

Reforming Islamic Family Law a Maqasid-Based Approach to Addressing Child Marriage in Muslim-Majority Nations

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Keywords: Islamic Family Law, <i>Maqāṣid al-Sharī'ah</i>, Child Marriage, Legal Reform, Muslim-Majority Nations, Public Welfare.	Abstract: Child marriage remains one of the most pressing social and legal challenges in many Muslim-majority nations despite ongoing legal reforms and international commitments to protect children's rights. Traditional interpretations of Islamic family law have often been employed to justify early marriage, although contemporary scholars increasingly argue that such practices contradict the higher objectives (<i>maqāṣid al-sharī'ah</i>) of Islamic law. This article examines how a maqāṣid-based approach can contribute to the reform of Islamic family law in addressing child marriage while remaining faithful to Islamic legal principles. Using a qualitative library research methodology, the study analyzes classical and contemporary literature on Islamic jurisprudence, legal reforms, and the objectives of Islamic law, with particular attention to the protection of life (<i>hifẓ al-nafs</i>), intellect (<i>hifẓ al-'aql</i>), lineage (<i>hifẓ al-nasl</i>), and human dignity. The findings demonstrate that a maqāṣid-oriented interpretation provides a strong normative foundation for establishing higher minimum marriage ages, strengthening legal safeguards, and promoting the welfare of children in accordance with both Islamic ethics and international human rights standards. Furthermore, legal reforms grounded in maqāṣid al-sharī'ah encourage a contextual understanding of Islamic law that responds effectively to contemporary social realities without undermining its religious legitimacy. The study concludes that integrating maqāṣid principles into Islamic family law reform offers a balanced framework capable of reducing child marriage while advancing justice, public welfare (<i>maṣlaḥah</i>), and sustainable family development across Muslim-majority societies.
Kata Kunci: Hukum Keluarga Islam, Maqāṣid al-Sharī'ah, Pernikahan Anak, Reformasi Hukum, Negara Mayoritas Muslim, Kesejahteraan Masyarakat.	Abstrak: yang holistik mengenai pengetahuan manusia. Pernikahan anak masih menjadi salah satu tantangan sosial dan hukum yang paling mendesak di banyak negara berpenduduk mayoritas Muslim, terlepas dari adanya reformasi hukum yang sedang berlangsung dan komitmen internasional untuk melindungi hak-hak anak. Penafsiran tradisional terhadap hukum keluarga Islam sering kali digunakan untuk membenarkan pernikahan dini, meskipun para cendekiawan kontemporer semakin berpendapat bahwa praktik semacam itu bertentangan dengan tujuan-tujuan luhur (maqāṣid al-sharī'ah) hukum Islam. Artikel ini mengkaji bagaimana pendekatan berbasis maqāṣid dapat berkontribusi pada reformasi hukum keluarga Islam dalam menangani masalah pernikahan anak, sembari tetap setia pada prinsip-prinsip hukum Islam. Dengan menggunakan metodologi penelitian

Reforming Islamic Family ...

Istikharoh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim, Achmad Machrus Muttaqin

	kepastakaan kualitatif, studi ini menganalisis literatur klasik dan kontemporer mengenai yurisprudensi Islam, reformasi hukum, dan tujuan hukum Islam, dengan perhatian khusus pada perlindungan jiwa (ḥifẓ al-nafs), akal (ḥifẓ al-‘aql), keturunan (ḥifẓ al-nasl), dan martabat manusia. Temuan penelitian menunjukkan bahwa penafsiran yang berorientasi pada maqāṣid memberikan landasan normatif yang kuat untuk menetapkan batas usia minimum pernikahan yang lebih tinggi, memperkuat perlindungan hukum, dan mendorong kesejahteraan anak sesuai dengan etika Islam maupun standar hak asasi manusia internasional. Lebih lanjut, reformasi hukum yang berlandaskan maqāṣid al-sharī‘ah mendorong pemahaman kontekstual terhadap hukum Islam yang merespons secara efektif realitas sosial kontemporer tanpa mengurangi legitimasi keagamaannya. Studi ini menyimpulkan bahwa integrasi prinsip-prinsip maqāṣid ke dalam reformasi hukum keluarga Islam menawarkan kerangka kerja seimbang yang mampu mengurangi praktik pernikahan anak sekaligus memajukan keadilan, kemaslahatan umum (maṣlaḥah), dan pembangunan keluarga yang berkelanjutan di masyarakat berpenduduk mayoritas Muslim.
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A. INTRODUCTION

Child marriage continues to be one of the most pressing social and legal issues in many Muslim-majority nations. Despite significant progress in educational access, healthcare, and legal reform, millions of children particularly girls are still married before reaching adulthood. This practice has serious implications for education, reproductive health, economic development, and gender equality. International organizations consistently identify child marriage as a violation of children's rights because it limits opportunities for personal development and increases the risk of poverty and domestic violence (UNICEF, 2023). Although many Muslim-majority countries have enacted legislation establishing a minimum age for marriage, legal exceptions, judicial dispensations, and deeply rooted cultural traditions continue to undermine the effectiveness of these reforms.

