
Constitutional Ijtihad and the Reform of Islamic Family Law: A Comparative Analysis of Indonesia and Egypt in Advancing SDG 16

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Abstract

Objective: This study aims to analyze the role of constitutional ijtihad in transforming Islamic family law in Indonesia and Egypt within the framework of national legislation, focusing on its contribution to the achievement of Sustainable Development Goal (SDG) 16, which promotes peace, justice, and strong institutions. **Theoretical framework:** The theoretical framework of this research is based on the concept of constitutional ijtihad that integrates Islamic norms with contemporary social standards and human rights, as well as comparative legal theory as an analytical instrument in the development of a just and inclusive legal system. **Literature review:** The literature review includes a review of Islamic family law reforms in Indonesia and Egypt which include aspects such as the determination of the minimum age of marriage, the obligation to register marriage, the regulation of polygamy, the unilateral restriction of *ṭalāq* by the husband, the recognition of *khulu'* as a form of divorce by the wife, the legal status of children born during the *'iddah* period, and the renewal of inheritance law through the application of the concept of *waṣiyyah wājibah*. **Methods:** This study uses a comparative legal approach to identify similarities and differences in Islamic family law reform in the two countries, taking into account the framework of legal traditions, political contexts, and various interpretations of applicable *fiqh*. **Results:** The results show that both Indonesia and Egypt have made progressive adjustments to Islamic family law to improve legal certainty, gender equality, and social justice, albeit through different legal traditions, political dynamics, and sharia interpretations. **Implications:** The legal transformation in both countries demonstrates a targeted strategy to build an inclusive and equitable legal system, in line with SDG 16, and has the potential to become a model for Muslim-majority countries. **Novelty:** Presents a comparative analysis of the application of constitutional ijtihad in Islamic family law reform in two countries with different legal and political traditions, which are directly linked to the achievement of SDG 16.

Keywords: constitutional ijtihad, transforming islamic family law, sustainable development goal 16, comparative study, indonesia and egypt.

INTRODUCTION

Family law issues remain a compelling topic of discussion both in the educational sphere and in legislative politics, as these issues have significant implications for everyday life. Islamic law is a legal system designed for the benefit of human life. Islamic law, or sharia, has been the main foundation of the legal structure in many Muslim-majority countries for centuries [1]. Changes continuously occur in the legal order of sovereign states. Every legal change inevitably brings considerable impact on society as the subject of the law, especially when the legal rules are enacted into laws that apply in the respective country. In this context, several Middle Eastern and Asian countries have adopted different approaches in integrating Sharia principles into their national legal systems, ranging from conservative implementation to more secular and adaptive approaches [2].

There are three forms of implementing Islamic law: first, through state intervention, by formalizing Islamic law into national legislation; second, by transforming Islamic legal values into the state's regulatory framework without formal symbolic codification; and third, by separating religious affairs from state structures, making the implementation of Islamic law more of an individual matter [3]. The transformation of Islamic family law represents a constitutional *ijtihad* as an effort of legal positivization. In the contemporary context, *ijtihad* is carried out not only individually but also developed collectively through official institutions. *Ijtihad* remains a normative guideline that may be followed or set aside, which naturally invites controversy. The controversy of constitutional *ijtihad* in the transformation of Islamic family law reflects the tension between the ideals of classical sharia and the demands of modern constitutionalism. However, once positivized into law, it becomes obligatory to implement [4].

The transformation of Islamic family law within modern legislative systems has occurred in various Muslim countries, including Egypt and Indonesia. Both countries have a long history of applying Islamic law, yet they have undergone different developments in adapting Islamic family law into their respective national legal systems [5]. In Indonesia, Islamic family law is explicitly regulated by Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (Kompilasi Hukum Islam/ KHI), both of which serve as the formal legal foundation for Muslims. Meanwhile, in Arab countries such as Egypt, Islamic family law is regulated in the form of *Qanun al-Ahwal al-Shakhsiyyah*, which has continually undergone reforms to adapt to social developments and gender-related demands. Although there are differences in wording and juridical approaches, both seek to interpret the principles of Sharia within the context of a modern state. This transformation involves not only the textual adaptation of classical *fiqh* books but also reinterpretation and reformulation to meet the needs of modern society. Egypt, as one of the centers of Islamic civilization in the Middle East, has experienced the modernization of Islamic family law since the 19th century, while Indonesia, with the largest Muslim population in the world, developed a unique Islamic family law system through the Compilation of Islamic Law (KHI) [6].

