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## Legal Politics of Codification of Islamic Marriage Law: A Study of Legal Philosophy and *Taqnin* Practice in Muslim Countries<sup>1</sup>

Karmawan,<sup>1</sup> Abbas Sofwan Matlail Fajar,<sup>2</sup> Nur Rohim Yunus<sup>3</sup>

<sup>1</sup> Universitas Islam Negeri Syarif Hidayatullah Jakarta, Indonesia

<sup>2</sup> International Islamic University (IIU) Islamabad, Pakistan,

<sup>3</sup> Gosudarstvennyy Universitet Upravleniya (GUU) Moscow, Russia

✉ Corresponding Email: [karmawan@uinjkt.ac.id](mailto:karmawan@uinjkt.ac.id)



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### Abstract:

Enshrining Islamic law in writing, particularly in the context of marriage, is a crucial step in transforming *fiqh* law into positive law in Muslim countries. This codification process reveals not only formal legal efforts but also the evolving nature of legal politics, the direction of state philosophy, and how the state responds to social demands. Islamic marriage law can be codified in various ways, including textual-normative, contextual, and progressive approaches. These differences are due to the ideological, legal, and social conditions of each country. The goal of this study is to examine the connection between legal politics and the codification of Islamic marriage law, investigate the philosophical basis for the practice of *taqnin*, and compare the methods of codification employed in Muslim countries such as Indonesia, Morocco, Tunisia, and Egypt. This study uses a qualitative, normative, and comparative legal approach, as well as a conceptual, historical, and comparative legal approach. The primary sources of data are official legal documents, including the Compilation of Islamic Law (KHI), Mudawwanah al-Ushrah, the Code du Statut Personnel, and the Egyptian Family Law. Secondary sources include books, academic journals, and studies of Islamic legal philosophy. The study's results indicate that legal politics plays a significant role in determining how to codify Islamic marriage law. The state's legal philosophy—whether it is conservative-textual, moderate-contextual, or progressive-normative—has a substantial impact on how it handles *taqnin*. The principles of *maqashid al-shari'ah*, such as justice, protection of life, property, and honour, as well as the ability to address the challenges of social pluralism, gender equality, and the legal needs of modern society, are what make codification successful. The results suggest that the future of Islamic law should incorporate a blend of legal philosophy, inter-school dialogue, and interdisciplinary studies.

Keywords: Legal Politics; Legal Codification; Islamic Marriage; Muslim State

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## A. INTRODUCTION

Islamic marriage law is a subset of family law (*al-ahwal al-shakhsiiyyah*) that addresses various aspects of social life, including the marriage contract, the rights and responsibilities of spouses, divorce, and the rights of children. The *fiqh* literature of different schools of thought inevitably led to the development of this law in the traditional Islamic tradition. The concept of the contemporary nation-state originated from the West, but it transformed the structure of the Islamic legal system, primarily through the process of codification (*taqnin*). This codification is more than simply a technique to make things legal; it is also a form of legal politics, which involves how the government creates and operates the legal system through fundamental written laws. This process typically involves selecting, adapting, and reinterpreting classical *fiqh* principles to meet the needs of modern society and the national legal system (Salim, 2003; Moosa, 2004). There is more to marriage law than just religious ideas. It is also a location where tradition, power, and modernity intersect (Welty, 2010).

Indonesia, Morocco, Egypt, and Tunisia are all Muslim countries, but they all handle the process of codifying marriage law in very different ways. This variability is because of the social, political, and ideological characteristics of each country. The Compilation of Islamic Law (KHI) has been used in Indonesia since 1991 as a non-legislative judicial law product, yet it is the principal source of information for religious courts. A significant portion of KHI is based on the *fiqh* of the Shafi'i school; however, it has been modified slightly to accommodate the national legal system (Salim, 2003). In 2004, Morocco introduced significant changes to Mudawwanah al-Usrah by incorporating the concept of gender equality and promoting women's rights within the family, particularly in matters of divorce and child custody (Welty, 2010). Tunisia, on the other hand, took a more extreme approach by secularising family law through the Code du Statut Personnel since 1956, which even made polygamy illegal. This was part of the post-colonial state's plan to modernise (An-Na'im, 2002).

