

Integration of Islamic Family Law and Gender Equality: A Comparative Study of Legal Reform and Social Norms in Contemporary Muslim Societies

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ABSTRACT

Purpose – In contemporary Muslim societies, Islamic family law plays a central role in shaping the relationships between men and women in marriage, divorce, child custody, inheritance, and broader domestic life. The legal experiences of Indonesia and Morocco, anchored in Sharia principles, illustrate distinct trajectories of reform that respond to growing demands for gender equality. This study examines how Islamic family law frameworks in these two countries interpret and accommodate gender-equitable values within their respective socio-legal contexts.

Design/methodology/approach – This research employs a qualitative method based on literature analysis. Primary sources include Indonesia's Marriage Law No. 1 of 1974 and Morocco's 2004 Family Code (Mudawwanah al-Usrah), complemented by scholarly articles and previous research. The data were thematically analyzed to reveal points of convergence and divergence in the articulation and application of gender-inclusive legal norms.

Findings – While both legal systems draw from Islamic Sharia foundations and provide formal protections for women and children—such as a woman's right to initiate divorce and the prioritization of the child's welfare in custody decisions—they diverge in their structuring of gender relations. The Moroccan Mudawwanah advances an egalitarian model that recognizes the wife as a legal partner equal to her husband. In contrast, Indonesia's Marriage Law retains a hierarchical model in which the husband is positioned as head of the household, reflecting enduring patriarchal norms. These differences underscore how legal reforms interact with prevailing social and cultural logics.

Research implications/limitations – The study offers critical insight into the capacity of Islamic family law to adapt toward greater gender inclusivity. However, its reliance on textual sources limits the scope to normative analysis, suggesting the need for future empirical research to assess how these laws are interpreted and enacted within lived community settings.

Originality/value – This study contributes to the discourse on Islamic legal reform by illustrating how gender equality can be negotiated within Sharia-based legal systems. By

highlighting the role of cultural context and interpretive flexibility, the research offers a more nuanced understanding of the dynamic relationship between law, gender, and society in the modern Muslim world.

Keywords: *Islamic family law, gender equality, legal reform, Muslim societies, Indonesia, Morocco*

Introduction

Islamic family law is pivotal in Muslim societies, regulating essential aspects of personal and communal life, including marriage, divorce, maintenance, and inheritance. As a tangible manifestation of Sharia in daily practice, this body of law embodies core Islamic ethical values and functions as a foundational mechanism for preserving familial cohesion and societal equilibrium.¹ Rooted in the principles of justice, compassion, and accountability articulated in the Qur'an and Hadith, Islamic family law is a normative framework for fostering a resilient and harmonious social order.² Accordingly, it remains an indispensable cornerstone in Muslim communities' legal and moral architecture worldwide.

Nonetheless, tensions arise when these traditional legal structures intersect with modern discourses on gender equality.³ Although Islamic doctrine acknowledges the spiritual parity of men and women, its practical application is frequently shaped by patriarchal interpretations and entrenched cultural traditions.⁴ In recent decades, many Muslim scholars—such as Amina Wadud,⁵ Abdullahi Ahmed An-Na'im,⁶ and Ziba Mir-Hosseini⁷—have championed the reexamination and reconstruction of Islamic family law through a more

¹ Feky Manuputty dkk., “Kohesi Sosial Menuju Keluarga Sakinah: Studi Sosiologis pada Masyarakat Negeri Hukurila Kota Ambon,” *Jurnal Mahasiswa Bimbingan dan Konseling* 9, no. 3 (2023): 3, <https://doi.org/10.31602/jmbkan.v9i3.12345>.

² Indah Kusharyati dkk., “I Manajemen Keluarga Berdasarkan Al-Qur'an Dan Hadis,” *AL-FIKRAH: Jurnal Studi Ilmu Pendidikan Dan Keislaman* 7, no. 1 (2024): 1.

³ Beni Ashari, “Interaksi Antara Perubahan Sosial Dan Hukum Keluarga Islam: Sebuah Studi Kasus Tentang Peran Perempuan Dalam Pengambilan Keputusan Keluarga,” *Mabahits : Jurnal Hukum Keluarga Islam* 5, no. 02 (2024): 02, <https://doi.org/10.62097/mabahits.v5i02.1988>; Holan Riadi, “Hukum Keluarga Islam Dan Kesetaraan Gender: Kajian Atas Pengalaman Masyarakat Muslim Di Indonesia,” *MODELING: Jurnal Program Studi PGMI* 11, no. 1 (2024): 1, <https://doi.org/10.69896/modeling.v11i1.2534>.

⁴ Tania Putri Anhary, “Kajian Sosiologi Islam Terhadap Patriarki Dan Bias Gender Di Madura,” *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 6, no. 2 (2023): 2, <https://doi.org/10.31538/almada.v6i2.3380>.

⁵ Rahmah Eka Saputri dkk., “THE ROLE OF WOMEN IN MARITAL DYNAMICS: Hadis Interpretation of Amina Wadud's Hermeneutic,” *MIQOT: Jurnal Ilmu-ilmu Keislaman* 48, no. 2 (2024), <https://doi.org/10.30821/miqot.v48i2.1180>.

⁶ Asman Asman, “THE RED YARN OF CONTEMPORARY ISLAMIC LAW REFORM: A Critical Study of Abdullahi Ahmed An-Na'im's Thought,” *Syariah: Jurnal Hukum dan Pemikiran* 21, no. 1 (2021): 17, <https://doi.org/10.18592/sjhp.v1i1.4193>.

⁷ Nasrin Rahimieh, “Divorce Seen through Women's Cinematic Lens,” *Iranian Studies* 42, no. 1 (2009): 97–112, <https://doi.org/10.1080/00210860802593957>.

gender-sensitive lens.⁸ Their efforts have catalyzed reformist movements in various jurisdictions, prompting shifts in women's economic rights, child custody arrangements, and marital systems, all in an attempt to reconcile Islamic legal principles with contemporary human rights imperatives without compromising theological authenticity.

This evolving discourse has gained further urgency amid the sweeping social transformations spurred by globalization. Increasing female agency, the reconfiguration of traditional family units, and the heightened demand for individual rights all present new challenges to the adaptability of Islamic family law.⁹ At the same time, globalization has intensified intercultural interactions, diffusing universalist values such as gender equity and human dignity into the legal consciousness of Muslim-majority societies.¹⁰ Against this backdrop, a rigorous scholarly inquiry is warranted to explore how Islamic family law can respond to modern exigencies while retaining its spiritual and moral foundations. Research in this area is thus essential for offering integrative solutions that harmonize tradition with modernity.