Regulatory changes in family legislation reflect the state's efforts to harmonize national law with the values of social justice and the protection of children's rights within the framework of the Sustainable Development Goals (SDGs). SDG 16 specifically emphasizes the importance of fostering peaceful and inclusive societies and ensuring access to justice for all. The Sustainable Development Goals (SDGs) were declared on September 25, 2015, at the United Nations Headquarters in New York by 193 countries as a commitment to the Global Development Agenda [7].

Significance. This research holds significant scholarly and practical value as it provides an in-depth comparative understanding of how constitutional *ijtihad* operates within two distinct legal and political contexts—Indonesia and Egypt. Both countries share a common Islamic legal heritage but diverge in their legislative processes, judicial structures, and socio-political dynamics. By analyzing these differences, the study enriches the discourse

on Islamic family law reform, particularly in the context of constitutionalism and human rights. Moreover, this research addresses the broader debate on how Islamic legal principles can be harmonized with contemporary governance frameworks, international human rights norms, and the global development agenda. It also offers valuable insights for policymakers, scholars, and legal practitioners seeking to advance inclusive legal systems in Muslim-majority countries, making it relevant beyond the two jurisdictions under study [8].

The findings have several practical and theoretical implications. From a policy perspective, they illustrate that legal reform grounded in constitutional *ijtihad* can be a powerful instrument to reconcile classical sharia principles with modern constitutional values, particularly in promoting justice, equality, and institutional integrity. The study underscores that such reform is not merely a matter of legal drafting but requires political will, institutional capacity, and societal acceptance. For Indonesia, the results suggest that continued refinement of the Compilation of Islamic Law, supported by judicial activism, can further strengthen gender equality and legal certainty. For Egypt, the research highlights the importance of maintaining reform momentum within the *Qanun al-Ahwal al-Shakhsiyyah* while balancing traditional interpretations with evolving social needs. Internationally, the study offers a comparative model that other Muslim-majority states can adapt to their contexts, contributing to the realization of SDG 16. Theoretically, it reaffirms the dynamic nature of *ijtihad* as a tool for legal adaptation and its compatibility with global justice objectives [9].

The novelty of this research lies in its integrated comparative framework that explicitly links the reform of Islamic family law through constitutional *ijtihad* to the achievement of SDG 16. While previous studies have explored family law reform in either Indonesia or Egypt separately, this study is the first to conduct a systematic comparative analysis grounded in both doctrinal legal study and global development objectives. It moves beyond descriptive accounts by connecting legislative transformation to measurable goals of peace, justice, and strong institutions. Furthermore, it conceptualizes constitutional *ijtihad* not only as a mechanism for legal reform but also as a strategic tool for aligning domestic laws with international commitments under the Sustainable Development Goals. This multidimensional approach—merging comparative law, Islamic jurisprudence, constitutional theory, and sustainable development—provides fresh perspectives for both academic research and practical legal reform agendas [10].

LITERATURE REVIEW

Several studies on the transformation of Islamic family law and related legal policies have made significant contributions to supporting the Sustainable Development Goals (SDGs) agenda, particularly in the aspects of justice and the resilience of family institutions. The study entitled *Legal Age for Marriage: SDGs and Maslahah Perspectives in Legal Policy Change in Indonesia* discusses the transformation of the minimum legal age for marriage as a form of harmonizing *maslahah* values with the goals of sustainable development, emphasizing the importance of protecting the rights of children and women within the legal system. Furthermore, the study *Legal Governance in Marriage* highlights the role of legal regulations, particularly Law No. 16 of 2019, in strengthening family resilience as part of efforts to achieve SDG 16, which emphasizes justice and inclusive institutions [11].