This change is about more than just the positive legal side; it also involves legal philosophy, especially the effort to make justice (*ʿadl*) the main maqashid of sharia. In this situation, the politics of codification law often become a tug-of-war between classical *fiqh* conservatism and the demands of modern ideals, such as gender equality and human rights (Mayer, 1999). To understand where Islamic law is headed in the contemporary world, we must examine the practice of codifying Islamic marital law from both legal and political perspectives. (Shuaib, 2018)

The process of formalising legal standards in writing to make them legally binding is known as legal codification. In a modern state, codification is not only a legal formality, but it is also a legal political tool that shows the state's ideological, social, and philosophical direction. In other words, the decisions made by codified law are based on a set of values that are shaped by the state's interests, the ruler's ideology, and the social and political situations of society (Mahfud MD, 2009), (Özdemir, et.al., 2022).

In the Islamic legal system, the process of codification, known as *taqnin* sharia, serves as a forum where classical *fiqh* writings and modern social realities can interact

with each other. There are differences in the political and ideological views of Muslim countries that have written down Islamic marriage law. For instance, Tunisia took a secular-nationalist stance that led to the end of polygamy with the Code du Statut Personnel in 1956. At the same time, Indonesia's Compilation of Islamic Law (1991) emphasises the conservative Shafi'i *fiqh* approach, albeit with certain modifications to its implementation ([Salim, 2003](#)).

These options illustrate the state's legal philosophy. For example, it may be more in favour of social justice, gender equality, upholding the *maqashid sharia*, or the authority of the ulama. So, the codification of law is not neutral; it is complete with values and ideas that support the current state of national law in the Muslim world ([Otto, 2008](#)). Therefore, it is crucial to examine the codification of Islamic marriage law as a result of legal politics and as a reflection of the state's philosophy and ideology. ([Muhammad et al., 2020](#))

In the area of marriage, codifying Islamic law (*taqin syariah*) is a crucial step toward integrating religious rules into the state's legal system. However, codification is not just about the legal-formal aspect; it also needs to be examined from the perspective of legal philosophy, particularly about the ideals of justice, humanity, and the objectives of Sharia (*maqashid al-shari'ah*). If we do not adopt a critical philosophical perspective, codification could result in a collection of rules that fail to account for societal changes and the needs of modern society ([Kamali, 2006](#)).

Islamic legal theory holds that the law should not only be based on literal or normative scriptures but also on the goals of promoting welfare (*maslahah*) and substantive justice (*'adl*), which are the primary concepts underlying sharia. In this case, the law must meet the needs of the people and address the problems of the time. So, it is essential to carefully think about whether codifying Islamic law in Muslim countries follows the *maqashid al-shari'ah* principles that Auda (2008) talks about, which include protecting the soul (*hifz al-nafs*), reason (*hifz al-'aql*), descendants (*hifz al-nasl*), property (*hifz al-māl*), and human honour (*hifz al-'ird*). This study serves as the basis for evaluating the fairness and utility of legislation in today's world. ([Maylissabet, et al. 2024](#)), ([Elfia, et al. 2024](#))

For instance, does the codification leave room for protecting women's rights in the framework of marriage law? Can it deal with real-life issues like domestic violence, forced marriage, or unequal power relationships? We can examine the moral and fair aspects of the *taqin* policies employed in nations such as Morocco, Egypt, and Indonesia by studying legal philosophy ([Welty, 2010](#)). Therefore, the legal philosophy approach is crucial for evaluating the efficacy of sharia codification from both a legal and a moral and social perspective.

The goal of this study is to examine the relationship between legal politics and the codification of Islamic marital law in various Muslim countries. Legal politics is never neutral; it is always complete with ideological and social-political interests. The state not only converts *fiqh* norms into positive law through the codification policy (*taqin*), but it also determines how Islamic legal thought will evolve in society. Mahfud

MD (2009) says that legal politics is a tool of state power that helps guide the evolution of the law in a planned and methodical way.