Several previous studies have laid the groundwork for understanding the intersection of Islamic family law and gender justice. Rahmawati (2023) highlights that the normative teachings of the Qur'an do encompass gender-equitable values. However, their practical implementation is frequently obstructed by systemic barriers such as structural marginalization, persistent stereotypes, subordination, dual burdens, and gender-based violence.¹¹ These issues underscore a broader erosion in applying theological ideals within legal practice. Similarly, Qadri and Siregar (2022) argue that the genesis of reform in Islamic family law was partly a response to pre-Islamic injustices against women, with Islam

⁸ Nuzulia Febri Hidayati, "Rekonstruksi Hukum 'Iddah dan Ihdad dalam Kompilasi Hukum Islam (KHI)," *Mazhabibuna* 1, no. 1 (2019), <https://doi.org/10.24252/mh.v1i1.9663>; Nur Lailatul Musyafaah, "Studi Hukum Perkawinan Islam di Indonesia Perspektif Gender," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 4, no. 2 (2014): 2; Iwan Ridhwani dan Yeni Lestari, "Rekonstruksi Kebijakan Publik Dan Hukum Islam Terkait Gender Dalam Mencapai SDGs," *Pro Justicia: Jurnal Hukum Dan Sosial* 3, no. 1 (2023): 1.

⁹ Saifuddin Zuhri dan Diana Amalia, "Ketidakadilan Gender Dan Budaya Patriarki Di Kehidupan Masyarakat Indonesia," *Murabbi: Jurnal Ilmiah Bidang Pendidikan* 5, no. 1 (2022): 1, <https://www.ejournal.stitalhikmah-tt.ac.id/index.php/murabbi/article/view/100>.

¹⁰ Dilli Trisna Noviasari, "Keadilan Gender Di Tengah Perkembangan Politik Global Dalam Perspektif Hak Asasi Manusia," *Borobudur Law and Society Journal* 1, no. 4 (2022): 4, <https://doi.org/10.31603/8358>; Dian Agus Ruchliyadi, "Kerangka Berpikir Mewujudkan Kesetaraan Gender Dalam Penegakan Hak Asasi Manusia Pada Era Globalisasi," *JURNAL CIVICUS* 11, no. 1 (2011): 1, <https://doi.org/10.17509/civicus.v1i1.26122>.

¹¹ Stefhani R. Rahmawati, "Mainstreaming of Gender Equality in Islamic Family Law: Opportunities and Challenges," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 2 (2020): 360, <https://doi.org/10.22373/sjhk.v4i2.8110>.

introducing corrective measures to safeguard women's rights. They emphasize that when properly contextualized, Islamic tradition upholds a balanced and reciprocal relationship between men and women.¹²

In a different context, Daud and Rosadi (2021) investigate the evolution of family law in post-revolutionary Iran, revealing how the dominance of the Imamiyyah Shi'a jurisprudence has, at times, curtailed women's rights in matters of marriage and divorce, despite maintaining their entitlement to inheritance. Their study underscores the influence of political and ideological shifts on the trajectory of family law reform.¹³

While these contributions are valuable, notable gaps remain. Many existing studies focus on specific national contexts and thus fall short of capturing Islamic family law's global diversity and complexity. Furthermore, the emphasis on doctrinal and normative analysis often comes at the expense of engaging with empirical social realities. Gender perspectives are frequently framed in binary terms, leaving little room for more inclusive understandings of gender identity. Additionally, several studies lack updated empirical data and have not adequately accounted for legislative developments in Islamic family law since 2020.

This research seeks to fill these lacunae through a comparative and contextually grounded approach. By examining recent legal reforms and on-the-ground practices in two contemporary Muslim-majority countries—Indonesia and Morocco—this study offers a cross-national perspective on how Islamic legal principles are being interpreted and implemented within modern legal frameworks. The research pays particular attention to evolving regulations surrounding marriage, divorce, and inheritance while analyzing societal responses and institutional mechanisms. Unlike earlier studies, this work emphasizes the convergence and divergence between national legal systems, drawing out insights that have not yet been fully explored in the existing literature.

The central premise of this study is that Islamic family law, as practiced in Indonesia and Morocco, possesses inherent potential to support gender-equitable principles within contemporary Muslim societies. That is, although Islamic family law is grounded in

¹² Busran Qadri dan Ihsan Mulia Siregar, "Islamic Renewal in the Field of Family Law: A Historical Analysis of Gender Equality," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 444, <https://doi.org/10.22373/ujhk.v6i2.17128>.

¹³ Fathonah K. Daud dan Aden Rosadi, "Dinamika Hukum Keluarga Islam dan Isu Gender di Iran: Antara Pemikiran Elit Sekuler dan Ulama Islam," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 4, no. 2 (2021): 205–2020, <https://doi.org/10.24090/volksgeist.v4i2.5258>.

normative Sharia teachings, it need not be intrinsically at odds with gender justice. Rather, it may be dynamically interpreted and contextually applied to advance egalitarian values while remaining faithful to its religious foundations.

Methods

This study adopts a qualitative research design employing a descriptive-analytical method to explore the dynamics of Islamic family law concerning gender equality. Central to this approach is the integration of gender theory, which provides a critical lens through which to examine the interaction between legal norms and cultural interpretations in shaping gender roles, rights, and relations within the framework of Islamic legal systems.

The research is a library-based (desk) study, drawing primarily on textual and documentary sources. Primary legal documents form the foundation of the analysis, including Morocco's 2004 Islamic Family Law (*Mudawwanah al-Ushrah*) and Indonesia's 1974 Marriage Law (Law No. 1 of 1974), along with its subsequent amendments. In addition, peer-reviewed scholarly articles and prior empirical studies are employed as secondary sources to enrich the analysis and provide a broader contextual understanding.

The sources were selected through purposive sampling, ensuring that each text and reference included was directly relevant to the research focus. The theoretical framework is informed by key strands of gender theory, including structural theories of gender inequality, the social construction of gender roles, and feminist legal theory. These perspectives facilitate a critical examination of the extent to which Islamic family law can reproduce, contest, or transform entrenched gender hierarchies.

The data were analyzed using a thematic analytical approach, enabling the identification of patterns, conceptual linkages, and interpretive themes. This method allowed for a layered understanding of how Islamic legal texts, legislative interpretations, and practical implementations engage with contemporary gender discourses in Muslim-majority societies. Ultimately, the methodological design supports a nuanced and contextually grounded exploration of how Islamic family law may constrain or advance gender justice within evolving socio-legal landscapes.

