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MARRIAGE FROM THE PERSPECTIVE OF ISLAMIC LEGAL HISTORY BETWEEN TRADITION, CLASSICAL JURISPRUDENCE, AND MODERN MARRIAGE REGULATIONS IN INDONESIA

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Abstract
This article aims to analyze marriage from the perspective of Islamic legal history by examining the interplay between societal traditions, classical fiqh (Islamic jurisprudence) constructs, and modern marriage regulations. Existing research has largely examined marriage traditions, fiqh, or legislation in isolation, failing to historically elucidate how these three elements interacted, negotiated, and underwent transformation in the shaping of Islamic marriage law in Indonesia. The study employs a normative-juridical method, utilizing historical and conceptual approaches. Data were gathered through a literature review of Islamic legal sources, classical fiqh texts, historical works, and contemporary marriage regulations. The findings indicate that marriage practices within Muslim societies have been shaped by the dynamic interaction between normative Islamic teachings and local

traditions. Classical fiqh subsequently established legal frameworks influenced by the social, cultural, and political contexts of the era. In modern times, the state has intervened to regulate marriage through codification and legislation, taking into account principles such as public interest (maslahah), the protection of rights, legal certainty, and social change. This article contributes to the historiography of Islamic law by demonstrating that the modernization of marriage law in Indonesia represents a historical transformation process that does not sever ties with the fiqh tradition but rather negotiates it through principles of public interest, rights protection, and legal certainty. Thus, the evolution of Islamic marriage law is not static; rather, it has undergone a process of adaptation transitioning from tradition and classical fiqh thought toward modern regulatory frameworks. A historical analysis of this process is crucial for understanding that Islamic marriage law possesses a contextual dimension, allowing for reform while remaining grounded in the fundamental principles of Sharia.

Keywords: *classical fiqh; history of islamic law; tradition; marriage regulations.*

Abstrak

Artikel ini bertujuan menganalisis pernikahan dalam perspektif sejarah hukum Islam dengan menelaah hubungan antara tradisi masyarakat, konstruksi fikih klasik, dan regulasi perkawinan modern. Persoalannya, penelitian terdahulu lebih banyak mengkaji tradisi perkawinan, fikih, atau legislasi secara sektoral, sehingga belum menjelaskan secara historis bagaimana ketiganya berinteraksi, bernegosiasi, dan mengalami transformasi dalam pembentukan hukum perkawinan Islam di Indonesia. Penelitian ini menggunakan metode yuridis-normatif dengan pendekatan historis dan konseptual. Data diperoleh melalui studi kepustakaan terhadap sumber-sumber hukum Islam, literatur fikih klasik, karya sejarah, serta regulasi perkawinan kontemporer. Hasil kajian menunjukkan bahwa praktik pernikahan dalam masyarakat Muslim terbentuk melalui interaksi yang dinamis antara ajaran normatif Islam dan tradisi lokal. Fikih klasik kemudian memberikan konstruksi hukum yang dipengaruhi oleh konteks sosial, budaya, dan politik pada masanya. Dalam perkembangan modern, negara turut melakukan pengaturan terhadap perkawinan melalui kodifikasi dan legislasi dengan mempertimbangkan prinsip kemaslahatan, perlindungan hak,

kepastian hukum, serta perubahan sosial. Artikel ini berkontribusi pada historiografi hukum Islam dengan menunjukkan bahwa modernisasi hukum perkawinan di Indonesia merupakan proses transformasi historis yang tidak memutus tradisi fikih, tetapi menegosiasikannya melalui prinsip kemaslahatan, perlindungan hak, dan kepastian hukum. Dengan demikian, perkembangan hukum perkawinan Islam tidak bersifat statis, melainkan mengalami proses adaptasi dari tradisi dan pemikiran fikih klasik menuju regulasi modern. Kajian historis terhadap proses tersebut penting untuk memahami bahwa hukum perkawinan Islam memiliki dimensi kontekstual yang memungkinkan adanya pembaruan selama tetap berlandaskan prinsip-prinsip dasar syariat.

Kata Kunci: *fikih klasik; sejarah hukum islam; tradisi; regulasi perkawinan.*

INTRODUCTION

Marriage in Islam is not merely a bond between a man and a woman; it is also a religious, social, cultural, and legal institution. In the Indonesian context, marriage practices evolve within a social space where religious norms, societal traditions, fiqh (Islamic jurisprudence), and state law intersect. This situation demonstrates that Islamic marriage law in Indonesia did not emerge in a vacuum but rather developed through a historical process involving diverse sources of norms and social changes. The evolution of Islamic marriage law in Indonesia has a long history, eventually taking formal shape through Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI).(Mudassir, Rusly, and Nugroho 2024)

The persistence of tradition in marriage practices indicates that marriage law cannot be understood solely through formal legal provisions. Various communities continue to uphold marriage practices and rituals passed down through generations, even while operating within the national legal framework. From an Islamic legal perspective, the role of tradition can be analyzed through the concept of *'urf* customary practices that are valid provided they do not conflict with Sharia principles. Meanwhile, classical fiqh serves as a crucial foundation for the development of Islamic marriage legal thought.