This study also aims to examine the philosophical basis of law that supports the process of codification. In the context of Islamic law, the philosophy of law is crucial for understanding that sharia is not merely a set of rules, but also has an ethical and humanitarian goal, as evident in the concept of *maqashid al-shari'ah* (Kamali, 2006; Auda, 2008). This study examines the philosophical ideas to determine whether codification truly promotes justice (*adl*), equality (*musawah*), and the protection of rights (*haqq*), or if it merely reinforces the male-dominated system.

Another goal is to examine the various models of Islamic marriage law, such as *taqin*, in countries like Indonesia, Morocco, Egypt, and Tunisia. The way each country interprets and incorporates Islamic law into its legal system is different, depending on the political situation, the role of the ulama, and the impact of human rights discourse (Welty, 2010; Otto, 2008). This contrast will highlight how codifying Sharia can be a means to change society or a way to preserve traditions.

Islamic marriage law, which is part of family law (*al-ahwal al-shakhsiyyah*), not only governs private relationships between individuals but also reflects the state's moral, cultural, and intellectual ideals. Many Muslim countries have made changes to their national legal systems to include Islamic marriage law as part of the process of modernisation and protecting human rights. However, this codification often causes problems between traditional *fiqh* and current practices (Welty, 2010; Otto, 2008).

This study is essential because codifying sharia is not just a bureaucratic task; it is also a political act that shows the state's interests in setting the limitations on how Islamic law can be interpreted. In certain circumstances, codification can make the state stronger than religious authority, focusing on the ideas of schools of thought that align with the national agenda (Salim, 2003). Additionally, few studies have directly examined the legal reasoning underlying this codification approach. A philosophical approach is necessary to determine whether the law created upholds the ideals of justice (*adl*), welfare (*maslahah*), and *maqashid al-shari'ah*. Auda (2008) states that Islamic law should not only be a set of rules but also be about protecting human rights and dignity. This study is likely to make a significant contribution to the conversation on Islamic law reform that is fair, situational, and grounded in universal humanitarian ideals by examining how *taqin* is practised in various Muslim countries, including Indonesia, Morocco, and Tunisia.

The codification of Islamic marriage law has garnered significant research, especially in historical, legal, and comparative contexts. Most of these studies, on the other hand, examine the more formal and normative aspects of the law, such as comparing the substance of laws, the role of the state in enacting laws, or how society responds to Islamic family law (Otto, 2008; Salim, 2003). However, the perspective that regards *taqin* sharia as a type of legal politics that integrates legal philosophy remains understudied.

This study is novel because it combines legal and political analysis, codification methods, and Islamic legal philosophy, particularly in the context of *maqashid al-syari'ah*, justice (*adl*), and humanity (*karamah al-insan*). This study not only compares legal texts but also examines the theological and philosophical reasons behind the codification policies in Muslim countries such as Indonesia, Morocco, Tunisia, and Egypt. This study also has a strong moral and ethical dimension, as it employs a progressive Islamic legal philosophy approach to examine the effectiveness of codification in promoting gender equality and social justice values. This is something that has not been widely studied in traditional Islamic legal studies ([Kamali, 2006](#); [Auda, 2008](#)).

This work makes a significant contribution to the discussion on Islamic legal reform, particularly through the application of *taqin*, or codification. The method employed is interdisciplinary, utilising legal and political analysis, legal philosophy, and comparative research across various Muslim nations. This combination enables us to study how Islamic marriage law is formulated, understood, and implemented in a modern nation-state in a more comprehensive and detailed manner. This study not only contributes to the theoretical body of knowledge in Islamic legal science and modern legal studies, but it also has practical value for policymakers, academics, and legal professionals seeking to make fair, relevant, and *maqashid al-shari'ah*-oriented changes to the law.

Based on the background above, the researcher focuses the research on several key questions, namely: How does legal politics shape the process of codifying Islamic marriage law? What is the philosophical basis of codification practices (*taqin*) in Muslim countries? How do differences in *taqin* practices reflect the state's approach to sharia and justice?

## B. METHODS

This study employs a qualitative method, combining a normative and comparative legal approach with a philosophical perspective. This type of research was chosen because the topic discussed not only focuses on the content of positive legal norms but also examines the ideological, ethical, and philosophical dimensions that underlie the practice of codification (*taqin*) of Islamic marriage law in various Muslim countries.