At the international level, a study on the dynamics of Islamic family legislation in Egypt through the topic of *wasiat wajibah* demonstrates efforts to adapt Islamic law to modern social needs in the context of family protection. Another study, titled *Comparative Analysis of the Minimum Marriage Age in Egypt and Indonesia*, critically examines the differences and similarities in the regulation of the minimum legal age for marriage in Indonesia and Egypt from the perspective of Islamic law and

national legislation, which represents a harmonization between the principle of *maslahah* in sharia and the commitment to child protection. This study highlights how both countries strive to reconcile Sharia norms with the demands of modernity and the protection of human rights in the issue of child marriage [12].

These three studies contribute significantly to understanding the dynamics of family law regulation in both Indonesia and Egypt, as well as their relationship with the principles of justice and sustainability as mandated in the SDGs. However, these studies tend to be partial and focused on specific aspects (such as age of marriage, inheritance, and legal governance), without comprehensively examining how the transformation of Islamic family law has developed structurally within the national legal systems of both countries [13].

There is a gap in comparative studies that directly and systematically analyze the transformation of Islamic family law between Indonesia and Egypt, particularly from the perspective of achieving Sustainable Development Goal 16 on peace, justice, and strong institutions. This research seeks to fill that gap by examining how these two Muslim-majority countries respond to the challenges of modernity through family law reforms based on Islamic values, and to what extent these reforms contribute to the achievement of inclusive social and legal justice. The novelty of this research lies in its systematic comparative study between Indonesia and Egypt in transforming Islamic family law towards achieving SDG 16. It does not focus only on a specific issue, such as the minimum legal age for marriage, but also comprehensively examines the transformation of laws related to the age of marriage, marriage registration, polygamy, restrictions on divorce by the husband, divorce petitions by the wife, the legal status of children, and inheritance (*wasiat wajibah*) [14].

The reason for researching the transformation of family law in Egypt is that the four authors have an educational background at Al-Azhar University, Egypt, which is known as one of the authoritative centers for the study of classical and contemporary Islamic law. This academic experience provides a direct perspective on the dynamics of Islamic family law in Egypt, both from its normative aspects and its social practices. Therefore, the study entitled *Constitutional Ijtihad in the Transformation of Islamic Family Law in Legislation Toward Achieving SDG 16 (Comparative Study of Indonesia and Egypt)*.

METHODOLOGY

This research employs a normative juridical method combined with a comparative law approach. The normative juridical method is primarily concerned with the study of law as it is written in legal instruments, focusing on the identification, interpretation, and analysis of applicable norms. In essence, this approach doctrinally examines the law, emphasizing authoritative sources such as statutes, court decisions, and constitutional provisions. The comparative law approach is adopted to systematically compare legal systems, identifying both similarities and differences. Comparative legal research, in its most basic form, addresses the question of what the law is within specific jurisdictions. In this study, the comparison focuses on Egypt and Indonesia—two countries that share Islamic legal heritage but operate within distinct constitutional and legislative frameworks. The purpose is to assess how each country has transformed Islamic family law through constitutional *ijtihad*, and how these transformations align with the objectives of Sustainable Development Goal (SDG) 16, which emphasizes justice, peace, and strong institutions [15].

Data Sources. The research relies on two categories of legal materials:

Primary Legal Materials. These include constitutions, statutory provisions, codifications of family law, and authoritative court decisions from both Egypt and Indonesia. Such sources are examined to understand the formal legislative structure, the scope of constitutional interpretation, and the substantive reforms undertaken in family law.

Secondary Legal Materials. These comprise academic books, peer-reviewed journal articles, official governmental and institutional reports, and previous research findings relevant to Islamic family law, constitutional reform, and SDG 16. These materials provide interpretative insights and contextual understanding to supplement the primary sources.