Provisions regarding the essential elements, conditions, guardians, witnesses, dowry, and marital rights and obligations have been extensively discussed in *fiqh* literature. However, the Islamic family law that has evolved in Indonesia is not entirely identical to the provisions found in classical *fiqh* texts. Ismail points out that the reform of Islamic family law in Indonesia has introduced provisions that differ from classical *fiqh*, particularly regarding marriage registration, minimum marriage age, and the regulation of polygamy. Thus, while classical *fiqh* remains a normative foundation, its application has undergone adjustments during the evolution of Islamic family law in Indonesia.(Umaaya 2026)

This development subsequently took on a more formal shape through modern marriage regulations. Law Number 1 of 1974 concerning Marriage serves as a primary legal foundation for marriage regulation in Indonesia and was later supplemented by the Compilation of Islamic Law (KHI), promulgated via Presidential Instruction Number 1 of 1991. The KHI includes Book I, which addresses marriage law, and serves as a guideline for resolving issues related to Islamic family law.(Harman, Nelli, and Azni 2021)

These regulatory developments demonstrate the institutionalization of marriage law norms within the state legal system. The evolution of marriage law did not cease with the enactment of initial legislation; Law Number 16 of 2019 amended Law Number 1 of 1974, specifically by standardizing the minimum age for marriage at 19 years for both men and women.(Ramelan, Fahmi, and Pudjiastuti 2025) This amendment illustrates that marriage regulations can be adjusted in light of considerations regarding maturity, health, and the protection of children's rights. Thus, the evolution of modern marriage law reflects a gradual process of normative change within the Indonesian legal system.

Previous research has addressed the evolution of Islamic marriage law from various perspectives. Harman, Nelli, and Azni focused on the historical background and development of Islamic marriage law in Indonesia by examining Law Number 1 of 1974 and the Compilation of Islamic Law.(Harman et al. 2021) Ismail discussed

the reform of Islamic family legal thought and highlighted the differences between Islamic family law in Indonesia and classical fiqh (Islamic jurisprudence). Meanwhile, Wirastri and van Huis analyzed the evolution of Indonesian marriage law over a fifty-year period, demonstrating that the reform of Islamic family law has occurred not only through legislative changes but also through court rulings and Supreme Court guidelines.(Wirastri and van Huis 2024)

Research on the relationship between tradition and law has also shown that community marriage practices do not always operate simply according to state law. Contestation between customary law and national law within the marriage practices of indigenous communities. These findings indicate that tradition retains a significant place in community life, while national law serves as the formal framework governing marriage. Such studies reinforce the importance of viewing marriage law as a meeting point for various normative systems, rather than merely as a set of state-derived regulations.(Purnama 2021)

Even though previous research has discussed the history of marriage law, reform of Islamic family law, the relationship between jurisprudence and regulations, and the relationship between customary law and national law, discussion of the relationship between the three traditions, classical jurisprudence, and modern marriage regulations still needs to be placed in an integrative historical framework. The main problem is not just how marriage law changes from one period to the next, but how tradition, classical jurisprudence and modern regulations interact with each other in the process of developing Islamic marriage law in Indonesia. Thus, this study is directed at understanding this development as a process that includes continuity, change, adaptation and harmonization between various sources of norms.

To analyze this issue, this research uses the perspective of the history of Islamic law as the main theory to see the development of marriage law over time and social change. This perspective is supported by the concept of 'urf to understand the position of tradition in Islamic law and the perspective of legal pluralism to explain the

existence and interaction of various norm systems in society. The concept of maqāṣid al-syarī'ah is used in a limited way to understand the benefit orientation contained in the development of marriage legal regulations. The use of this framework allows the study to not only describe legal changes, but also explain the relationship between tradition, jurisprudence, and regulations in the process of developing Islamic marriage law.

Based on this background, the study formulates several key issues. First, how has Islamic marriage law in Indonesia evolved in terms of the interplay between tradition, classical fiqh (Islamic jurisprudence), and modern marriage regulations? Second, how does the interaction between tradition and classical fiqh influence marriage law practices and its evolution? Third, how do modern marriage regulations transform and accommodate fiqh norms alongside evolving social realities? These questions are designed to examine the evolution of marriage law from a historical and integrative perspective, rather than treating tradition, fiqh, and regulations as isolated, independent elements.

In line with these issues, the study aims to analyze the evolution of Islamic marriage law in Indonesia through the relationships between tradition, classical fiqh, and modern marriage regulations; to identify the nature of the interaction between tradition and classical fiqh in the development of marriage law; and to analyze the transformation and accommodation of fiqh norms within modern marriage regulations. Through this approach, the study seeks to provide an understanding of the evolution of Islamic marriage law as a historical process unfolding through the interplay of religious norms, societal customs, and state law.

Thus, Islamic marriage law in Indonesia can be understood as the product of a dynamic evolutionary process. Tradition provides the social context for marriage practices; classical fiqh (Islamic jurisprudence) offers a normative foundation as well as scope for interpretation; and modern regulations provide formal structure and legal certainty. These three elements do not always exist in a uniform relationship but rather undergo processes of interaction, adjustment,

and harmonization. A historical perspective is crucial to explaining that the evolution of Islamic marriage law is not merely a matter of replacing old norms with new ones, but rather a process of continuity and change unfolding within the Indonesian social and legal context.