Result and Discussion

Dynamics in Islamic Family Law Reform: Principles and Implementation in Reforms in Indonesia and Morocco

Islamic family law constitutes a comprehensive system of normative rules and jurisprudential interpretations that regulate the personal and social life of Muslims in the domain of the family. These rules encompass critical aspects such as marriage, divorce, child custody, maintenance, and inheritance. They are derived from the primary sources of Islamic law—the Qur'an, the Hadith of the Prophet Muhammad, *ijmā'* (scholarly consensus), and *qiyās* (analogical reasoning). The practical implementation of these legal norms is highly context-dependent, varying across different Muslim-majority nations based on jurisprudential schools, state legislation, and socio-cultural particularities.¹⁴

As an integral element of the broader Sharia framework, Islamic family law serves not merely as a set of legal prescriptions but also as an ethical and spiritual guideline for cultivating familial harmony.¹⁵ Its overarching objective is the establishment of a family unit characterized by *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion)—ideals that are deeply rooted in Islamic teachings regarding the moral purpose of the family. In Indonesia, for example, Islamic family law has been formally codified in the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), a legal reference for religious courts in adjudicating family-related matters.¹⁶ This codification reflects a significant attempt by the state to institutionalize Islamic principles while simultaneously responding to social realities.

Marriage within Islamic jurisprudence is considered a sacred contract (*'aqd*) between a man and a woman, which becomes valid upon the fulfillment of specific legal pillars: the presence of a lawful guardian (*wali*), mutual consent (*ijab-qabul*), and the testimony of two credible witnesses.¹⁷ These requirements are not merely procedural formalities but serve as

¹⁴ Siti Aminah dan Arif Sugitanata, "Genealogy and Reform of Islamic Family Law: Study of Islamic Marriage Law Products in Malaysia," *JIL: Journal of Islamic Law* 3, no. 1 (2022): 94–110, <https://doi.org/10.24260/jil.v3i1.556>.

¹⁵ Anis Hidayatul Imtihanah, "Hukum Keluarga Islam Ramah Gender: Elaborasi Hukum Keluarga Islam dengan Konsep Mubadalah," *Kodifikasi* 14, no. 2 (2020): 2, <https://doi.org/10.21154/kodifikasi.v14i2.2197>.

¹⁶ Ahmad Rajafi, "Sejarah Pembentukan Dan Pembaruan Hukum Keluarga Islam Di Nusantara," *Aqlam: Journal of Islam and Plurality* 2, no. 1 (2018): 1, <https://doi.org/10.30984/ajip.v2i1.507>.

¹⁷ M. Khoirur Rofiq, *Hak Anak dalam Hukum Keluarga Islam Indonesia* (Walisongo Repository, 2021), 14, <https://eprints.walisongo.ac.id/id/eprint/19683/>.

religiously grounded mechanisms for ensuring accountability and the mutual commitment of both parties in initiating a shared life following Islamic values.

A notable area of discussion within Islamic family law is the issue of polygamy. While Islam permits a man to marry up to four women, this allowance is contingent upon the strict condition of equitable treatment among all wives.¹⁸ The Qur'an (Surah An-Nisa: 3) explicitly warns against injustice in such arrangements, implying that failure to maintain fairness renders polygamy ethically and legally questionable. This requirement reflects the profound emphasis in Islamic teachings on justice (*'adh*) as a moral imperative.¹⁹ Consequently, although legally sanctioned, polygamy is not encouraged unless the prescribed conditions of equality in financial support, emotional attention, and social treatment can be scrupulously fulfilled.

The domain of divorce also illustrates the balance between legal permissibility and ethical reluctance within Islamic family law.²⁰ Divorce, although sanctioned, is described in Islamic tradition as the most disliked of permitted actions (*abghad al-halāl*) in the sight of God. This dual position highlights the moral seriousness of marital dissolution in Islam. In the Indonesian legal context, a husband may pronounce *ṭalāq*, while a wife has the right to seek judicial divorce (*gugat cerai*) through the religious courts.²¹ The Compilation of Islamic Law mandates that a mediation process precedes any formal decision on divorce, reinforcing the principle that reconciliation and dialogue must be prioritized over separation. Mediation is intended to preserve the marital bond and uphold the values of tolerance, compassion, and mutual respect.

Concerning spousal roles, Islamic family law delineates a framework of reciprocal obligations. The husband is obligated to provide material and emotional support—commonly referred to as *nafaqah lahiriyah dan batiniyah*—while the wife is expected to comply with Sharia principles.²² This complementarity does not imply inequality but a

¹⁸ Muhammad Fajar Sidiq Widodo dkk., *Hukum Keluarga Islam* (Sada Kurnia Pustaka, 2023), 34.

¹⁹ Junaidi Abdillah dkk., “Unity of Sciences (UoS) as a Paradigm For Indonesian Islamic Family Law Reconstruction,” *Al-'Adalah* 19, no. 1 (2022): 99–122, <https://doi.org/10.24042/adalah.v19i1.10189>.

²⁰ Yasin Yetta dkk., “Understanding the Implications of Marriage Law Amendments: Marriage Dispensation Cases in Indonesian Religious Courts,” *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 121, <https://doi.org/10.29240/jhi.v9i1.8979>.

²¹ Habibah Nurul Umah Umah, “Fenomena Pernikahan Dini Di Indonesia Persepektif Hukum Keluarga Islam,” *Jurnal Al-Wasith: Jurnal Studi Hukum Islam* 5, no. 2 (2020): 11, 2, <https://doi.org/10.52802/wst.v5i2.11>.

²² Ahmad Fauzan dan Ilma Silmi Nufus, “The Problems of Neuroparenting Based on Contemporary Islamic Family Law,” *MILRev: Metro Islamic Law Review* 3, no. 2 (2024): 198–216, <https://doi.org/10.32332/milrev.v3i2.9791>.

differentiated distribution of roles based on ethical and spiritual commitments. Nonetheless, modern Islamic legal thought has begun to incorporate progressive interpretations that emphasize the principle of *mubādalab*—a mutual and reciprocal relationship between spouses. Imtiḥanah and other contemporary scholars noted that this paradigm promotes a more egalitarian model of marital interaction,²³ where both partners possess equal rights and responsibilities, potentially reducing marital conflict and enhancing the quality of spousal relations.²⁴

Children's rights are also central to Islamic family law, particularly in cases involving custody (*ḥaḍānah*), education, and financial maintenance.²⁵ In a divorce, custody is generally awarded to the mother during the child's early developmental years, recognizing her nurturing role and emotional proximity to the child.²⁶ Upon reaching a certain age of discernment, children are typically allowed to express preference in custodial arrangements, contingent upon judicial evaluation. This principle reflects the Islamic prioritization of child welfare (*maṣlaḥah al-ṭifl*) and a commitment to justice and psychological well-being.²⁷

Importantly, Islamic family law is not static. In Indonesia and Morocco, we observe concerted efforts to reform and reinterpret family law better to reflect contemporary societal changes and gender equity concerns. The KHI remains the primary legal framework in Indonesia, incorporating both classical jurisprudential tenets and gender-sensitive modifications.²⁸ In Morocco, the 2004 *Mudawwanah al-Usrah* (Family Code) reform marked a groundbreaking shift in legal consciousness by promoting gender equality, enhancing women's rights, and strengthening protections for children. These legislative reforms represent a broader trend of Islamic legal systems adapting to global human rights and social justice discourses without severing ties with foundational religious principles.