Data Collection and Analysis. Data collection was conducted through comprehensive library research, including both online and offline databases. Relevant statutes and judicial decisions were obtained from official legal repositories in Indonesia and Egypt. Scholarly literature was gathered from reputable academic publishers, university libraries, and recognized online academic databases. The analysis uses qualitative content analysis, a technique that involves systematically identifying, categorizing, and interpreting legal norms and principles within the collected materials. This includes examining legislative texts to identify provisions reflecting constitutional *ijtihad*, evaluating judicial interpretations, and assessing their alignment with SDG 16 indicators such as access to justice, legal certainty, and institutional integrity [15].

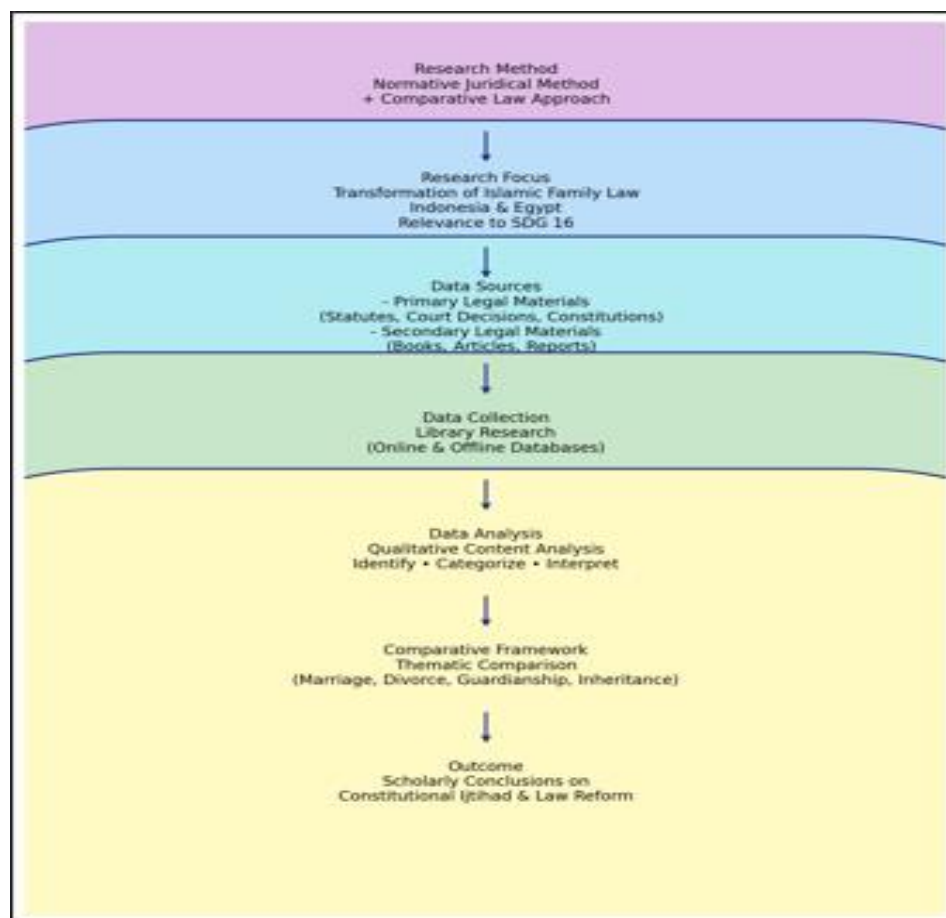


Figure 1. Research Methodology

Comparative Framework. The comparison is conducted thematically, focusing on key dimensions of Islamic family law reform, including marriage, divorce, guardianship, and inheritance. The thematic analysis is coupled with an evaluation of constitutional principles influencing these reforms. By adopting this structured comparison, the study aims to highlight how different legal and political contexts shape the adaptation of Islamic law, and how these adaptations contribute to the development of strong and just institutions in line with global development goals. Through this methodological design, the research ensures a systematic, comprehensive, and objective analysis, enabling the formulation of scholarly conclusions on the constitutional and legislative transformation of Islamic family law in Indonesia and Egypt [16].