METHODS

This study employs a normative-juridical method utilizing historical and conceptual approaches. The normative-juridical approach is used to examine the norms and legal constructs of marriage found in Islamic legal sources and Indonesian marriage regulations, while the historical approach traces the processes of change and continuity in marriage law from tradition and classical fiqh (Islamic jurisprudence) to the establishment of modern regulations.(Sugiyono 2022) The conceptual approach is utilized to identify shifts in the meaning and construction of the marriage concept, particularly regarding norms, rights and obligations, legal authority, public interest (maslahah), and the relationship between Islamic law and state law.

The historical research in this article is conducted through four stages: heuristics, source criticism, interpretation, and historiography. The heuristic stage involves identifying, locating, and gathering primary and secondary sources relevant to the development of Islamic marriage law in Indonesia. Primary sources include the Qur'an and Hadith concerning marriage, as well as classical fiqh works such as *Al-Umm by Al-Shafi'i*. These works were selected due to their status as significant representations of classical fiqh constructs regarding marriage and to observe the evolution of legal thought across various schools of law (madhhab). Primary sources also encompass Indonesian legal documents and marriage regulations specifically Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. These sources were chosen because they represent pivotal stages in the transformation of marriage law: from initial administrative arrangements and the unification of marriage law to the codification of Islamic family law within the Indonesian context.

The second stage is source criticism, conducted to assess the authenticity, credibility, and relevance of the sources to the research problem. External criticism is employed to verify the identity, provenance, edition, and publication context of sourcesparticularly regarding fiqh (Islamic jurisprudence) texts and regulatory documents. Internal criticism involves evaluating the source's content, the socio-political context of its creation, the compiler's objectives, and potential biases or limitations. Consequently, classical fiqh sources are not treated as norms existing outside of history but are instead interpreted as products of legal thought that evolved within specific social, political, and intellectual contexts. Similarly, modern marriage regulations are analyzed within the context of social change and the politics of law in Indonesia.

The third stage is interpretation, which involves interpreting the relationships between sources and the identified legal changes. This interpretation is conducted using historical and comparative approaches, taking into account the context of each period. The analysis focuses on three key aspects: marriage traditions evolving within society, the construction of marriage law in classical fiqh (Islamic jurisprudence), and the processes behind the formation and modification of marriage regulations in Indonesia. Content analysis is employed at this stage as a supporting technique to identify concepts, norms, and marriage-related provisions across various sources. Comparisons between sources are used to uncover patterns of continuity, change, reinterpretation, and harmonization among fiqh norms, social practices, and state law. Source triangulation comparing fiqh texts, regulatory documents, historical works, and academic research is utilized to reinforce the accuracy of the interpretation.(Sugiyono 2022) The final stage is historiography, which involves synthesizing the research findings into a historical narrative of Islamic marriage law in Indonesia. Historiography here goes beyond merely describing the evolution of marriage regulations; it explains the historical processes underlying these changes and the interplay between tradition, fiqh, and the state. The narrative is structured chronologically and analytically to demonstrate that

changes in marriage law occur incrementally, influenced by shifts in social, political, and legal thought. Secondary sources such as history books, journal articles, prior research, and academic works on Islamic and family law are used to provide context and enrich the interpretation of primary sources. Through these stages of heuristics, source criticism, interpretation, and historiography, this research seeks to historically reconstruct the transformation of Islamic marriage law in Indonesia while elucidating the relationship between the continuity of fiqh traditions and the emergence of modern marriage regulations.

DISCUSSION

The Historical Development of Islamic Marriage Law in Indonesia

Early Dynamics of Islamic Marriage Law

The evolution of Islamic marriage law prior to the advent of modern codification did not proceed linearly; rather, it unfolded through a protracted process revealing the interplay between religious norms, social practices, and shifting legal authority. Historically, this development can be traced across several stages. First, in pre-Islamic Arabia, marriage was primarily governed by tribal custom, kinship ties, economic interests, and familial authority. Marriage practices during this era were highly diverse and lacked a uniform written legal system. Certain forms of marriage such as shighār (exchange marriage), unions without limits on polygamy, and other marital arrangement demonstrate that the status of women, lineage, and inter-family relations were profoundly shaped by tribal social structures.

Second, during the era of the Prophet Muhammad (610-632 CE), Islam did not construct marriage law in a vacuum. The Qur'an and Sunnah engaged in a process of selection, restriction, abolition, and transformation regarding practices already prevalent in Arab society. The marriage contract and the dowry (mahr), for instance, gained legitimacy within the normative framework of Islam, whereas practices deemed contrary to principles of justice, the certainty of lineage, and respect for women were either restricted or abolished.