²³ Imtiḥanah, "Hukum Keluarga Islam Ramah Gender," 267.

²⁴ Maimun Maimun dkk., "The Dynamics of Family Law in Indonesia: Bibliometric Analysis of Past and Future Trends," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 1 (2024): 518, <https://doi.org/10.22373/sjhk.v8i1.21890>.

²⁵ Nasaruddin Mera dkk., "Child Custody Rights for Mothers of Different Religions: Maqāṣid al-Sharī'ah Perspective on Islamic Family Law in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (2024): 1645, <https://doi.org/10.22373/sjhk.v8i3.23809>.

²⁶ Mustopa Mustopa, "Qira'at Diversity in Islamic Family Law Verses: Implications for Indonesian Marriage Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (2024): 1257, <https://doi.org/10.22373/sjhk.v8i2.23513>.

²⁷ Rofiq, *Hak Anak dalam Hukum Keluarga Islam Indonesia*, 21.

²⁸ Muhammad Nasir dkk., "Pembaharuan Hukum Keluarga Islam Kontemporer," *TAQNIN: Jurnal Syariaḥ dan Hukum* 4, no. 02 (2022): 18, 02, <https://doi.org/10.30821/taqnin.v4i02.12137>.

Regarding inheritance, Islamic law provides clear guidelines in Qur'anic verses (particularly Surah An-Nisa: 11–12), wherein male heirs generally receive a share twice that of female heirs. While this distribution reflects traditional social responsibilities—where men are expected to provide for the family—it has increasingly been scrutinized in contemporary contexts where women may serve as primary breadwinners.²⁹ Despite this, the law allows a degree of interpretive flexibility through consensual family arrangements, wills (*waṣiyyah*), and negotiated settlements, allowing families to uphold justice contextually appropriately. This reflects the underlying maqāṣid (objectives) of Sharia, which emphasize justice (*'adl*), equity (*musāwāh*), and public welfare (*maṣlaḥah*).³⁰

As demonstrated in Indonesia and Morocco, Islamic family law embodies a commitment to religious principles and a responsiveness to contemporary social realities. Its capacity to address matters such as marriage, divorce, custody, maintenance, and inheritance reflects an evolving tradition rooted in Islamic epistemology—offering a framework that upholds justice and spiritual integrity within family governance.

Gender Dimensions in Indonesian Marriage Law: Traditional Norms and Legal Reform Directions

Indonesia's Marriage Law No. 1 of 1974, despite serving as the primary legal foundation for regulating marital relations, was formulated within the deeply patriarchal socio-cultural context of the 1970s. Consequently, while the law does address various aspects related to gender—both explicitly and implicitly—it also codifies traditional gender norms that reflect unequal power dynamics between men and women within the household and broader society.

A prominent example is Article 31 paragraph (3), which states that "the husband is the head of the family and the wife is the homemaker." This provision enshrines stereotypical gender roles that privilege male leadership and position the wife in a subordinate domestic role. The language of this article reflects a societal expectation that the man will serve as the main provider and decision-maker. At the same time, the woman's role is limited to managing

²⁹ Ahmad Tholabi Kharlie dkk., *Kodifikasi Hukum Keluarga Islam Kontemporer: Pembaruan, Pendekatan, dan Elastisitas Penerapan Hukum* (Kencana, 2020), 27.

³⁰ Durotun Nafisah dkk., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (2024): 847, <https://doi.org/10.22373/sjkh.v8i2.16825>.

the household and nurturing the children. This division of roles does not merely describe but reinforces a hierarchical family structure wherein authority and economic agency are associated with men. The provision has drawn significant criticism for perpetuating inequality and for ignoring gender justice principles enshrined in both Indonesia's Constitution and international conventions, such as CEDAW.

Numerous scholars have critiqued this article from a gender-justice perspective. For instance, Kevin Grayson argues that this clause institutionalizes patriarchal power structures by positioning men in dominant roles and constraining women's agency both within and beyond the home. He maintains that such normative constructs not only reinforce gender inequality but also hinder women's participation in key areas such as education, politics, and economic development.³¹ In line with this, Kay Bussey's theory of gender identity posits that such roles are not biologically predetermined but are socially constructed and perpetuated through repeated behaviors shaped by legal and cultural expectations.³²

Although Article 30 of the law mandates that husband and wife must "love, respect, be faithful to, and support one another physically and emotionally," the provision is general. It lacks practical guidance for ensuring mutual respect and equality in household responsibilities. This generality leaves room for traditional interpretations that may overlook or even justify unequal treatment under the guise of "natural roles."

More concretely, Article 34 paragraphs (1) and (2) further entrench gender-based divisions of responsibility. Paragraph (1) obliges the husband to protect his wife and provide for her needs based on his means, reinforcing his role as the sole provider. Paragraph (2) obligates the wife to manage the household to the best of her ability, reinforcing the expectation that women should remain confined to domestic tasks. Such stipulations do not consider the realities of women who simultaneously contribute to household income and perform unpaid care work, thereby shouldering a double burden. Dewi Rahmawari notes that such gendered divisions of labor often result in male dominance over decision-making

³¹ Kevin Grayson Wijaya, "Perempuan Sebagai Kepala Keluarga: Kajian Hukum dan Gender terhadap Implementasi Pasal 31 Ayat 3 Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan" (Skripsi, Universitas Katholik Soegijapranata, 2022), <https://repository.unika.ac.id/27987/>.

³² Kay Bussey, "Gender Identity Development," dalam *Handbook of Identity Theory and Research*, ed. oleh Seth J. Schwartz dkk. (Springer, 2011), https://doi.org/10.1007/978-1-4419-7988-9_25.

processes and economic access. At the same time, women are socially and legally confined to the domestic sphere despite their broader societal roles.³³

Before its revision, Article 7 paragraph (1) set the minimum legal marriage age at 16 for females and 19 for males, a clear gender-based double standard. This implied that girls reach emotional or marital maturity earlier than boys, a notion that not only lacks scientific basis but also endangers girls by legitimizing child marriage. It reflects a broader societal tendency to frame women's value in terms of their roles as wives and mothers.³⁴ The revision under Law No. 16 of 2019, which equalized the marriage age to 19 years for both genders, marked a significant legal milestone in protecting girls from child marriage and aligning national law with child protection principles and international human rights obligations.³⁵

Another area of concern is the regulation of polygamy under Articles 3 and 4, which permit men to marry more than one wife under specific conditions, such as obtaining court approval and demonstrating the ability to act justly. However, no equivalent legal provision permits women to have more than one husband (polyandry).³⁶ This asymmetry in marital rights is a clear manifestation of structural gender inequality within the law. The legal validation of male-exclusive polygamy not only perpetuates patriarchal norms but also fails to consider the emotional, financial, and psychological impact of polygamous arrangements on women and children—especially in cases of unregistered marriages.³⁷

Lastly, Article 29 allows for establishing a prenuptial agreement (marriage contract), offering both parties the potential to protect their property. However, this provision often benefits men disproportionately due to unequal access to legal knowledge and negotiating power. Women, especially in rural or traditional communities, may be unaware of their right

³³ Dewi Rahmawati, “Perspektif Mubādalāh Terhadap Pasal 34 Ayat (1) & (2) Undang-Undang perkawinan No. 1 Tahun 1974” (Tesis, Institut Agama Islam Negeri Pekalongan, 2022), <https://perpustakaan.uingusdur.ac.id/>.