Within Islamic legal discourse, the issue of child marriage remains a subject of considerable debate. Classical jurists generally associated marriage eligibility with the attainment of puberty (bulūgh), reflecting the social and historical conditions in which Islamic jurisprudence evolved. However, contemporary Muslim societies face significantly different realities characterized by extended educational periods, changing family structures, urbanization, and increasing awareness of children's rights. These developments require Islamic legal interpretation to remain responsive to changing

Reforming Islamic Family . . .

Istikhroh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin

circumstances while preserving the fundamental values of the Sharī'ah. Such adaptability has long been recognized within Islamic jurisprudence through the principles of *ijtihād* and legal reform (Kamali, 2008).

One of the most influential approaches to contemporary Islamic legal reform is the application of *maqāṣid al-sharī'ah*, which emphasizes the higher objectives of Islamic law rather than a purely literal reading of legal texts. According to this perspective, Islamic law seeks to realize justice, mercy, public welfare (*maṣlaḥah*), and the prevention of harm (*mafsadah*). The protection of religion, life, intellect, lineage, and property constitutes the essential objectives of the Sharī'ah. Consequently, legal regulations concerning marriage should not merely satisfy formal legal requirements but should also ensure that marriage contributes positively to individual and social well-being (Auda, 2008).

Existing scholarship has extensively examined child marriage from legal, sociological, and human rights perspectives. Several studies discuss the compatibility between Islamic law and international human rights norms, while others focus on legislative reforms implemented by Muslim-majority countries. Nevertheless, much of this literature remains fragmented. Many studies emphasize statutory amendments without adequately exploring the philosophical foundations of Islamic legal reform, whereas others focus primarily on theological debates without offering practical frameworks for legal implementation. Consequently, there remains a significant need for research that systematically integrates *maqāṣid al-sharī'ah* into the discourse on Islamic family law reform (Mir-Hosseini, 2000).

The diversity of family law systems across Muslim-majority countries further illustrates that Islamic law possesses considerable flexibility in responding to changing social realities. Indonesia, Morocco, Tunisia, Malaysia, and several other countries have adopted different legal mechanisms regarding minimum marriage age, judicial authorization, and child protection policies. These variations demonstrate that Islamic family law is neither static nor uniform but has continuously evolved through legislative interpretation and contextual *ijtihād*. Such legal diversity provides valuable evidence that reforming family law in accordance with contemporary social needs remains consistent with the dynamic tradition of Islamic jurisprudence (Esposito & DeLong-Bas, 2001).

Reforming Islamic Family . . .

Istikhroh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin

A maqāṣid-based approach offers a comprehensive normative framework for addressing child marriage because it prioritizes the realization of justice and the protection of vulnerable members of society. Preventing child marriage contributes directly to safeguarding children's physical health, psychological well-being, educational opportunities, and future economic independence. Therefore, increasing the legal minimum age for marriage should not be viewed as contradicting Islamic teachings but rather as an effort to actualize the higher objectives of Islamic law in contemporary society. Through this perspective, legal reform becomes an authentic expression of Islamic values rather than merely an adaptation to international legal standards (Bin Bayyah, 2008).

Moreover, the relationship between Islamic family law and international human rights should not necessarily be understood as one of conflict. Numerous principles underlying contemporary child protection, including human dignity, equality before the law, justice, and the prevention of exploitation, are also deeply embedded within the ethical foundations of Islam. The maqāṣid framework therefore provides an important bridge for harmonizing Islamic jurisprudence with international legal instruments while maintaining the religious legitimacy of legal reform in Muslim-majority societies (Baderin, 2003).

The novelty of this study lies in its effort to position *maqāṣid al-sharī'ah* as the principal analytical and normative framework for reconstructing Islamic family law concerning child marriage. Unlike previous studies that generally focus on legal amendments or theological debates separately, this research integrates classical Islamic jurisprudence, contemporary maqāṣid theory, comparative family law, and child protection principles into a unified analytical framework. This interdisciplinary perspective is expected to enrich current discussions on Islamic legal reform while offering practical recommendations for policymakers in Muslim-majority countries.