In terms of research approach, three main approaches are used: Conceptual approach, to examine core concepts such as legal politics, *maqashid al-syari'ah*, and Islamic legal justice; Historical approach, to see the development and dynamics of legal politics in the process of codifying Islamic marriage law; Comparative legal approach, to compare *taqin* models in Muslim countries with different socio-political and legal characteristics. ([Muala, 2020](#))

Primary data sources comprise official documents that reflect the results of the codification of marriage law, such as the Compilation of Islamic Law (KHI) in Indonesia, Mudawwanah al-Ushrah in Morocco, the Code du Statut Personnel (CSP) in Tunisia, and family law in Egypt. Meanwhile, secondary data sources include academic

books, scientific journal articles, and previous research results relevant to legal politics, Islamic legal philosophy, and comparative studies.

Data were analysed using descriptive, critical, and comparative techniques. The descriptive approach is used to describe the content and structure of regulations. Critical analysis evaluates the values and ideologies behind legal norms. While comparative analysis compares *taqniin* practices between countries, as explained by Otto (2008) and Salim (2003) in their study of contemporary Muslim family law.

## C. RESULTS AND DISCUSSION

### 1. Codification Legal Politics in the Context of Sharia

Enshrining sharia law in writing, particularly in the realm of marital law, exemplifies a complex legal and political process within a modern nation-state. This method illustrates how the government converts *fiqh* norms, which are primarily subject to interpretation, into positive law that everyone must follow and that applies equally to all. In actuality, codification occurs by selecting, organising, and reinterpreting the classical Islamic legal tradition, taking into account the state's ideological objectives, social stability, and the challenges of modernity it faces. For example, Indonesia and Morocco, which are both Muslim countries, adopt distinct methods to adapt *fiqh* to their legal systems (Salim, 2003; Welchman, 2007). Therefore, sharia codification is not a neutral process; it is fraught with political, social, and philosophical issues that reveal how the law is evolving in the country (Moosa, 2004).

The Compilation of Islamic Law (KHI) was put together in 1991 in Indonesia. This was a significant step toward transforming *fiqh*, notably the Shafi'i school, into a written law. The KHI does not have formal legal status, but it has been the principal source of positive law in religious courts regarding marriage, inheritance, and guardianship (Salim, 2003). In Morocco, on the other hand, the Mudawwanah al-Usrah reform in 2004 was more progressive. The King, as Amir al-Mu'minin, played an active role in integrating sharia principles with modern standards of gender justice and human rights by involving women and civil society in the legislative process (Welty, 2010; Heriandita et al., 2025).

However, it is impossible to separate the process of codifying Islamic law from the intricate struggle between religious and governmental authority. The state has the right to make laws that apply to everyone in the country to maintain clear laws and a well-ordered society. On the other hand, traditional academics, especially those who follow classical *fiqh*, often think that the state getting involved in sharia law could weaken its normative and epistemic independence. Otto (2008) says that this tension is a result of the clash between theological principles (*nushush*) and the demands of social reality (*waqi'*). This dilemma often means that the codification process needs to make ideological compromises and adapt to the modern world. Because of this, codification may not entirely reflect the classical view of the purity of sharia. (Fatarib et al. 2023)

The Code du Statut Personnel (CSP) made polygamy illegal in Tunisia in 1956, which was the height of the conflict between state power and sharia law. President Habib Bourguiba started this program as part of a significant endeavour to secularise family law. His goal was to create a contemporary and fair civil legal system. Islamists saw this move as a way to violate the basic principles of sharia and move society away from Islamic ideals. The state and reformists, on the other hand, viewed the policy as a means to liberate people from the law in a progressive manner, thereby enabling genuine justice and gender equality within the family ([An-Na'im, 2002](#)).

Thus, the legal politics of codification in the context of Sharia is not merely a technical process of forming regulations, but is a complex dialectical arena between religious legitimacy and state power. It reflects how classical *fiqh* texts interact with modern state authority in responding to the demands of social change. On the one hand, the state seeks to create legal certainty through written and uniform regulations; on the other hand, religious authorities seek to maintain the authenticity of sharia. This relationship shows that codification is not only legal-formal, but also reflects the ideological and epistemological tensions that colour the socio-political transformation of Muslims. In other words, codification is a reflection of the dynamics between text (*nash*), authority (*ulil amri*), and reality (*waqi'*) in the contemporary Muslim world.