Polygamy was not entirely eliminated but was constrained by specific conditions, particularly the requirement to treat wives equitably. Thus, the formation of marriage law during the Prophet's time illustrates a pattern of gradual legal transformation: retaining acceptable customary elements, modifying practices requiring correction, and abolishing those that conflicted with the fundamental principles of Sharia. (AL-Bree, H., 2021)

Third, following the Prophet's death particularly from the era of the Rightly Guided Caliphs (Khulafa al-Rasyidin) through the early formative period of Islamic law (632-750 CE) marriage regulations evolved through the practices and rulings of the Companions, Hadith, ijtihad (independent legal reasoning), and the resolution of legal issues arising within an expanding Muslim society. The territorial expansion of Islam introduced marriage norms to diverse social and cultural environments, including Iraq, the Levant (Sham), Egypt, Persia, and other regions. This interaction meant that Islamic law engaged not only with normative texts but also with a variety of pre-existing social practices. In this context, local custom (‘adat) was not necessarily viewed as something to be abolished; rather, it could be taken into account provided it did not conflict with the fundamental principles of Islamic law.

Fourth, the period spanning roughly the 8th to the 10th century CE witnessed the formation and consolidation of the schools of jurisprudence (madhahib). During this time, marriage was increasingly defined as a formal contract that entailed specific legal consequences for the parties involved. Jurisprudential discourse expanded to encompass issues such as the marriage guardian (wali), the dowry (mahr), witnesses, maintenance (nafaqah), spousal relations, divorce, and lineage (nasab). Works of jurisprudence subsequently became vital instruments for the transmission and development of Islamic legal knowledge. However, it is important to emphasize that the consolidation of jurisprudence did not automatically result in a uniform body of marriage law. Differences in methods of legal derivation, social conditions, and political environments gave rise to a diversity of opinions among the various schools. Consequently, classical

jurisprudence is best understood as a pluralistic legal tradition that evolved within specific historical contexts. (Harman et al. 2021)

The link between the formation of classical fiqh (Islamic jurisprudence) and the evolution of marriage law in Indonesia lies in the transmission of Islamic legal knowledge, practices, and authority to the Nusantara region. The Islamization of the archipelago beginning around the 13th century and the rise of Islamic kingdoms marked pivotal phases in this process. Islamic law did not arrive as a system that immediately supplanted all existing societal norms; rather, it interacted with pre-existing social structures and customary practices (adat). Religious scholars (ulama), marriage officials (penghulu), and religious institutions played key roles in transmitting fiqh knowledge through teaching, fatwas (legal rulings), religious practices, and the use of fiqh texts. Consequently, classical fiqh secured a place as a normative reference point for Muslim communities, including in matters of marriage.

This transmission process also fostered adaptation. When fiqh encountered local marriage customs, not all community practices were deemed incompatible with Islam. Some practices were preserved provided they did not conflict with Sharia principles, while others underwent transformation through the process of Islamization. In this context, the concept of ‘urf (customary practice) becomes relevant for explaining the relationship between Islamic law and tradition. Customary practices could be accorded legal weight if they met specific criteria and did not contravene Sharia provisions. Therefore, the history of Islamic marriage law in Indonesia cannot be explained solely through the evolution of fiqh texts; it must also account for how fiqh was understood and applied within a society possessing diverse local legal traditions.

Subsequently, the fiqh tradition did not merely exist within the community but began to take on institutional forms through Islamic religious and political authorities in the archipelago. The rise of Islamic sultanates, the role of penghulu, the establishment of religious courts, and networks of *ulama* all served to reinforce the position of Islamic law within social life. Regarding marriage, this authority

functioned in the solemnization of the marriage contract, the registration or supervision of marriages in forms suited to the context of the times, the resolution of family disputes, and the issuance of fatwas or legal counsel. This situation demonstrates that, prior to the emergence of the modern state, marriage law already possessed mechanisms for transmission and implementation through socio-religious institutions, even though it had not yet taken the form of a uniform national codification. The subsequent shift occurred when colonialism introduced increasingly structured administrative and legal systems. While the colonial government did not entirely abolish the role of Islamic law in family matters, it regulated and restricted the scope of its application through administrative and institutional policies. This period marked a significant transition: the law—previously transmitted primarily through ulama (religious scholars), fiqh (Islamic jurisprudence) texts, adat (customary law), and religious institutions shifted toward a regulatory framework increasingly shaped by state administration. Marriage thus became a site where Islamic law, customary law, and colonial legal policy intersected. This process constitutes a crucial historical backdrop for the post-independence need to systematize marriage law.

Consequently, the formation of modern marriage law in Indonesia cannot be understood as an abrupt transition from classical fiqh to statutory law. Rather, a series of transformations connects the two: the development of classical fiqh; its transmission through networks of scholars and religious institutions; its encounter with the adat of the archipelago; its institutionalization within sultanates and religious bodies; its regulation during the colonial era; and, ultimately, the establishment of national law following independence. This sequence illustrates how fiqh initially developed as a scholarly tradition assumed distinct social and institutional forms upon its application within Indonesian society.

In the post-independence era, this process increasingly moved toward formalization and codification. The state began establishing a more uniform legal framework for marriage through various regulations, culminating in the enactment of Law No. 1 of 1974 on

Marriage and Government Regulation No. 9 of 1975 as its implementing rule. For Muslims, this process was further reinforced by the introduction of the Compilation of Islamic Law via Presidential Instruction No. 1 of 1991. These developments reflect a shift in the nature of legal authority: whereas fiqh (Islamic jurisprudence), adat (customary law), religious scholars (ulama), and religious institutions previously played dominant roles in shaping and applying marriage law, in the modern state, this authority increasingly interacts with state legislation and administration.