Accordingly, this study aims to analyze how a maqāṣid-based approach can contribute to the reform of Islamic family law in addressing child marriage. It further seeks to examine the relevance of the higher objectives of Islamic law in strengthening child protection, promoting gender justice, and developing family law policies that are responsive to contemporary social challenges. Ultimately, this research aspires to

contribute both to the advancement of Islamic legal scholarship and to the formulation of more effective and equitable family law reforms in Muslim-majority nations.

Theoretical Study

1. Concept of Child Marriage

Child marriage refers to a marital union in which one or both parties are below the age of eighteen years. This definition is widely accepted in international legal instruments and human rights discourse because individuals under eighteen are considered children who have not yet attained full physical, psychological, and social maturity. Child marriage is not merely a legal issue but also a multidimensional phenomenon involving cultural traditions, religious interpretations, economic conditions, gender inequality, and educational disparities. In many Muslim-majority countries, child marriage remains a persistent challenge despite ongoing legal reforms because customary practices often exert stronger influence than statutory regulations (UNICEF, 2023).

From the perspective of Islamic jurisprudence, classical scholars generally discussed marriage in relation to the concepts of puberty (*bulūgh*) and legal competence (*ahliyyah*) rather than chronological age. Consequently, many classical legal opinions permitted marriage before adulthood under certain conditions, although consummation was expected only when physical maturity had been attained. Contemporary Muslim scholars, however, increasingly argue that these classical rulings reflected historical social contexts and should not be applied without considering present-day realities. They emphasize that the objectives of Islamic law require protecting children from physical, psychological, and social harm, thereby supporting the establishment of a higher minimum marriage age through state legislation (Kamali, 2019).

2. Maqasid al-Sharia as a Framework for Islamic Legal Reform

Maqasid al-Sharia refers to the higher objectives and ultimate purposes intended by Islamic law in promoting human welfare (*maṣlaḥah*) and preventing harm (*mafsadah*). Classical scholars such as al-Ghazali and al-Shatibi explained that Islamic law seeks to preserve five essential values: religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). These

Reforming Islamic Family . . .

Istikharoh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin

objectives serve as guiding principles for interpreting Islamic legal texts in response to changing social circumstances rather than limiting legal reasoning to literal interpretations alone (Auda, 2008).

Modern scholars have further expanded the maqasid framework by incorporating broader dimensions of justice, human dignity, freedom, equality, and sustainable social development. Jasser Auda's systems approach emphasizes that Islamic law should be understood dynamically through interconnected objectives instead of isolated legal rulings. This perspective enables Muslim-majority nations to reform family law while remaining faithful to Islamic principles. Therefore, maqasid provides an appropriate theoretical foundation for evaluating whether child marriage fulfills or contradicts the broader ethical goals of Islamic law in contemporary society (Auda, 2008).

3. Child Marriage from the Perspective of Maqasid al-Sharia

Applying the maqasid framework demonstrates that child marriage frequently conflicts with several essential objectives of Islamic law. Early marriage exposes young girls to increased maternal mortality, reproductive health complications, interrupted education, economic vulnerability, and psychological distress. These consequences threaten the preservation of life, intellect, and future family welfare. Consequently, legal measures designed to delay marriage until adulthood can be interpreted as fulfilling rather than contradicting Islamic legal objectives because they minimize harm while maximizing public benefit (Dusuki & Bouheraoua, 2011).

The principle of *hifẓ al-nasl* also supports ensuring that marriage occurs when individuals possess sufficient emotional, intellectual, and economic maturity to establish stable families. Rather than viewing marriage solely as a contractual relationship, maqasid-oriented scholarship considers the quality and sustainability of family life as central concerns of Islamic law. Accordingly, raising the minimum marriage age represents a preventive legal strategy (*sadd al-dharā'i*) intended to safeguard future generations and strengthen family institutions within Muslim societies.

4. Reform of Islamic Family Law in Muslim-Majority Countries

Islamic family law has undergone substantial reform across numerous Muslim-majority countries during the past century. These reforms generally seek to harmonize Islamic legal principles with constitutional values, international human rights standards, and contemporary social realities. Countries such as Morocco, Tunisia, Indonesia, and Malaysia have introduced regulations concerning minimum marriage age, judicial supervision of marriage, women's rights, and child protection. Although the legal mechanisms differ, many reforms are justified through *maqasid*-based reasoning that prioritizes justice, welfare, and social stability over rigid adherence to historical legal opinions (Welchman, 2007).