³⁴ Hasan Bastomi, “Pernikahan Dini Dan Dampaknya (Tinjauan Batas Umur Perkawinan Menurut Hukum Islam Dan Hukum Perkawinan Indonesia),” *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2017): 2, <https://doi.org/10.21043/yudisia.v7i2.2160>.

³⁵ Sufrizal dkk., “Pro Dan Kontra Usia Perkawinan Pada Undang-Undang Nomor 16 Tahun 2019 Pasca Revisi Undang-Undang Nomor 1 Tahun 1974 Dalam Perspektif Islam,” *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 14, no. 1 (2022): 91–103, <https://doi.org/10.32505/jurisprudensi.v14i1.5378>.

³⁶ Yenny Febrianty dkk., “Answering the Challenges of Polygamy: Justice and Legal Protection in Islamic and Indonesian Law,” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 1 (2025): 15, <https://doi.org/10.29300/mzn.v12i1.6930>.

³⁷ Rohmadi Rohmadi, “Polygamy in Indonesia: A Critical Interpretation through the Lens of Mubadalāh Theory,” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 11, no. 2 (2024): 378, <https://doi.org/10.29300/mzn.v11i2.5068>.

to propose or negotiate such contracts, resulting in limited protection of their economic rights post-divorce.

While some articles, such as Article 30, promote mutual love and cooperation, these are often normative and symbolic rather than enforceable. They lack specific operational mechanisms to ensure gender parity within marital relationships. The overall framework of the law, as it currently stands, still reflects outdated conceptions of gender roles. Despite revisions, further reform is necessary to align Indonesian marriage law with contemporary principles of gender equality and justice.³⁸

Table 1. Gender Aspects in Indonesia's Law No. 1 of 1974 on Marriage

Article	Content of Provision	Gender Aspect Reflected
Article 31 (3)	The husband is the head of the family; the wife is the homemaker.	Reinforcement of traditional gender roles; institutionalization of male authority
Article 34 (1)	The husband is obliged to protect and provide for his wife.	Assumes economic responsibility lies solely with men
Article 34 (2)	The wife is obliged to manage the household.	Domestic labor assigned exclusively to women
Article 7 (1) (pre-2019)	Marriage age: 16 for girls, 19 for boys.	Double standard; legitimization of child marriage for girls
Articles 3 & 4	Men are permitted to marry multiple wives under conditions.	Gender asymmetry in polygamy rights
Article 29	A marriage contract may be arranged before marriage.	Property protection possible but unequally accessible
Article 30	Spouses must love and support each other emotionally and physically.	Normative mutuality, lacking enforceable mechanisms

Although Indonesia's marriage law has experienced significant reforms—most notably the equalization of the legal marriage age for both sexes—several of its provisions continue to reflect deep-seated patriarchal assumptions that reinforce gender asymmetry. Regulations concerning spousal roles, polygamy, and domestic responsibilities remain embedded within a normative framework shaped by traditional constructs of masculinity and femininity. Achieving genuine gender justice within the legal system thus requires symbolic

³⁸ Rohmadi, "Polygamy in Indonesia."

commitments to equality and substantive legal reforms that dismantle structural biases and ensure equal agency, rights, and dignity for all individuals, irrespective of gender.

***Mudawwanah al-Usrah* as a Model for Progressive Reform: Integration of Ijtihad, Gender Equality, and Child Protection in Morocco**

The *Mudawwanah al-Usrah*, or Morocco's 2004 Family Law, marks a pivotal milestone in the country's reform of Islamic family law. This legislation emerged as a response to mounting demands for protecting women's and children's rights, which had become increasingly urgent amid shifting social dynamics.³⁹ Before its revision, Moroccan family law was heavily shaped by patriarchal norms that limited women's agency and access to justice, particularly in matters concerning marriage, divorce, and child custody. The reform reflects Morocco's commitment to harmonizing Islamic jurisprudence—especially the Maliki tradition—with the values of equality, dignity, and shared responsibility, demonstrating the potential of *ijtihad* (independent reasoning) to respond constructively to contemporary legal and ethical challenges.⁴⁰

In 2004, King Mohammed VI played a central role in initiating the reform, signaling a political will to improve social conditions and a broader vision to align Islamic law with universal principles of gender justice.⁴¹ While the reformed *Mudawwanah* maintains its foundation in classical Islamic legal doctrine, it demonstrates that Islamic law is neither fixed nor incompatible with modern human rights frameworks. Instead, the law's interpretive flexibility enabled Morocco to enact a more inclusive legal code that promotes the empowerment of women and the protection of children.

³⁹ Yulia Fatma, "Batasan Usia Perkawinan dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim: Turki, Pakistan, Maroko dan Indonesia)," *JURIS (Jurnal Ilmiah Syariah)* 18, no. 2 (2019): 117–35, <https://doi.org/10.31958/juris.v18i2.1670>.

⁴⁰ Budi Juliandi dkk., "Mudawwanah Al-Usrah Dan Pemihakan Terhadap Hak-Hak Perempuan Di Maroko," *Proceedings of Annual Conference for Muslim Scholars*, no. Seri 1 (Mei 2017): 122–29, <https://doi.org/10.36835/ancoms.v0iSeri>.

⁴¹ Simo Sarkki dkk., "Women-Led Social Innovation Initiatives Contribute to Gender Equality in Rural Areas: Grounded Theory on Five Initiatives from Three Continents," *European Countryside* 16, no. 4 (1 Desember 2024): 534–62, <https://doi.org/10.2478/euco-2024-0028>.