Consequently, the evolution of Islamic marriage law in Indonesia represents a historical process characterized by both continuity and change. While classical fiqh norms remain a vital source in the construction of marriage law, their application has undergone reinterpretation when confronted with local custom, social change, state administrative interests, and the imperative to establish a national legal system. From the perspective of Islamic legal history, this transformation demonstrates that marriage law is not a static entity; rather, it evolves through processes of transmission, selection, adaptation, institutionalization, and codification. It is within this framework that the relationship between tradition, classical fiqh, and modern regulation in Indonesia must be understood as a historical continuum rather than as three separate, isolated elements.

The Formation of Modern Marriage Regulations

A pivotal stage in the evolution of Islamic marriage law in Indonesia was the establishment of national marriage regulations through Law Number 1 of 1974 concerning Marriage. The enactment of this law signaled an effort to create a marriage legal framework applicable within the national legal system. Subsequently, Islamic family law regulations took on a more specialized form through the Compilation of Islamic Law (KHI), promulgated via Presidential Instruction Number 1 of 1991. The KHI incorporates provisions regarding marriage law, thereby serving as a crucial element in the development of Islamic family law in Indonesia. The establishment of these regulations reflects a shift in the nature of marriage law.(Muhaimin 2012)

While marriage norms were previously understood largely through fiqh (Islamic jurisprudence) and community practices, the modern legal system has seen some of these norms codified into written regulations. This process can be understood as the formalization of norms a transition wherein norms that originally evolved within religious and social spheres acquire a more formal legal status within the state system. However, formalization does not imply a direct transfer of all fiqh norms into state regulations; rather, it involves a process of selection and adaptation. This demonstrates that the formation of Islamic family law in Indonesia is a process of transformation. Ramelan and his colleagues, for instance, describe the transformation of Islamic family law in Indonesia as a dynamic interaction between classical fiqh and modern regulations, achieved through unification, codification, and progressive interpretation.

Regulatory Developments and Changing Legal Needs

The evolution of marriage law is also evident in the amendments made to existing regulations. Law Number 16 of 2019 amended Law Number 1 of 1974, specifically regarding the minimum age for marriage. This amendment demonstrates that marriage law is subject to adjustment in response to evolving legal needs and specific considerations underpinning regulatory changes. Such changes are significant from the perspective of legal history, as they illustrate that the law is not static; norms established in a particular era may undergo evaluation and modification as societal conditions and legal requirements evolve. Thus, the study of legal history encompasses not only past rules but also the process of legal transformation from one state to another.(Muhaimin 2012)

The reform of Indonesian marriage law has unfolded over an extended period, involving both legislative amendments and judicial developments. This demonstrates that family law reform is not limited to a single regulatory instrument but can occur through various legal institutions and mechanisms. From the perspective of maqāṣid al-syarī‘ah (the objectives of Sharia), these changes can be viewed through the lens of public interest (maṣlaḥa) and protection, which are

integral to the evolution of marriage regulations. In this study, maqāṣid al-syarīʿah is not employed to replace legal-historical analysis but rather serves as a supplementary perspective for understanding the trajectory of legal change as regulations adapt to the needs of family life. Ultimately, these regulatory developments reveal that Islamic marriage law in Indonesia is characterized by both change and continuity; existing norms do not simply vanish but undergo adjustment within an evolving legal framework.(Pratama, Lincoln, and Faikar 2026)

Tradition and Classical Jurisprudence in the Development of Islamic Marriage Law

Wedding Traditions as 'Urf

Tradition is an inseparable element of marriage practices within a community. Marriages take place within specific social environments; consequently, their execution is often accompanied by customs, rituals, and values inherited from previous generations. The existence of such traditions demonstrates that marriage possesses social and cultural dimensions alongside its religious and legal aspects. From an Islamic legal perspective, tradition can be analyzed through the concept of ‘urf (custom). This concept allows for community customs to be considered within the legal framework, provided they do not conflict with Sharia principles. Thus, a tradition cannot be automatically categorized as contrary to Islamic law; assessing it requires an analysis of its substance and its alignment with religious norms.(Chrismac et al. 2026)

The concept of ‘urf also helps explain why certain marriage traditions persist even as societies operate within modern legal systems. When a tradition serves a social function and does not conflict with Islamic legal principles, it can be maintained as part of community practice. Conversely, traditions that conflict with religious norms or legal provisions may undergo change. Indigenous communities often maintain traditional marriage rituals despite simultaneous demands to align these practices with national law.(Chandra and Darmayanti 2026) Such research reveals a

contestation between customary law and national law regarding marriage practices.