The reform process demonstrates that Islamic law possesses inherent flexibility through the principles of *ijtihad*, public interest (*maṣlaḥah*), and *maqasid*. Rather than abandoning Islamic tradition, legal reform seeks to preserve its enduring ethical objectives while responding to modern societal challenges. Therefore, the contemporary movement to address child marriage represents an evolution of Islamic legal thought aimed at realizing the comprehensive objectives of Sharia within present-day contexts.

5. Conceptual Framework

This study employs *Maqasid al-Sharia* as the primary analytical framework to examine the reform of Islamic family law concerning child marriage in Muslim-majority nations. The research assumes that legal reform should not be assessed solely through textual interpretations of classical jurisprudence but also through the realization of the higher objectives of Islamic law. The analysis focuses on how reforms regarding minimum marriage age contribute to protecting life, intellect, lineage, education, health, and human dignity while strengthening family resilience and promoting social justice. Consequently, the *maqasid* approach offers a comprehensive theoretical basis for evaluating whether contemporary legal reforms effectively achieve the ultimate purposes of Islamic law in addressing child marriage.

B. RESEARCH METHOD

This study employs a qualitative research design using a library research approach to examine the reform of Islamic family law from the perspective of *Maqāṣid al-Sharī'ah* in addressing child marriage in Muslim-majority nations. Library research is appropriate because this study emphasizes the analysis of normative legal texts, classical Islamic jurisprudence, statutory regulations, and contemporary academic literature concerning child marriage and family law reform (Creswell, 2018). The research seeks to integrate the normative principles of Islamic law with the objectives of *Maqāṣid al-Sharī'ah* in responding to contemporary legal and social challenges (Auda, 2008).

The primary sources include the Qur'an, Hadith, classical works on *Maqāṣid al-Sharī'ah*, national family law regulations from selected Muslim-majority countries, and international legal instruments concerning children's and women's rights (Kamali, 2008). Secondary sources consist of peer-reviewed journal articles, books, legal commentaries, policy reports, and previous studies discussing child marriage, Islamic legal reform, and maqāṣid-based legal reasoning (Merriam & Tisdell, 2016). Data were collected through documentation techniques by identifying, selecting, classifying, and reviewing relevant literature according to the research objectives (Bowen, 2009).

The data were analyzed using qualitative content analysis combined with a normative-juridical approach. The analytical process consisted of data reduction, categorization, interpretation, and conclusion drawing to evaluate the compatibility between existing family law regulations and the five essential objectives of *Maqāṣid al-Sharī'ah*: protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) (Krippendorff, 2019; Al-Shatibi, 2003). The findings were interpreted critically by comparing classical juristic opinions with contemporary legal reforms to formulate recommendations for a more child-centered and maqāṣid-oriented framework of Islamic family law (Nyazee, 2000).

C. RESULTS AND DISCUSSION

Child marriage remains one of the most persistent legal and social challenges in many Muslim-majority nations despite continuous efforts to reform family law. Although several countries have introduced higher minimum marriage ages and stricter judicial

procedures, implementation often encounters resistance rooted in traditional interpretations of Islamic jurisprudence and socio-cultural customs. Consequently, legal reform cannot rely solely on statutory amendments but must also address the theological foundations that shape public understanding of marriage and family life (UNICEF, 2023; Ali, 2015).

From the perspective of *Maqāṣid al-Sharī'ah*, marriage is intended to realize human welfare (*maṣlaḥah*) and prevent harm (*mafsadah*). The objectives of Islamic law emphasize that every legal ruling should preserve essential human interests, including religion, life, intellect, lineage, and property. Child marriage frequently undermines these objectives because it exposes children to physical health risks, educational discontinuity, psychological distress, and economic vulnerability. Therefore, preventing child marriage is consistent with the broader objectives of Islamic law rather than contradicting Islamic teachings (Auda, 2008).

The principle of *ḥifẓ al-nafs* (protection of life) provides a strong normative basis for restricting child marriage. Medical evidence consistently demonstrates that adolescent pregnancies carry significantly higher risks of maternal mortality, infant mortality, obstetric complications, and long-term reproductive health problems. These realities indicate that permitting marriage before physical and psychological maturity may conflict with the Islamic obligation to protect human life and dignity. Consequently, family law reform that establishes a higher minimum marriage age reflects the practical realization of this maqāṣid principle (World Health Organization, 2022).