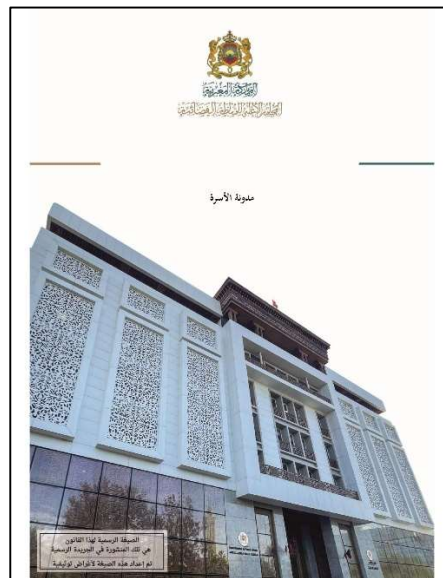


Image 1. The official institution associated with the enactment of the *Mudawwanah al-Usrah* in Morocco

This image illustrates the institutional site—such as the Moroccan Parliament or Ministry of Justice—where the Family Law reform was ratified in 2004, symbolizing the state's legal commitment to gender justice within an Islamic framework.

The reform of the *Mudawwanah* introduced several transformative changes. The most notable was the recognition of women's equal rights in marriage and divorce. The revised law granted women the right to initiate divorce proceedings—previously an exclusive male prerogative—and clarified their entitlement to financial support following divorce. These legal guarantees give women stronger protection and greater autonomy in navigating post-marital life. Simultaneously, the law strengthened protections for children, positioning their best interests as a central concern in all family-related decisions.

The *Mudawwanah al-Usrah* reflects Morocco's progressive step toward institutionalizing gender equality. It eliminates legal discrimination and establishes a foundation that enables women to become more empowered and independent. In doing so, the law creates a framework for inclusive social development that reconciles traditional religious values with modern justice and human rights principles. The reform demonstrates that meaningful social change can emerge even within a legal framework initially rooted in conservatism, and that Islamic legal systems can evolve in faithful and reformative ways.

A core principle emphasized in the *Mudawwanah* is the legal and ethical equality of spouses within marriage. Article 4 defines marriage as:

الزواج ميثاق تراض وترباط شرعي بين رجل وامرأة على وجه الدوام، غايته الإحصان والعفاف وإنشاء أسرة مستقرة، برعاية الزوجين طبقاً لأحكام هذه المدونة

*"Marriage is a contractual agreement and a shar'i bond between a man and a woman permanently, the purpose of which is to preserve honor, maintain purity, and establish a stable family, with shared responsibilities between the husband and wife following the provisions of this law."*⁴²

This provision constitutes a paradigm shift by framing marriage as a collaborative institution where spouses are equal partners, jointly responsible for maintaining the household. It affirms mutual affection and cooperation as the foundation of a harmonious family and explicitly rejects traditional hierarchies that privilege male authority.⁴³

Article 19 further advances this principle by setting the minimum marriage age at 18 for both men and women:

تكتمل أهلية الزواج بإتمام الفتى والفتاة المتمتعين بقواهما العقلية ثمان عشرة سنة شمسية

*"The eligibility to marry is achieved when a young man and woman of sound mind have reached the age of eighteen years according to the solar (Gregorian) calendar."*⁴⁴

This policy represents a proactive response to the problem of child marriage, which has long hindered women's educational and developmental rights. The law protects individual agency by ensuring that both parties are legally and mentally mature. It aligns with the objectives of Islamic law (*maqāṣid al-sharī'ah*), especially those concerning the protection of intellect (*hifẓ al-'aql*), lineage (*hifẓ al-nasl*), and dignity (*hifẓ al-'ird*).

Regarding polygamy, the *Mudawwanah* imposes stringent conditions that significantly limit its application. According to Articles 41 and 43:

Article 41:

لا تأذن المحكمة بالتعدد - إذا لم يثبت لها المبرر الموضوعي الاستثنائي؛ إذا لم تكن لطالبه الموارد الكافية لإعالة الأسرتين، وضمان جميع الحقوق من نفقة وإسكان ومساواة في جميع أوجه الحياة.

*"The court shall not grant permission for polygamy unless there is proven extraordinary objective justification; if the applicant does not have sufficient resources to provide for both families, as well as guarantee all rights such as maintenance, housing, and equality in all aspects of life."*⁴⁵

⁴² Kerajaan Maroko dan Kementrian Kehakiman, *Mudawwanah Al-Usrah* (Mamlakah Maghribiyah wa Zaratul 'Adl, 2004), <https://justice.gov.ma/wp-content/uploads/2022/05/legislation-6294abb2180e1.pdf>.

⁴³ Nur Laila Safitri, "Reformasi Hukum Keluarga Islam Maroko (Analisis Maqashid Al-Syari'ah pada Pasal 24 dan 25 dalam The Moroccan Family Code 2004)" (Thesis, UIN Sunan Kalijaga, 2021), <https://digilib.uin-suka.ac.id/id/eprint/49648/>.

⁴⁴ Kerajaan Maroko dan Kementrian Kehakiman, *Mudawwanah Al-Usrah*.

⁴⁵ Kerajaan Maroko dan Kementrian Kehakiman, *Mudawwanah Al-Usrah*.

Article 43:

في حالة عدم وجود شرط الامتناع عن التعدد، يقدم الراغب فيه طلب الإذن بذلك إلى المحكمة. يجب أن يتضمن الطلب بيان الأسباب الموضوعية الاستثنائية المبررة له، وأن يكون مرفقا بإقرار عن وضعيته المادية

*"If there are no conditions prohibiting polygamy, the party wishing to proceed must submit a request for permission to the court. The application must explain the extraordinary objective reasons justifying it and a statement regarding their financial situation."*⁴⁶

These articles stipulate that polygamy requires both exceptional justification and judicial oversight.⁴⁷ The husband must prove his financial capacity and fairness in treatment. The court can deny permission if the first wife refuses to accept the arrangement. Thus, the law prioritizes justice and upholds the dignity and consent of women in all marital arrangements.⁴⁸

Another pivotal reform concerns the right of women to divorce. Previously, only husbands held the unilateral right to initiate *ṭalāq*. Under Article 98, women may now request judicial divorce for valid reasons such as domestic violence, abandonment, or irreconcilable differences.⁴⁹ This shift empowers women as legal subjects and affirms their right to exit harmful or unequal marriages. It also demonstrates the evolving understanding of marriage as a mutual relationship grounded in compassion, responsibility, and justice.

Child custody arrangements are also determined based on the child's best interests, without gender bias. Both mothers and fathers may be granted custody if they can demonstrate their ability to meet the child's needs.⁵⁰ This approach reflects a child-centered legal ethos and moves beyond rigid assumptions about parental roles.

⁴⁶ Kerajaan Maroko dan Kementrian Kehakiman, *Mudawwanah Al-Ushrah*.