## 2. Legal Philosophy Review of Islamic Marriage Codification

The codification of Islamic marriage law, as a product of state legal politics, cannot be sufficiently examined only through a formal-juridical approach. Furthermore, an in-depth study is necessary from the perspective of Islamic legal philosophy, particularly through the *maqashid al-shari'ah* approach. This approach provides a more substantial analytical framework to assess whether the codified regulations truly reflect and realise the main objectives of Sharia. Among the relevant *maqashid* are the protection of life (*hifzh al-nafs*), descendants (*hifzh al-nasl*), honor (*hifzh al-'ird*), and justice (*'adl*), which are not only formal, but also touch on aspects of substantive justice, including gender justice in the structure of the Muslim family. Thus, *maqashid* becomes a philosophical and normative measuring tool in assessing the quality of legal codification. ([Masriani, 2023](#))

For example, the Moroccan family law reform, introduced through Mudawwanah al-Ushrah in 2004, has included the principle of joint responsibility within the household and strictly limited the practice of polygamy. This step is considered an effort to translate *maqashid al-shari'ah* in a modern context, where protection of women and children becomes part of the protection of life and honor ([Welty, 2010](#)). Similar trends can also be observed in some articles in the Compilation of Islamic Law in Indonesia, which began to emphasise the principle of protection for wives in cases of divorce ([Salim, 2003](#)).

Justice, as a core value in Islamic legal philosophy, has a profound influence, both in the classical tradition and in contemporary discourse. In classical discourse, justice is often interpreted as placing something in its place (*wad'u al-syai' fi mahallih*). While in

the context of modern law, justice is also understood more broadly as the recognition of civil rights and equality (*musawah*) between genders ([Kamali, 2006](#)). Thus, the codification of Islamic marriage law should not only imitate the form of Western law or maintain classical *fiqh* texts, but must reflect the principles of contextual justice.

One of the main criticisms of the practice of sharia codification is its tendency to be overly formalistic and legalistic, where *taqin* products focus more on compiling and articulating classical *fiqh* texts without considering the social context, humanitarian ethics, and the realities of modern life. This approach often ignores the development of crucial issues, such as domestic violence, gender equality, women's rights in divorce and child custody, and access to substantive justice ([Auda, 2008](#)). As a result, codification loses its responsive dimension to contemporary conditions and fails to realise the justice that is the core of Islamic law. Therefore, a dynamic and philosophical *maqashid al-syari'ah* approach is needed as a new paradigm in assessing and compiling Islamic legal regulations. This approach emphasises the protection of life, mind, honour, descendants, and property as the main objectives of sharia, and opens up space for more contextual and humanistic legal reform ([Kamali, 2006](#)).

### 3. Codification Practices (*Taqin*) in Muslim Countries: A Comparative Study

The codification of Islamic marriage law in various Muslim countries shows a diversity of approaches in integrating *fiqh* into modern national legal systems. This variation not only reflects differences in legal methodology but also reflects the political context, state ideology, and social structure of each country. In the *taqin* process, the decisions of political actors, legislatures, and religious institutions greatly determine the final form of Islamic family law regulations. For example, Indonesia tends to maintain the *fiqh* of the Shafi'i school in the Compilation of Islamic Law. At the same time, Morocco has made substantial reforms in *Mudawwanah al-Usrah* by strengthening women's rights and adopting a more egalitarian approach ([Welty, 2010](#)). Preferences for certain schools of thought also create their challenges in the plurality of Muslim societies. In addition, local socio-political dynamics such as pressure from women's movements, changes in family roles, and globalisation also influence the direction of codification ([An-Na'im, 2002](#); [Salim, 2003](#)).