RESULTS AND DISCUSSION

Constitutional Ijtihad for the Transformation of Islamic Family Law in Legislation Toward Achieving SDG 16

The transformation of Islamic family law in national legislation represents a form of constitutional ijtihad. Ijtihad refers to the exertion of utmost effort to produce legal rulings based on conclusions drawn from the Qur'an and Sunnah. This endeavor accommodates the values of Sharia while ensuring inclusive access to justice, protection for vulnerable groups, and the strengthening of legal institutions. Countries with Muslim-majority populations, such as Indonesia and Egypt, have demonstrated that constitutional ijtihad can serve as a means of harmonizing religious norms with international legal standards, in line with the mandates of SDG 16. In practice, the implementation of constitutional ijtihad in Islamic family law also faces several challenges, including cultural resistance, limited institutional capacity, and tensions between religious authorities and the state. Nevertheless, ijtihad remains valid even in the presence of differing ijtihad opinions [17].

Law functions as a means of social control, social engineering, and social welfare. It is expected to serve as an “agent of change” or *alat at-taghyir*—a tool of transformation, a determinant, a shaper, and a pioneer in guiding social interactions and behavior. This ideal role of law can be realized when it first assumes its position as a means of social engineering and social control. Before a law can be applied within a region or country, it must first be formalized as positive law in the sense of *legis*, *legality*, and *qanuniyah*. In Islamic legal terminology (fiqh), this process is referred to as *taqnin* [18]. Some scholars of fiqh define *taqnin* as the authoritative codification of a set of laws by the governing authority, which possesses binding power to regulate life, relationships, and conduct among people in society [19].

One manifestation of legal formalization is found in the context of Islamic Family Law. To date, many Muslim-majority countries have codified Islamic family law into national legislation governing matters related to the family life of Muslims. However, this development remains controversial, often reflecting tensions between classical Sharia values and the demands of modernity [20].

The Transformation of Islamic Family Law in Indonesia and Egypt: A Comparative Study

The History and Main Characteristics of Islamic Family Law in Indonesia

Indonesia has a unique history in the development of Islamic family law. As the country with the largest Muslim population in the world, Indonesia integrates Islamic law into its national legal system through various legislative regulations. The transformation of Islamic family law in Indonesia can be divided into several phases: the colonial period, the post-independence period, and the reform era. Each phase reflects a different adaptation to societal needs and political developments [21].

Islamic family law formalized in the Compilation of Islamic Law (KHI), which was enacted through Presidential Instruction No. 1 of 1991, represents a significant milestone in the transformation of Islamic family law in Indonesia. The KHI covers three main areas: marriage, inheritance, and endowments (waqf) [22].

Methodology of KHI Compilation

The Compilation of Islamic Law (KHI) was developed through a comprehensive methodology that integrates classical fiqh sources, fatwas issued by Indonesian scholars, and existing decisions of religious courts [23].

References to Various Fiqh Schools

The KHI draws upon a range of fiqh texts, primarily from the dominant Shafi'i school, but also includes references from the Hanafi, Maliki, Hanbali, Zahirī, and other schools. The aim is to build consensus and minimize inter-school differences within the Indonesian context [24].

Pluralistic Character of KHI

The KHI reflects the pluralistic nature of Indonesian society by accommodating various madhhab opinions and local Islamic legal traditions [25]. Not a Final Product, but Open to Refinement. As a result of collective ijtihad, the KHI is not a final or closed product; it remains open to revision and improvement in response to changing times and contexts [26].

The History and Main Characteristics of Islamic Family Law in Egypt

The history of family law reform in Egypt began with the enactment of Law No. 25 of 1920, which regulated alimony and divorce, followed by Law No. 25 of 1929, which expanded women's rights to initiate divorce. These codifications marked a shift from the traditional fiqh-based legal system to a more structured state legal framework. The reforms were influenced by legal modernization efforts in Turkey and the need to adapt Islamic law to changing social realities [27].