⁴⁷ Nur Aini Awaliyah, "The Dynamics of Islamic Family Law Reform in Morocco on Guardians of Marriage," *Indonesian Journal of Law and Islamic Law (IJLIL)* 4, no. 2 (25 Desember 2022): 368–409, <https://doi.org/10.35719/ijlil.v4i2.245>.

⁴⁸ Kelsey P Norman dan Carrie Reiling, "The 'Inherent Vulnerability' of Women on the Move: A Gendered Analysis of Morocco's Migration Reform," *Journal of Refugee Studies* 37, no. 3 (2024): 631–44, <https://doi.org/10.1093/jrs/feae044>.

⁴⁹ Aomar Ibourek dan Karim El Aynaoui, "Gender Gap in School Learning: Micro-Level Evidence from Morocco," *Journal of Open Innovation: Technology, Market, and Complexity* 10, no. 2 (Juni 2024): 100289, <https://doi.org/10.1016/j.joitmc.2024.100289>.

⁵⁰ Girma Mekuria Worku, "Perceived Gender Disparity Issues in Secondary Schooling: Internal and External Conditions," *Social Sciences & Humanities Open* 10 (2024): 100989, <https://doi.org/10.1016/j.ssaho.2024.100989>.

The law also guarantees that divorced women receive financial support during the ‘*iddah*’ period.⁵¹ This includes livelihood expenses and, where applicable, housing and education support for children.⁵² These provisions provide material protection and reflect the broader ethical commitment of Islamic law to safeguarding human dignity and social welfare.⁵³

Table 2. Gender Aspects in the Moroccan *Mudawwanah Al-Usrah*

Article	Article Contents	Gender Aspect
Article 4:	Marriage is a permanent Islamic bond based on shared responsibilities	Legal equality between husband and wife in family life
Article 19	The minimum legal age for marriage is 18 for both genders	Protection against child marriage; affirmation of personal agency
Articles 41–43	Polygamy is allowed only under exceptional conditions with court permission.	Restriction of male privilege; judicial safeguards for women's rights
Article 98	Women may seek divorce for harm, neglect, or value-based conflict	Empowerment of women as legal subjects with independent rights
Post-divorce provisions	Women are entitled to <i>nafāqa</i> during ‘ <i>iddah</i> ’; needs determine child support	Economic security and well-being of women and children post-divorce

The Interaction of Islamic Family Law and Gender Equality in Contemporary Islamic Legal Reform

The interaction between Islamic family law and gender equality is a complex and evolving contemporary issue, influenced by socio-cultural, religious, and legal dynamics. Several theological studies indicate a normative basis in the Qur'an consistent with the principle of gender equality, which can be optimized through progressive interpretation.⁵⁴ Several Muslim-majority countries, such as Tunisia and Morocco, have successfully

⁵¹ Khaled Kh. Nser dkk., “Visual Representation of Gender in Morocco’s Earthquake Coverage in International News Channel,” *Studies in Media and Communication* 13, no. 1 (2024): 53, <https://doi.org/10.11114/smc.v13i1.7232>.

⁵² Nina Sahraoui dan Elsa Tyszler, “Tracing Colonial Maternalism Within the Gendered Morals of Humanitarianism: Experiences of Migrant Women at the Moroccan-Spanish Border,” *Frontiers in Human Dynamics* 3 (Maret 2021): 642326, <https://doi.org/10.3389/fhumd.2021.642326>.

⁵³ Jaouad Rharzouz dkk., “Factors Influencing Women’s Entrepreneurial Success in a Patriarchal Society: Empirical Evidence from Morocco,” *Societies* 14, no. 8 (2024): 151, <https://doi.org/10.3390/soc14080151>.

⁵⁴ Rahmawati, “Mainstreaming of Gender Equality in Islamic Family Law.”

implemented women-friendly family law reforms without abandoning Sharia principles, proving that reconciliation between Islamic law and gender equality is possible.⁵⁵

Nevertheless, significant challenges remain as obstacles, as patriarchal interpretations of Islamic law often prioritize male authority and result in the marginalization of women.⁵⁶ In addition, local cultural practices in some communities are often inconsistent with the principles of gender equality in Islamic law, especially in Muslim minority areas, where customary norms dominate the formal legal framework.⁵⁷ Furthermore, legal pluralism involving state, religious, and customary law also contributes to tensions in implementing legal reforms that favor gender equality.⁵⁸

Various reform efforts have been made to address these challenges. These include: active participation of women in the family law legislative process,⁵⁹ gender-based legal education in the community,⁶⁰ and consistent public advocacy to strengthen the legitimacy of reforms.⁶¹ In addition, comparative studies of legal reforms are also important to provide lessons for reform, one of which is between Morocco and Indonesia.

The *Mudawwanah al-Usrah* (2004) in Morocco and Indonesia's Marriage Law No. 1 of 1974 serve as foundational texts regulating family relationships based on Islamic legal principles. Each legal system aspires to establish familial harmony rooted in Sharia, while simultaneously navigating distinct socio-legal and cultural trajectories.⁶² The formulation and

⁵⁵ N. Tamanna, "Personal status laws in Morocco and Tunisia: A comparative exploration of the possibilities for equality-enhancing reform in bangladesh," *Feminist Legal Studies* 16, no. 3 (2008): 323–43, <https://doi.org/10.1007/s10691-008-9099-9>.

⁵⁶ Z. Mir-Hosseini dkk., *Gender and Equality in Muslim Family Law: Justice and Ethics in the Islamic Legal Tradition*, Gender and Equality in Muslim Family Law: Justice and Ethics in the Islamic Legal Tradition (2013), 280, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85186025248&partnerID=40&md5=0a3bf1dc0864ab4d79bff8be0ae42ecd>.

⁵⁷ N. Halide dkk., "Islamic Law and Local Traditions in Preventing Early Marriage in the Toraja Muslim Minority Community," *Jurnal Ilmiah Al-Syir'ab* 22, no. 2 (2024): 274–87, <https://doi.org/10.30984/jis.v22i2.2931>.

⁵⁸ A. Shahid, "Post-divorce maintenance for Muslim women in Pakistan and Bangladesh: A comparative perspective," *International Journal of Law, Policy and the Family* 27, no. 2 (2013): 197–215, <https://doi.org/10.1093/lawfam/ebt004>.

⁵⁹ A. Rokhmad dan S. Susilo, "Conceptualizing authority of the legalization of Indonesian women's rights in Islamic family law," *Journal of Indonesian Islam* 11, no. 2 (2017): 489–508, Scopus, <https://doi.org/10.15642/JIIS.2017.11.2.489-508>.

⁶⁰ Z. Nasohah, "Post-Divorce Polygamy in Tana Toraja: The Intersection of Islamic Law and Local Culture," *Jurnal Ilmiah Al-Syir'ab* 22, no. 2 (2024): 233–45, Scopus, <https://doi.org/10.30984/jis.v22i2.3156>.