In Indonesia, the practice of codification is reflected in the Compilation of Islamic Law (KHI) compiled in 1991, as well as in Law No. 1 of 1974 concerning Marriage. KHI is dominated by the Shafi'i school of law, but has undergone legal rationalisation to conform to the modern justice system. KHI is used as the primary reference in religious courts, even though it is not in the form of formal law. The state's dominance in formulating KHI reflects the strong role of the bureaucracy and Islamic mass organisations in legal decision-making ([Salim, 2003](#)). In contrast, Morocco reformed its family law through *Mudawwanah al-Usrah* in 2004 with a more pro-gender equality approach. This reform was influenced by the strong role of the King as Amir al-Mu'minin and pressure from the women's movement. The result was a more contextual



codification that prioritised the principle of shared responsibility in the household and restrictions on polygamy ([Welty, 2010](#)).

Tunisia demonstrated a secularisation approach in its 1956 Code du Statut Personnel (CSP). This law radically abolished polygamy and placed women's rights as a central principle. Unlike other Muslim countries, Tunisia strictly separated sharia from family law, as part of a post-colonial legal modernisation project ([An-Na'im, 2002](#)). Meanwhile, Egypt took a compromise path between Hanafi *fiqh* and modern legal principles. The Egyptian codification of family law still refers to the Hanafi school in several aspects. However, it has been modified to suit the national legal system and the demands of modernity, for example in the issues of divorce, maintenance rights, and guardianship ([Moosa, 2004](#)), ([Huda, et.al., 2023](#)).

A comparative analysis of the codification of Islamic marriage law in various Muslim countries reveals significant variations in three main aspects: the actors involved, the dominant values adopted, and the approach to the text and context. In Indonesia and Egypt, the leading actors are dominated by the state and conservative clerics, resulting in a compromise codification that maintains classical *fiqh* values but with slight adjustments to national law. Meanwhile, Morocco took a reformist and progressive path within an Islamic framework by involving women and civil society in the Mudawwanah reform. This is different from Tunisia, which openly implemented the secularization of family law through the Code du Statut Personnel, abolished polygamy and separated the law from explicit references to sharia.

#### 4. Philosophical and Social Implications of Codification Politics

The codification of Islamic marriage law as a product of state legal politics has a significant impact, not only at the legal level, but also in the philosophical and social dimensions of contemporary Muslim society. On the one hand, codification provides legal certainty and procedural uniformity, which makes it easier for law enforcement officers to resolve family disputes systematically and in a structured manner ([Salim, 2003](#)). However, on the other hand, the formalistic approach inherent in the codification process often overlooks aspects of substantive justice, especially those concerning power relations within the family, the position of women, and the rights of vulnerable groups, such as children and widows ([Moosa, 2004](#)). When codification only copies classical *fiqh* norms without contextual reinterpretation, it risks perpetuating gender inequality and social inequality in practice. Therefore, it is necessary to conduct a critical evaluation of the legal structure formed by the state so that it can reflect the values of maqashid al-yari'ah thoroughly and fairly ([Kamali, 2006](#)).

In many cases, the regulations resulting from the codification of Islamic marriage law still tend to maintain classical *fiqh* norms without adequately considering social changes and the contemporary needs of Muslim society. This can be seen from various articles in family law that normatively still give legal preference to the husband, for example in his position as head of the family, the right to unilateral divorce, or restrictions on women's rights to file for divorce (*khulu'*), receive maintenance, and

become guardians of their children ([Moosa, 2004](#)). This condition indicates that many codified legal systems do not yet reflect the values of justice and equality that are part of the *maqashid al-shari'ah*. According to Kamali ([2006](#)), a clear gap exists between the ethical ideals of Islam, which prioritise protecting human dignity, and formal-legalistic practices. When the law is not linked to its social context and moral philosophy, it risks failing to realise substantive justice for all citizens, especially women and other vulnerable groups.

An important challenge in codifying Islamic marriage law is its application amidst the social pluralism and plurality of schools of thought that characterise Muslim society. In a country like Indonesia, Muslim society comprises individuals from diverse ethnic backgrounds, cultures, and various schools of thought, including Shafi'i, Hanafi, and even customary practices that coexist with Islamic law. However, when the state only chooses one school of thought as the basis for codification—such as the Shafi'i school in the Indonesian Compilation of Islamic Law (KHI)—then there is a simplification of the diversity of *fiqh* thought that has so far been the intellectual property of Islamic law ([Salim, 2003](#)). This single approach not only creates the potential for injustice in resolving certain cases but also overlooks the flexibility of *ijtihad* across schools of thought that should be utilised to respond to diverse legal needs. Exclusive codification risks weakening the legitimacy of the law and closing off the space for constructive dialogue between Islamic legal traditions ([Cammack, 2007](#)).

