both in the family is the same, so there is no difference in their right to receive inheritance. This confirms the principle of gender equality in the context of inheritance. Thirdly, the above law has made clear provisions regarding inheritance property, both in the form of cash and in the form of savings. This is a step forward in inheritance law, especially in the face of the demands of modern times³¹.

d. Egypt

Egypt became the third Muslim country after Turkey and Lebanon to codify Islamic family law. Family law reform in Egypt began in 1920 with the issuance of Law No. 25 of 1920 on the Law of Maintenance and Personal Status³². These reforms continued on an ongoing basis until the early 1950s, when Egyptian legal institutions gradually made significant reforms to family law, particularly in the context of marriage and inheritance. Law No. 25/1920 was a

²⁵ (The Turkish Civil Code, n.d., pasal. 506)

²⁶ (The Turkish Civil Code, n.d., pasal. 497)

²⁷ (The Turkish Civil Code, n.d., pasal. 625)

²⁸ (The Turkish Civil Code, n.d.pasal. 659,667 dan 668)

²⁹ (The Turkish Civil Code, n.d., pasal. 689)

³⁰ Linda Firdawaty, "KONTEKTUALISASI HUKUM KELUARGA ISLAM (Telaah Atas Pembaharuan Hukum Keluarga Islam Di Negara-Negara Muslim)," no. 34 (2016): 159.

³¹ Aisyah Kartini, "Hukum Keluarga Dalam Sistem Reformasi Di Turki," *El Ussrah Hukum Keluarga*, 2023.

³² Hasan Al-Bugha and Musthafa Al-Bugha, "Qanun Al-Aḥwal Al-Syakhsiiyyah," *Syrian Arab Republic*, no. Syrian Virtual University (SVU) (2018): 17.

milestone that was then followed by a series of other laws, such as Law No. 56/1923 on the age limit for marriage, Law No. 25/1929 on the rules of divorce and domestic quarrels, and the civil code of 1931. Furthermore, Law No. 77/1943 on inheritance law and Law No. 71/1946 on probate law were also issued. The journey of Egyptian family law reform reflects a serious effort to regulate various aspects of family and community life in a more modern legal framework and in accordance with the demands of the times³³.

The 1976 law authorised the judiciary to force husbands to pay maintenance to wives, widows, children or parents. In 1979, after failing to gain approval for a family law law, Anwar Sadat unilaterally issued an emergency decree which was enacted as Law 44/1979. This law is known as Jehan's Law (Jehan's Law or Jiji's Law), as it was proposed by Jehan Sadat or Jiji Sadat, Anwar Sadat's wife. This law revised many of the Egyptian family law laws passed in 1920 and 1929, especially regarding the role and rights of women in the family³⁴.

However, in May 1985, a judicial review of Law 44/1979 was filed in the High Constitutional Court. As a result, the Egyptian Constitutional Court declared that the law was ultra vires to the Egyptian Constitution. The Court rejected the emergency decree status of this law on the grounds that the emergency decree issued by President Anwar Sadat to enact Law 44/1979 was not actually an emergency. Therefore, the decree was deemed invalid. A few months after the cancellation of the Jehan law, the Egyptian government promulgated Law 100/1985 to revise the 1920 and 1929 family laws. A number of changes that had previously been enacted in the 1979 law were re-enacted in the 1985 law and several new rules were added³⁵.

In 2005, Egypt passed Law No. 4/2005 which amended Decree Law No. 25 of 1920 (which changed the age of guardianship)³⁶. In terms of the substance of the law, the 2005 amendments show Egypt's return to conventional legislation. One of these is the removal of a wife's automatic right to divorce her husband if he engages in polygamy. The article stating that the illness or injury suffered by the wife was caused by the polygamous husband as a condition for the wife to file for divorce was removed from the legislation. Instead, the condition for divorce requires the wife to state that she is tormented by her polygamous husband (a return to classical opinion). The articles that are manifestations of the reform of family law in

³³ Zayyadi, "Reformasi Hukum Di Turki Dan Mesir (Tinjauan Historis-Sosiologis)," 71.

³⁴ Rizki Amar, Jamilatuz Zahra, "Jurnal Bidang Hukum Islam Hukum Keluarga Di Mesir , Indonesia , Dan Pakistan Divorce And Strengthening Women ' S Rights : Family Law Jurnal Bidang Hukum Islam 1961 Muslim Family Law Ordinance (Mflo) Ordonasi Hukum Keluarga Muslim," 68.