These findings demonstrate that traditions do not vanish simply because the state enacts marriage regulations. Traditions retain a place in community life because law also exists within social practices. This reinforces the relevance of the legal pluralism perspective in this study. Consequently, tradition can be viewed as a social context within the evolution of Islamic marriage law. Tradition is not a source of law that automatically holds the same status as state law; rather, it is a social norm that interacts with both religious law and state law.(Juliansyahzen 2020)

Classical Fiqh as a Normative Foundation

Classical fiqh (Islamic jurisprudence) constitutes a vital foundation for the evolution of Islamic marriage law. Fiqh literature addresses various facets of marriage ranging from essential elements and prerequisites, guardians, witnesses, and the dowry (mahar), to the rights and obligations of spouses. These discussions form a normative body of knowledge that serves as a key reference for the development of Islamic family law. However, classical fiqh differs in nature from state regulations. Fiqh is the product of scholarly thought and interpretation regarding the sources of Islamic law; consequently, it encompasses a diversity of opinions. Such differences demonstrate that Islamic law allows for interpretive latitude, enabling varied understandings of specific issues.(Mustangin 2025)

In the Indonesian context, this diversity of fiqh perspectives intersects with the need to establish family law applicable within the national legal system. Islamic family law in Indonesia is not entirely identical to classical fiqh. Reforms in family law have resulted in provisions that diverge from the constructs of classical fiqh. This indicates that it is inappropriate to view classical fiqh merely as a relic of the past to be discarded. Instead, fiqh continues to serve as a source of intellectual thought and a normative foundation, while its application is subject to interpretation and adjustment in line with evolving legal contexts.(Rohman et al. 2026)

Within the framework of Islamic legal history, this situation reflects both continuity and transformation. Continuity is evident in the continued reliance on fiqh thought as a foundation for Islamic family law, while transformation is seen in the adjustments made when these norms are codified into state regulations.

The Interaction Between Tradition and Classical Jurisprudence

The relationship between tradition and classical fiqh (Islamic jurisprudence) demonstrates that marriage practices evolve through the intersection of religious norms and social realities. Tradition shapes the social and cultural execution of marriage, while fiqh provides the normative framework for determining validity and understanding the various legal consequences of the union. Under certain conditions, tradition and fiqh norms coexist specifically when the practiced tradition does not conflict with Islamic legal principles. The concept of]'urf (custom) offers a conceptual basis for explaining this possibility; accepted traditions can persist within a society without being viewed as substitutes for fiqh norms.(Noferiadin and Marwendi 2024)

Conversely, when discrepancies arise between traditional practices and normative stipulations, a process of adjustment occurs. In such contexts, fiqh serves as a tool for evaluating social practices, while communities may modify their traditions to ensure they remain viable without violating religious norms. Research on indigenous marriage customs reveals that the relationship between adat (customary law) and Islamic law is not inherently adversarial; in various contexts, the two can converge and adapt to one another. This supports the understanding that marriage law evolves through the interaction of normative systems active within society. Thus, the interplay between tradition and classical fiqh can be understood as a process involving selection, acceptance, adjustment, and change. These findings demonstrate that the evolution of Islamic marriage law occurs not only through the enactment of state law but also through the dynamic relationship between religious norms and social practices.

The Transformation of Fiqh in Modern Marriage Regulations

Fiqh and the Process of Legal Formalization

The incorporation of Islamic legal norms into state regulations signifies a process of transformation from fiqh (Islamic jurisprudence) norms into positive law. This process does not imply that the state adopts *fiqh* provisions in their entirety; rather, it involves a process of selection and reformulation to ensure the norms fit within the national legal framework. Law Number 1 of 1974 marks a pivotal point in the formation of national marriage law, while the Compilation of Islamic Law subsequently provided more specific regulations for Islamic family law. The existence of these two instruments demonstrates that marriage norms previously derived from diverse sources have acquired a formal shape within the state legal system.(Muhaimin 2012)

The transformation of Islamic family law in Indonesia has unfolded through the interaction between classical fiqh and positive law, involving processes of unification, codification, and interpretation. These findings reinforce the argument that the relationship between fiqh and modern regulation is not one of total replacement, but rather a transformational relationship. In this process, the state requires norms that offer certainty and are capable of formal application; consequently, the diversity of opinions found in fiqh must be reformulated into specific legal provisions when integrated into the state regulatory system. This process yields a body of law that differs in character from fiqh as a product of legal thought. Thus, the transformation of fiqh into regulation represents a shift in normative form: fiqh provides the material and conceptual foundation, whereas regulation provides the formal structure and legal force within the state system.(Sodiq 2016)

Registration and Legal Certainty

One significant difference between the conceptualization of marriage in classical fiqh (Islamic jurisprudence) and modern regulations lies in the administrative dimension. Modern regulations emphasize marriage registration as an integral part of the state legal system. This

indicates that marriage is viewed not merely as a religious contract but also as a legal event requiring certainty within the state's administrative framework. Such a shift reflects the evolving function of marriage law; whereas classical fiqh focused primarily on the normative aspects of the contract's validity and its legal consequences, modern law also addresses formal and administrative requirements. This change does not eliminate the religious dimension but rather introduces an element of legal certainty to the conduct of marriage.(Sari and Arif 2025)

Marriage registration serves as an example of the reform of Islamic family law in Indonesia, representing a departure from the classical fiqh construct. Thus, registration illustrates how modern law introduces a new dimension to the regulation of marriage. From the perspective of maqāṣid al-sharīʿah (the objectives of Islamic law), this provision can be understood specifically in terms of legal certainty and protection.