Contemporary transformation has continued, especially after the 2011 revolution. The new 2014 Constitution affirms the principle of gender equality, and courts have increasingly applied the principle of “the best interests of the child” in custody cases. However, resistance from conservative groups and ongoing tensions between state law and religious norms persist. Overall, the transformation of family law in Egypt reflects a complex effort to balance Islamic tradition with the demands of modernity. Although significant progress has been made in terms of women's rights and legal structures, the reform process continues to face various social and political challenges. Further studies are needed to understand the long-term impact of these reforms on Egyptian society. The family law system in Egypt is governed by the *Qanun al-Ahwal al-Shakhsiyyah* (Personal Status Law) [28].

Islamic Family Law in Egypt has several key characteristics:

- a. Sources of Law. Egypt adopts the Hanafi school as its official madhhab; however, in practice, it also incorporates opinions from other schools of thought (talfiq) when deemed necessary for public interest (maslahah).
- b. Minimum Age of Marriage. Egypt sets a relatively high minimum age for marriage compared to classical fiqh interpretations: 18 years for males and 16 years for females.
- c. Marriage Registration. Marriage registration is legally required, and unregistered marriages are not recognized as legally valid within the Egyptian judicial system.
- d. Women's Rights. Family law reforms in Egypt place special emphasis on enhancing women's rights within marriage, including the right to stipulate specific conditions in the marriage contract [29].

Transformation of Islamic Family Law in Legislation Toward Achieving SDG 16: Comparative Study of Indonesia and Egypt

The transformation of Islamic family law in the contemporary era shows an interesting dynamic between the preservation of classical sharia values and adaptation to the demands of modernization. Indonesia and Egypt, as two Muslim countries with strong traditions of Islamic jurisprudence, have undergone a significant process of

transformation. Here are five main aspects of this transformation to provide a comprehensive picture of the development of contemporary Islamic family law.

Age Limit for Marriage

Indonesia experienced a fundamental transformation with the enactment of Law No. 16 of 2019, which changed the minimum age for marriage from 16 years to 19 years for women, equalizing it with men. This change is a response to the high rate of child marriage and aims to protect children's rights and improve the quality of future generations. The Supreme Court, through SEMA No. 1 of 2020, also tightened the criteria for marriage dispensation, requiring more comprehensive consideration of physical, psychological, and economic readiness. This transformation reflects Indonesia's commitment to integrating child protection with Islamic values that emphasize welfare [30].

Egypt maintains an age limit of 18 years of marriage for men and women as set up in Law No. 143 of 1994. However, there is intensive discussion among Al-Azhar scholars about the possibility of reviewing this regulation to accommodate contemporary social realities. The fundamental difference lies in the implementation approach. Egypt places more emphasis on strengthening administrative mechanisms and socialization, while Indonesia takes more progressive legislative steps

Table 1. Transformation of Islamic Family Law: Age Limit for Marriage

Aspect	Indonesia	Egypt
Minimum Age Limit	19 years old for men and women (Law No. 16 of 2019)	18 years for men and women (Law No. 143 of 1994)
Change Regulation	Transformation from the previous age limit (16 years for girls) to 19 years for equality	No major changes since it was introduced; remains at 18
Reason for Change	Reducing the number of child marriages, protecting children's rights, and improving the quality of the younger generation	Complying with international conventions and child protection, despite minimal legal changes
Approach	Legislative progressive: revision laws, restrictions, dispensation Regulation Supreme Court (PERMA) No. 05 of 2019)	Administrative: administrative enforcement and public education
The Role of Religious Institutions	The Court and the Ministry of Religion support the protection of children based on maqashid sharia.	Al-Azhar is actively discussing the relevance of age, but has not yet produced a revision of the law.
Character Transformation	Normative and structural transformation through legislation and justice	Discursive and social transformation through education and fatwas

In the context of constitutional *ijtihad*, Egypt and Indonesia demonstrate significant dynamics in responding to the issue of the legal minimum age of marriage as part of efforts to achieve Sustainable Development Goal (SDG) 16, particularly in terms of justice and legal protection for children. In Indonesia, the amendment of the legal minimum age of marriage for women from 16 to 19 years through the revision of the Marriage Law No. 1 of 1974 to Law No. 16 of 2019 reflects the state's commitment to curbing child marriage practices and strengthening legal protection. Meanwhile, Egypt, through the Child Protection Law No. 126 of 2008, sets the minimum age for marriage at 18 years, although in practice, legal and cultural loopholes still allow for underage marriages to occur. This comparison shows that although both countries have established progressive legal frameworks, the effectiveness of implementation and law enforcement remains the key to

ensuring that the transformation of Islamic family law truly supports the realization of just, inclusive, and responsive institutions as targeted in SDG 16 [31].