A crucial question that needs to be addressed in the context of Islamic legal reform is: Is a progressive *fiqh* approach necessary for the future? The answer is very relevant and urgent. The progressive *fiqh* approach emphasises that *maqashid al-shari'ah* is not a static framework, but rather dynamic principles that can be reinterpreted according to changing times and the needs of modern society. This approach opens up space for a reinterpretation of Islamic law that takes into account social realities, human rights values, and gender equality, without abandoning its normative roots (Auda, 2008). In this perspective, Islamic law is not only understood as a legalistic normative system, but also as an ethical system that aims to realize substantive justice. By integrating the classical *fiqh* methodology based on *ijtihad* with a contextual reading of contemporary reality, legal codification can become a transformative tool that is inclusive, responsive, and fairer to the needs of vulnerable groups in Muslim society ([Kamali, 2006](#)).

#### D. CONCLUSION

This study concludes that legal politics plays a strategic role in the codification process of Islamic marriage law in Muslim countries. Codification is not merely a legal or formal activity, but also an ideological and social instrument that reflects how the state positions Islamic law within its legal system. Through codification, the state not only translates *fiqh* law into positive law but also determines the limits, direction, and scope of interpretation of Sharia values in a modern context.

Furthermore, *taqin* reflects the legal philosophy adopted by a country, whether it is textual, contextual, or normative-progressive. Countries such as Indonesia exhibit an approach that tends to be textual and conservative, referring to the *fiqh* of the Shafi'i school in the Compilation of Islamic Law. Meanwhile, Morocco, through Mudawwanah al-Ushrah, displays a more adaptive and progressive approach to the issue of gender equality and family justice. Tunisia even shows a direction of complete secularization of family law, while Egypt chooses a compromise path between the *fiqh* of the school and the modern legal system.

Ultimately, the success of the codification of Islamic marriage law or *taqin* must be assessed from the extent to which the regulation can maintain the values of *maqashid al-syari'ah*, such as protection of life, honor, and descendants, and can respond to contemporary social realities, including pluralism of society, demands for gender justice, and human rights. Without considering *maqashid* and the social context, codification will only become rigid legalism that loses the spirit of Sharia justice. Therefore, a progressive and responsive approach to Islamic legal philosophy is crucial in developing an inclusive, adaptable, and substantively just codification for modern Muslim society.

## Recommendation

Based on the results of this study's analysis, several strategic suggestions can be put forward to strengthen the direction of codifying Islamic marriage law in Muslim countries, making it more contextual, fair, and sustainable.

First, there needs to be harmonisation between Sharia values and the principles of social justice in the codification process. Islamic marriage law regulations should not be confined to the legalism of classical *fiqh* alone. However, they must be able to integrate universal ethical values that align with *maqashid al-shari'ah*, such as protecting the rights of women, children, and the family in general. This harmonisation must be based on an *ijtihad* approach that is contextual and open to social dynamics.

Second, Islamic marriage law reform should be based on *the maqashid al-shari'ah*, inter-school dialogue, and participation from civil society. The mono-school approach often used in codification tends to close the door to broader *ijtihad* and ignores the richness of the cross-school *fiqh* treasury. Therefore, it is necessary to encourage a codification model that is inclusive, adaptable to local realities, and compiled through open dialogue among scholars, academics, women's activists, and religious communities. In this way, Islamic law will better reflect substantive justice and answer the needs of the people.

Third, a strong push is needed for cross-disciplinary studies between law, philosophy, and sociology in efforts to renew Islamic law. The politics of sharia law cannot be separated from the social context and underlying philosophical values. Therefore, studies that combine normative-theological approaches with social analysis and legal philosophy can become an intellectual foundation for the design of a codification that is more humanistic and relevant to the challenges of the times.

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