Changes in Marriage Age and the Evolution of Regulations

The amendment of Law Number 1 of 1974 via Law Number 16 of 2019 demonstrates that marriage law undergoes change in response to evolving legal needs. This amendment standardized the minimum age for marriage at 19 years for both men and women. From the perspective of Islamic legal history, this change illustrates that family law is a field capable of reform; legal norms are not invariably maintained in their original form when social contexts and legal requirements shift.(Ilyas, Nikmah, and Zuhroh 2025)

The evolution of Indonesian marriage law over several decades has been characterized not only by legislative enactment but also by judicial reform. Thus, the transformation of family law is an ongoing process. In the context of this study, such changes reveal a mechanism of legal adaptation, wherein existing norms are adjusted to meet the changing needs of society. The concept of Maqāṣid al-sharīʿah can be employed within limits to interpret the orientation toward public interest and protection that underpins these changes.

The Interaction of Tradition, Classical Jurisprudence, and Modern Marriage Regulations

Legal Pluralism in Marriage

The analysis indicates that Islamic marriage law in Indonesia operates within a space where multiple normative systems converge. Community traditions, Islamic law, and state law can coexist within marital life. This situation can be explained through the perspective of legal pluralism the presence of more than one normative system operating within the same social space. In the practice of marriage, individuals may simultaneously encounter religious norms regarding marital validity, traditions concerning wedding procedures, and state regulations governing the formal aspects of marriage. While these three elements serve distinct functions, they can also be interconnected.(Rosihah et al. 2026)

There is a contestation between customary law and national law in the marriage practices of indigenous communities. Research shows that the existence of national law does not automatically eliminate customary norms that are deeply embedded in the community. Thus, legal pluralism helps explain why a single marriage practice can possess multiple normative dimensions. The issue is not about determining that one normative system must necessarily displace another, but rather about understanding how these various norms interact.

Interaction Mechanism of the Three Elements

Based on a synthesis of the literature, the interaction between tradition, classical fiqh (Islamic jurisprudence), and modern regulation can be explained through the following mechanism:



Tradition serves as the starting point because marriage takes place within a social context already characterized by specific customs. As Islam developed within the community, these practices encountered religious norms. At this stage, a process of selection occurred: practices aligned with Islamic principles were retained, while those that were not required modification. Fiqh then provided a framework for interpreting marriage-related issues. The diversity within fiqh demonstrates that the process of legal interpretation does not always yield a single, uniform opinion. As society evolved and required legal certainty, certain norms underwent a process of formalization through state regulation.(Latifah and Huda 2026)

Once regulations were established, society once again engaged with these formal norms, leading to a stage of adaptation. Marriage practices had to align with state legal requirements, yet traditions and religious understandings did not simply vanish. This mechanism reveals that legal evolution is circular and dynamic rather than linear: tradition shapes the social context, religious law provides a normative framework, the state formalizes the rules, and society subsequently adapts to the established laws.

Forms of Relationship: Contestation, Adaptation, and Harmonization

The relationship between these three elements is not always harmonious. Contestation can arise in certain situations for instance, when traditional practices conflict with state legal provisions, or when there is a discrepancy between religious norms and formal legal norms. Research on indigenous marriage practices reveals that tension between local and national laws is an inherent aspect of legal pluralism. However, this relationship does not inevitably result in conflict; communities can adapt to legal requirements without abandoning their traditions entirely. Similarly, state law can accommodate specific social practices, provided they do not contravene prevailing legal norms.

At this juncture, harmonization occurs a process of reconciling differing norms so they can coexist within the same social space. Harmonization does not entail the elimination of all differences; rather,

while each element retains its distinct character and function, adjustments are made to allow them to operate side by side. The perspective of legal pluralism is crucial here, as it allows these developments to be understood as a process of negotiation among various norms. Meanwhile, the perspective of Islamic legal history helps explain how this process has formed and evolved over time.

Continuity, Change, Adaptation, and Harmonization of Islamic Marriage Law

The Continuity of Tradition and Fiqh

The analysis indicates that the modernization of marriage regulations has not led to the disappearance of traditions and classical fiqh (Islamic jurisprudence). Traditions remain part of social practice, while fiqh continues to serve as a vital source for understanding Islamic marriage law. This demonstrates continuity in legal evolution. Such continuity does not imply that every form of tradition or every fiqh opinion is preserved intact; rather, it signifies the enduring function of tradition and fiqh in societal life, even as the modes of their application may evolve.

Indigenous marriage practices and rituals are maintained despite operating within the framework of national law. Consequently, the existence of modern regulations cannot be viewed as marking the end of tradition and fiqh; instead, all three elements remain engaged in a dynamic relationship.

Changes in Legal Norms

Changes become evident when fiqhn orms and traditions intersect with the requirements of modern legal formation. State regulations necessitate provisions that are more formal and offer certainty in application; consequently, a number of provisions have undergone modification or reformulation. Reforms regarding registration, the age of marriage, and specific family law regulations demonstrate the ongoing evolution of marriage law. Ismail indicates that these reforms reflect a shift in the conceptualization of Islamic family law in Indonesia.(Sriharini et al. 2026)

Changes also occur through the judicial system. Wirastri and van Huis point out that marriage law reform takes place via court rulings and other legal instruments. Thus, legal change is a continuous process that does not rely solely on the enactment of new legislation.