Marriage Registration

Marriage registration in Indonesia has undergone significant modernization through the SIMKAH (Marriage Management Information System) program launched in 2019. This digital system integrates marriage registration with population administration and provides real-time access to the public. Minister of Religious Affairs Regulation No. 20 of 2019 concerning Marriage Registration also strengthens the legal aspects of registration with stricter administrative sanctions for violations¹¹. This transformation reflects Indonesia's efforts to realize an orderly administration that is in line with the principle of *maslahah* in Islam [32].

Egypt has long made it mandatory to record marriage through Law No. 1 of 2000. The latest transformation includes the digitization of the registration system and integration with the national population database. The uniqueness of the Egyptian system lies in the active involvement of Al-Azhar in the process of verifying and validating marriages, ensuring compliance with Sharia provisions. This is different from Indonesia, which relies more on the role of the KUA and administrative supervision of the Ministry of Religious Affairs.

Table 2. Transformation of Islamic Family Law – Marriage Registration

Aspect	Indonesia	Egypt
Legal basis	Regulation of the Minister of Religion (PMA) No. 20 of 2019 concerning Marriage Registration	Law no. 1 of 2000
System Recording	Digitalization through SIMKAH (Marriage Management Information System) since 2019	Integrated digitalization with the national population database
Major Transformations	Modernization of manual systems to digital and real-time, integration with NIK and Dukcapil data	Strengthening the sharia verification system, as well as the digital integration of administration and law
The Role of Religious Institutions	KUA and the Ministry of Religion as the implementer and supervisor administrative	Al-Azhar plays an active role in the validation and verification of Sharia compliance in recording.
Character Transformation	Based on modern administration and information technology, in line with the <i>maqashid sharia</i> in terms of orderly marriage	Based on Sharia verification and administrative integration within the framework of religious and state authorities

Marriage registration ensures justice, legal certainty, and the establishment of inclusive institutions. This is closely aligned with efforts to achieve Sustainable Development Goal (SDG) 16. In Egypt, the obligation to register marriages is regulated by Law No. 1/2000 on Litigation Procedures in Personal Status Matters, which emphasizes the importance of an official marriage certificate as valid legal evidence to protect the rights of women and children. Meanwhile, in Indonesia, the obligation to register marriages is stipulated in Article 2(2) of the Marriage Law No. 1 of 1974, reinforced through digital innovations such as SIMKAH (Marriage Management Information System) to enhance accountability and public accessibility. Both countries demonstrate that marriage registration is not merely an administrative requirement but a vital instrument to ensure legal protection and support the goals of SDG 16, namely the creation of a peaceful and just society [33].

Polygamy Regulations

Indonesia maintains relatively strict regulation of polygamy through Law No. 1 of 1974 and the Compilation of Islamic Law. The latest transformation includes strengthening the polygamy permit procedure through Minister of Religious Affairs Regulation No. 19 of 2018, which tightens the requirements and application procedures [34].

Religious courts are given broader authority in assessing the appropriateness of polygamy, including economic aspects, justice, and the consent of the first wife. This approach reflects a progressive interpretation of the verses on polygamy that emphasize the principle of justice.

Egypt has undergone a more conservative transformation in regulating polygamy. Law No. 25 of 2019 strengthened the first wife's right to know and give consent to her husband's polygamous plans. A mandatory notification system was introduced, whereby a husband must officially notify his first wife before remarrying. While not prohibiting polygamy, this regulation provides better psychological and legal protection for women.