³⁵ Nur Fadhilah Novianti, ""Ketentuan Usia Pernikahan Di Afrika Utara (Mesir, Tunisia, Maroko, Aljazair, Libya)," *BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam* 4, no. 3 (2023).

³⁶ Nurinayah Nurinayah, "Hukum Keluarga Di Mesir," *Familia: Jurnal Hukum Keluarga* 1, no. 2 (2020): 100, <https://doi.org/10.24239/familia.v1i2.9>.

Egypt are: the age of marriage, marriage registration, divorce before the court, polygamy, and inheritance³⁷.

e. Jordan

Jordan is geographically bordered by Syria to the north, Saudi Arabia to the south, Israel to the west, and Iraq to the east. Also known as Al-Mamlakah Al-Urduniyah Al-Hashimiyah, the country has an area of approximately 96,089 km² and is divided into eight local government areas headed by eight governors. Jordan's head of state is King Abdullah (since 1999) in a monarchical system, while the head of government is Prime Minister Ali Abdul Raqhib. Jordan, as part of an Islamic state, made legal changes through reforms, overhauling legislation gradually according to needs and socio-anthropological changes, and considering local wisdom. The principle of legal change, as stated by Ibn Qayyim al-Jauziyyah, is that differences in law are caused by differences in place, time, conditions, motivation, and culture.

In the context of marriage legislation, Jordan reforms Islamic family law with an intra doctrinal reform approach, which includes combining the opinions of several imams of the madhhab or the opinions of imams of madhhabs outside the adopted madhhab. Of the three forms of family law change in the Islamic world, there are four common ways, namely: Taghyir, change by deconstructing the initial construction and building a new legislative concept; Talfiq, legal change by combining several opinions of the Imam Mazhab and prioritising the more maslahat in accordance with socio-anthropological changes and local wisdom in each country; using siyasah shar'iyyah (in the public interest), a form of legal change by means of law; and reinterpreting the text of the text to adapt to modern needs and demands.

Jordan has started family law regulation since 1917 by implementing the Ottoman Law of Family Rights before finally passing Law No. 92 of 1951. Prior to this law, Jordan had also implemented Qanun al-Huquq al-A`ilah al-Urduniah No. 26 of 1947. However, with the enactment of Law No. 92 of 1951, all previous laws were abolished. The law consists of 132 articles divided into 16 chapters, covering various aspects such as proposal of marriage, conditions of marriage, marriage contract, kafa'ah, cancellation of marriage, hakam, dowry, maintenance, rules on divorce, options for divorce, 'iddah, family maintenance, child maintenance, missing persons, and general rules. The structure and detailed provisions in this law are similar to the Turkish law of 1917. Later, this law was updated with the Law of Personal Status or Qanun al-Ahwal al-Syakhshiyah No. 61 of 1976 before later adopting the concept of codification, where the Hanafi concept became the main guide in Jordan ³⁸. Family law

³⁷ Moh. Zarkasi Moh. Mujibur Rohman, "Reformasi Hukum Keluarga Di Dunia Islam," *AL-SYAKHSHIYYAH: Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 5, no. September (2018): 61–63, https://d1wqtxts1xzle7.cloudfront.net/68079886/REFORMASI_HUKUM_KELUARGA_DI_DUNIA_ISLAM_Studi_Normatif_Perbandingan_Hukum_Perceraian_Mesir_Indonesia_-libre.pdf?1626249007=&response-content-disposition=inline%3B+filename%3.

³⁸ Tahir Mahmood, *Family Law Reform in the Muslim Marriage* (New Delhi: t.p., 1972).

reform in Jordan involved limiting the minimum age for marriage, marriage registration, determination of marriage guardians, procedures for divorce and divorce before the courts, and marriage vows.

f. Morocco

Morocco, with an area of approximately 710,850 km², is located at the western northern tip of the African continent. Administratively, the country adopts a democratic system with a social and constitutional monarchy, and has an elected parliament. However, the constitution gives the king veto power in replacing legislative formations, imposing emergency conditions, and determining the direction of government policy³⁹. Morocco has produced figures who have had great influence in the Islamic world, such as Ibn Battutah who in the 14th century visited the Kingdom of Samudera Pasai (Aceh). Other figures include Fatima Mernisi, Abid Aljabiri, and a number of Moroccan scholars whose works adorn the literature of Islamic intellectual treasures.