Equally important is *ḥifẓ al-'aql* (protection of intellect), which emphasizes the importance of education and intellectual development. Early marriage frequently results in school dropout, reduced educational attainment, and limited opportunities for personal growth, particularly among girls. Islam encourages the pursuit of knowledge throughout one's lifetime, making education an essential component of human development. Accordingly, delaying marriage until educational maturity has been achieved aligns with both educational objectives and Islamic legal philosophy (Kamali, 2008).

The objective of *ḥifẓ al-nasl* (protection of lineage) extends beyond preserving biological descent to ensuring the welfare of future generations. Healthy families require emotional maturity, economic preparedness, and responsible parenting. Couples who

Reforming Islamic Family . . .

Istikhroh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin

marry as children often face greater risks of domestic violence, marital instability, and inadequate childcare, thereby affecting the quality of future generations. Within the maqāṣid framework, strengthening family readiness before marriage constitutes a legitimate legal objective that supports sustainable family development (Al-Shatibi, 2003).

Comparative legal developments demonstrate that numerous Muslim-majority countries have gradually incorporated maqāṣid-oriented reasoning into family law reforms. Countries such as Morocco, Tunisia, Indonesia, and Egypt have revised marriage regulations by increasing the minimum marriage age, strengthening judicial oversight, or limiting exceptions for underage marriage. These reforms illustrate that Islamic law possesses sufficient flexibility to respond to changing social realities without abandoning its fundamental religious principles. Instead, legal reform represents an exercise of *ijtihād* aimed at achieving greater public welfare (*maṣlaḥah*) (Esposito & DeLong-Bas, 2001).

Nevertheless, legal reform alone cannot eliminate child marriage if social norms remain unchanged. Poverty, gender inequality, limited educational access, and cultural traditions continue to encourage early marriage in many communities. Therefore, a maqāṣid-based approach should be implemented through multidisciplinary collaboration involving religious scholars, educators, policymakers, civil society organizations, and healthcare professionals. Such cooperation enables religious values and public policy to reinforce one another in protecting children's rights and welfare (UNFPA, 2022).

The findings further indicate that contemporary maqāṣid scholarship encourages contextual interpretation rather than literal application of classical legal opinions. Scholars such as Jasser Auda argue that Islamic law should be understood as a dynamic legal system oriented toward justice, compassion, and public welfare. This perspective allows Muslim societies to reinterpret legal provisions concerning marriage according to present-day scientific knowledge and social realities while maintaining fidelity to the Qur'an and Sunnah. Such interpretive flexibility strengthens the legitimacy of family law reform within Islamic legal discourse (Auda, 2008).

Overall, this study demonstrates that reforming Islamic family law through the framework of *Maqāṣid al-Sharī'ah* provides a comprehensive and theologically grounded strategy for addressing child marriage. The protection of life, intellect, lineage, and human

Reforming Islamic Family . . .

Istikhroh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin

dignity collectively supports the establishment of legal standards that prioritize children's best interests. Consequently, maqāṣid-based legal reform should be viewed not as a departure from Islamic tradition but as a continuation of Islam's fundamental mission to realize justice, mercy, and social welfare in contemporary Muslim societies (Kamali, 2008; Al-Raysuni, 2005).

D. CONCLUSION

This study concludes that reforming Islamic family law through the framework of *Maqāṣid al-Sharī'ah* provides a comprehensive and legitimate Islamic approach to addressing child marriage in Muslim-majority nations. The principles of protecting life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), religion (*ḥifẓ al-dīn*), and property (*ḥifẓ al-māl*) collectively establish a strong normative foundation for developing family law policies that prioritize the welfare, dignity, and rights of children. The findings demonstrate that increasing the minimum legal age of marriage, limiting judicial exceptions, and strengthening child protection mechanisms are consistent with the objectives of Islamic law. Therefore, maqāṣid-based legal reform should be understood as a contemporary form of *ijtihād* that seeks to achieve justice, public welfare, and sustainable family development while remaining faithful to the fundamental values of Islam.

To enhance the effectiveness of these reforms, governments, religious scholars, educational institutions, and civil society organizations should work collaboratively to promote greater public awareness of the objectives of Islamic law concerning marriage and child protection. Legal reform should be accompanied by accessible education, economic empowerment programs for vulnerable families, and comprehensive reproductive health services for adolescents. Future studies are encouraged to employ empirical and comparative approaches to evaluate the implementation of maqāṣid-based family law reforms across different Muslim-majority countries and to examine their long-term impact on reducing child marriage, strengthening family resilience, and advancing social justice.

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Reforming Islamic Family . . .

Istikhharoh, Abdullah Ridlo, Masruri, Nani Kurniasih, A. Adibudin Al Halim,
Achmad Machrus Muttaqin