Community Adaptation to Regulations

Regulation does not end with the legal text itself. Once a law is enacted, society must adapt to its provisions. This adaptation is evident in how marriage practices previously shaped by tradition and religious understanding are adjusted to comply with prevailing formal requirements. Such adaptation demonstrates a two-way relationship between society and the law: on one hand, the law regulates societal behavior; on the other, the diversity of societal practices provides a context that must be considered in the evolution of the law.(Dalimunthe et al. 2026)

From the perspective of Islamic legal history, this adaptation is part of the process of legal evolution. Laws that successfully endure and are effectively applied within a society are not merely those possessing formal legitimacy, but also those that engage with social realities and demonstrate the capacity to adapt to change.

Harmonization of Various Sources of Norms

Harmonization represents a form of relationship that brings together tradition, fiqh (Islamic jurisprudence), and regulation within a social system. Tradition provides the cultural context, fiqh offers the normative foundation, and regulation ensures legal certainty. Harmonization does not imply that these three elements become identical; distinctions persist because each originates from a different sphere of formation. Nevertheless, they can interact and influence one another within the practice of marriage.(Azizah and Hafidzi 2025)

Viewed through the lens of legal pluralism, this situation demonstrates that Indonesian society does not operate based on a single source of law. State law, Islamic law, and customary norms coexist, shaping diverse patterns of interaction. Consequently, the

evolution of Islamic marriage law is best understood as a process of continuity amidst change: tradition does not vanish entirely, classical fiqh is not wholly abandoned, and modern regulation remains interconnected with both.

Based on the overall analysis, this study yields several key findings. First, the evolution of Islamic marriage law in Indonesia is a historical process driven by the interaction between tradition, classical fiqh (Islamic jurisprudence), and state regulations. This development does not represent a simple replacement of one legal system with another, but rather a process of gradual change.

Second, tradition serves as the social context for the development of marriage law. Through the concept of ‘urf (custom), traditions are evaluated based on their compatibility with Islamic legal principles. Acceptable traditions persist within society, while incompatible practices may undergo change or adjustment. Third, classical fiqh retains a significant position as both a normative foundation and a sphere for interpretation. The diversity within fiqh allows for the evolution of legal thought; however, when these norms are incorporated into the state legal system, a process of selection and reformulation is required.

Fourth, modern regulations formalize and transform marriage norms. Law Number 1 of 1974, the KHI (Compilation of Islamic Law), and the amendments introduced by Law Number 16 of 2019 demonstrate that marriage law evolves in response to changing legal needs. Fifth, the interaction among tradition, classical fiqh, and modern regulations reflects the character of legal pluralism. These three elements may undergo contestation, adaptation, or harmonization; consequently, the relationship between them is not monolithic, nor does it invariably result in uniformity.

Tradition provides the social context for marriage practices; classical fiqh offers a normative foundation and scope for interpretation; and modern regulations provide formalization and legal certainty. These three elements interact through processes of continuity, change, adaptation, and harmonization. This synthesis constitutes the study's primary finding, as it links the three focal

elements within a single historical framework. Viewed through the lens of Islamic legal history, this evolution is understood as a process of change over time. The concept of 'urf (custom) allows the role of tradition to be explained in relation to Islamic norms. A legal pluralism perspective enables the coexistence of various normative systems to be understood as a reality of concurrent legal frameworks. Meanwhile, *maqāṣid al-sharī'ah* offers a supporting perspective for understanding the orientation toward public interest and protection within the evolution of regulations.

Thus, the research findings demonstrate that the evolution of Islamic marriage law in Indonesia is not a process wherein modern regulations eradicate tradition and fiqh; rather, it is a transformative process that brings all three together in a dynamic relationship. Continuity, change, adaptation, and harmonization are key characteristics defining this evolution. These findings align with research that views the history of Indonesian marriage law as an ongoing process shaped by regulations, legal thought, and social practices.

CONCLUSION

This study addresses the central question of how societal traditions, classical fiqh (Islamic jurisprudence) constructs, and modern regulations have interacted and transformed throughout the history of Islamic marriage law in Indonesia. Key historical findings reveal that marriage practices in Indonesia did not emerge in isolation but rather through a long, dynamic dialectical process between normative Islamic values and local traditions. Classical fiqh emerged as a legal framework responding to the socio-cultural and political contexts of its time; it subsequently underwent shifts as the state intervened through codification and modern legislation to meet the demands of the changing era.

The article's central argument asserts that the formation of Islamic marriage law in Indonesia is a process of continuous negotiation rather than a historical rupture. The state has played a pivotal role in integrating principles of public interest (maslahah),

rights protection, and legal certainty into contemporary regulations without compromising traditional roots or the essence of classical *fiqh* thought. This demonstrates that Islamic marriage law is dynamic, contextual, and open to reform, provided it remains grounded in the fundamental principles of Sharia.

The study's primary historiographical contribution lies in its explanation that the modernization of Islamic family law in the Indonesian archipelago represents a form of adaptive institutional evolution. By weaving together the relationships between tradition, classical *fiqh*, and modern regulation, this study offers historians and legal practitioners a comprehensive perspective: Islamic law in Indonesia is capable of coexisting with modern social dynamics through a framework centered on the public interest (maslahah).

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