Initially, Morocco adopted a conservative social policy towards family law by drafting a Family Code that basically reflected the family law that had been applied during French colonisation, based on the Maliki school. It was formulated as a set of royal decrees with the main objective of uniting all components of Moroccan society within one family law framework⁴⁰. Therefore, it can be understood that Morocco, which follows the Maliki school of jurisprudence in the field of fiqh, only began the process of codifying the law from 1957 to 1958. It was then that a law was born that regulates family law, and is known as 'Mudawwanah al-Ahwal al Syakhshiyah'⁴¹.

The Moroccan law was born through the King's decree on 6 December 1957 AD or coinciding with 13 Jumadil Awal 1377 H, namely together with the declaration of the birth of the Marriage and Divorce Law. And this was all the result of the work of a committee formed on 19 August 1957, which was specifically tasked with drafting the Family Law Act⁴². The draft family law was based on three main sources: first, several legal principles from various schools of fiqh, dominated of course by the Maliki school, which continues to be the school of the majority of Muslims in Morocco. The second is the principle of *maslahah mursalah*, which is

³⁹ Heri Mahfudi, *Pengaruh Sosio-Kultur Terhadap Reformasi Hukum Keluarga Islam Di Maroko* (salatiga: IAIN salatiga, 2022), 62.

⁴⁰ Mahmood, *Family Law Reform in the Muslim Marriage*, 116.

⁴¹ M. Atho" Mudzhar dan Khoiruddin Nasution, *Hukum Keluarga Di Dunia Islam Modern: Studi Perbandingan Dan Keberanjakan UU Modern Dari Kitab-Kitab Fikih* (Jakarta: Ciputat Press, 2003), 174.

⁴² M. Atho" Mudzhar dan Khoiruddin Nasution, 16–17.

widely used by the Maliki madhhab in building its fiqh madhhab. The third is the law enacted in several other Muslim countries ⁴³.

The largest amendment took place in 2003 and was passed on 3 February 2004, resulting in the Mudawwanah al-Usrah, also known as Mudawwanah al-aḥwal al shakhsyah al jadidah fi al maghrib, which consists of 400 Articles, with the addition of 100 new articles from the 1957 law. This amendment was made by considering the public interest to reflect the changing social conditions of Muslim society in Morocco at that time, especially to fight for equality between men and women ⁴⁴.

The Islamic family law reform implemented by Morocco falls into the category of countries that use the intra-doctrinal reform method, namely by integrating opinions from several madhhabs or adopting opinions other than the dominant madhhab. Therefore, Moroccan legislation includes elements from other madhhabs besides Maliki, although the Maliki Madhhab still dominates as the majority madhhab in the country. The legal reforms in Morocco's Family Law were driven by a realisation of the importance of keeping up with the times and adjusting to the socio-culture of society, demonstrating that Islamic law is adaptable and not rigid. The law is designed to ensure justice and legal certainty for citizens, especially in protecting the rights of women who are often marginalised. In other words, the feminist movement has had a significant influence on the formation of family law laws in many Islamic countries.

5. Conclusions

Family law reform in Muslim-majority countries has been an important development as times and places change. These reforms are necessary to adapt legal standards to the times and the needs of society, and to ensure equal justice in the eyes of the public. Since the twentieth century, family law reforms have taken place in various Muslim countries, focusing on various aspects such as marriage registration, economics in marriage, the role of guardians in marriage, age limits for marriage, maintenance rights, legality of divorce, polygamy issues, children's rights, women's rights after divorce, family waqf management, inheritance, and wills. According to J.N.D Anderson, there are three typologies that can be used to describe Muslim countries' approach to family law reform. First, there are countries that continue to consider sharia as the basic law that must be applied. Second, there are countries that revise sharia law and replace it with Western secular law. Third, there are countries that try to combine elements of sharia and secular law in their legal systems.

⁴³ Tahir Mahmood, "Family Law Reform in the Muslim World," *The Indian Law Institute*, no. Tripathi-Bombay (1971): 118.

⁴⁴ M. Atho" Mudzhar dan Khoiruddin Nasution, *Hukum Keluarga Di Dunia Islam Modern: Studi Perbandingan Dan Keberlanjutan UU Modern Dari Kitab-Kitab Fikih*.

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