⁶¹ G. Widjaja, "REVIEW ON THE WOMEN'S RIGHTS AND ISLAMIC LAW IN SOUTHEAST ASIA," *Journal of Law and Sustainable Development* 11, no. 7 (2023), <https://doi.org/10.55908/sdgs.v11i7.751>.

⁶² Gladys Merma-Molina dkk., "Inclusive Higher Education Challenges: Promoting Knowledge and Practice of Gender Equality," *Education Sciences* 15, no. 3 (2025): 272, <https://doi.org/10.3390/educsci15030272>.

implementation of these laws reflect the influence of local political histories, religious interpretations, and gender discourses that shape how Islamic family law interacts with contemporary understandings of equality.⁶³

Both legal frameworks uphold Islamic family law as the primary normative source. Each incorporates principles designed to promote justice and the protection of women and children within the institution of marriage.⁶⁴ Mechanisms to regulate polygamy are present in both legal systems, indicating recognition of the need to place moral and procedural limits on practices that may lead to inequality. Judicial access for women to initiate divorce is acknowledged in both contexts, underscoring the shared recognition of female legal agency in resolving marital disputes.

The Moroccan model introduces a more articulated commitment to gender equity through the structural revision of key legal norms. Marriage is defined as a partnership characterized by shared responsibilities between husband and wife, a formulation that challenges traditional hierarchies and reconfigures spousal roles as mutual and cooperative. In the Indonesian context, the legal status of the husband as head of the household remains embedded within statutory language, reinforcing a vertical structure distinguishing between public male authority and private female responsibility.

In the regulation of polygamy, Moroccan legal doctrine introduces rigorous procedural safeguards. Court approval is required, and applications must demonstrate extraordinary justification, economic capacity, and the ability to maintain equitable treatment among wives. Consent from the first wife functions as a central condition for approval, and judicial discretion determines whether permission is granted.⁶⁵ These measures significantly reduce the legal accessibility of polygamy and emphasize the protection of women's dignity and rights. The Indonesian legal code also outlines formal conditions for polygamous unions, including court authorization and financial adequacy. However, the absence of strict

⁶³ Craig Webster dan Anna Farmaki, "Tourism, Technology and Gender Equality Futures," *Journal of Tourism Futures* 11, no. 1 (2025): 114–23, <https://doi.org/10.1108/JTF-05-2024-0098>.

⁶⁴ Iklasiah Dalimoenthe dkk., "Gender-Based Problems in Rural Communities: A Case Study," *Academic Journal of Interdisciplinary Studies* 12, no. 1 (2023): 231, <https://doi.org/10.36941/ajis-2023-0019>.

⁶⁵ Davor Jancic, "The European Parliament and Gender Equality Promotion Through Parliamentary Diplomacy," *The Journal of Legislative Studies*, 29 Januari 2025, 1–21, <https://doi.org/10.1080/13572334.2024.2444718>.

enforcement and the persistence of informal practices continue to pose challenges for achieving substantive equity in marital arrangements.⁶⁶

The conceptualization of marital relations in Moroccan family law foregrounds cooperation, reciprocity, and equality. This legal reorientation repositions women as equal subjects within the family domain, with full participation in household decision-making and relational authority.⁶⁷ In contrast, the Indonesian legal system retains a strong association between womanhood and domesticity, where legal norms continue to affirm gender-specific roles that frame women primarily as caregivers within the private sphere. While Islamic teachings in both countries advocate mutual respect between spouses, the codification of these values varies significantly in legal expression and institutional application.

The Moroccan experience illustrates the capacity of Islamic family law to accommodate egalitarian reform without departing from its religious foundations.⁶⁸ The *Mudawwanah* presents a model in which legal interpretation remains faithful to Islamic tradition while responding to contemporary demands for justice and inclusivity. The Indonesian legal landscape, although shaped by similar religious frameworks, exhibits greater inertia in revising statutory provisions that reinforce patriarchal norms. Gender-equal formulations remain limited in scope and effect, particularly concerning spousal authority, inheritance, and decision-making power within marriage.

Morocco's reform initiative exemplifies a model of integration between Islamic legal reasoning and universal human rights principles. The success of the *Mudawwanah* in promoting gender equality through institutional and legal mechanisms offers a valuable comparative reference for other Muslim-majority societies. The Indonesian system, while sharing common objectives, may benefit from re-engaging its family law discourse with contemporary gender frameworks that seek alignment with both Islamic ethical values and the principles of substantive justice.

Thus, the interaction between Islamic family law and gender equality can harmonize perceptions and be realized through efforts to simultaneously address patriarchal

⁶⁶ Juliandi dkk., “Mudawwanah Al-Usrah Dan Pemihakan Terhadap Hak-Hak Perempuan Di Maroko.”

⁶⁷ Fatma, “Batasan Usia Perkawinan Dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim).”

⁶⁸ Omahmi dkk., “Efektivitas Pemberlakuan Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Perspektif Hukum Keluarga Islam,” conference paper presented pada National Conference on Social Science and Religion, *National Conference*, 2022.

interpretations, cultural conflicts, and the challenges of legal pluralism. An approach that combines inclusive policies, legal education, and ongoing advocacy can create a more equitable legal framework that protects and promotes women's rights within the framework of Islamic law.

Conclusion

The analysis reveals that the interaction between Islamic family law and gender equality in Morocco's *Mudawwanah al-Ushrah* (2004) and Indonesia's Marriage Law No. 1 of 1974 reflects both convergence and divergence. Both legal systems draw from Islamic Sharia and recognize core protections for women and children, including the right for women to initiate divorce proceedings and the prioritization of the child's best interests in custody decisions.

Yet, a key distinction lies in their conceptualization of gender roles. The *Mudawwanah* affirms the principle of equality between spouses, positioning women as legal and moral equals in the domestic sphere. In contrast, Indonesia's Marriage Law retains a patriarchal framework that designates the husband as the head of the household. This difference extends to the regulation of polygamy: while Morocco imposes strict legal requirements—court approval, the consent of the first wife, and demonstrable financial capacity—Indonesia adopts a more permissive model with less stringent enforcement mechanisms.

The disparity in the legal minimum age for marriage further illustrates divergent policy orientations, with Morocco setting the threshold at 18 and Indonesia at 19 for both men and women. Based on these findings, the *Mudawwanah al-Ushrah* emerges as a progressive model of family law reform—balancing fidelity to Sharia with substantive commitments to gender justice. Meanwhile, though foundational, Indonesia's legal framework necessitates further revision to embed principles of equality more effectively. Future legal development in Indonesia should pursue greater inclusivity and responsiveness to socio-cultural realities, while Morocco's priority is ensuring equitable application of its reforms, particularly in rural contexts.

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