Table 3. Transformation of Islamic Family Law on Polygamy Regulations

Aspect	Indonesia	Egypt
Legal basis	Law No. 1 of 1974 Compilation of Islamic Law (KHI) Regulation of the Minister of Religion of the Republic of Indonesia Number 19 of 2018 Concerning Recording Marriage	Law No. 25 of 2019 Article 11A of Law No. 100 of 1985 [35]
Permission Polygamy	Must obtain permission from the Religious Court after fulfilling condition administrative and substantive	Mandatory notification to the first wife does not require court approval.
Condition Substantive	First wife's consent Financial capability Promise to act fairly (Articles 5 & 58 KHI)	The first wife has the right to refuse and sue for divorce if not officially informed.
Transformation Latest	PMA No. 19 of 2018 tightens the evaluation application of polygamy by the Religious Court with a comprehensive evaluation	Law 25/2019 strengthens women's rights by adding a mandatory notification system.
Purpose of Regulation	Maintaining justice, protecting women and children, and preventing the misuse of polygamy practices	Increasing transparency and legal protection for women in a conservative social framework
Legal Approach	Progressive-restrictive, emphasizing the principles of justice and protection through judicial mechanisms.	Conservative-protective, emphasizing women's rights to legal information and choices
The Role of Religious Institutions	Religious Court as examiner and supervisor, to ensure legitimate polygamy.	Al-Azhar plays a role in compiling Sharia guidelines, but implementation is administrative.

In Egypt, the restriction of polygamy is emphasized through the requirement to notify the first wife and the involvement of the court if the wife objects, as stipulated in Law No. 100/1985. This law upholds the wife's right to file for divorce if she does not consent to the practice of polygamy. In Indonesia, Law No. 1 of 1974 (Articles 4–9) and the Compilation of Islamic Law impose stricter regulations on polygamy by requiring valid reasons, financial capability, and the wife's consent, all of which must be assessed and approved by a religious court. Both legal systems demonstrate that the restriction of polygamy is not only intended to uphold the principle of *maslahah* (public interest) in Islamic law but also to protect the rights of women and children and to ensure substantive justice, in line with the goals of SDG 16 to strengthen fair and non-discriminatory legal systems [36].

Restrictions on Divorce by Husband

Indonesia developed a divorce restriction mechanism through mandatory mediation based on PERMA No. 1 of 2016. This transformation aims to reduce the divorce rate and strengthen the family institution. The Religious Court also developed jurisprudence that emphasized peace efforts and protection of the wife's rights in the divorce process. The concept of "responsible divorce" became a new paradigm in the Indonesian family justice system [37].

Egypt introduced a more comprehensive divorce restriction system through Law No. 25 of 2019. Husbands are required to undergo pre-divorce counseling and provide reasons acceptable to the court. A 60-day "cooling-off period" was introduced to provide an opportunity for reconciliation. This approach is more systematic than in Indonesia and reflects a serious effort to minimize unilateral divorce.

Table 4. Restrictions on Divorce by Husband in Islamic Family Law

Aspect	Indonesia	Egypt
Legal basis	PERMA No. 1 of 2016 concerning Procedure Mediation in Court [38] Law No. 7 of 1989 concerning Religious Courts	Law No. 25 of 2019 concerning the Protection Family
Restrictions Divorce	Divorce can only be done through the Religious Court for a valid reason Husband cannot unilaterally divorce in a direct way	The husband must submit written reasons that are accepted by the court. Cannot issue a divorce absolutely without a legal process.
Stages Procedural	Must go through mediation and efforts for peace based on PERMA 1/2016 Further process the administrative and judicial	Counseling divorce mandatory There is a cooling-off period of 60 days before the final decision
Role of Judges/ Courts	An active judge looks for reconciliation Jurisprudence strengthens the draft divorce responsible answer	The judge has the authority to reject the application for divorce if the reason is not enough or reconciliation is possible
Protection of Wife's Rights	Enforce the right maintenance, <i>mut'ah</i> , and place a stay set up in divorce proceedings in court.	The wife's rights are guaranteed before, during, and after divorce through court decisions and the legal aid system.

Approach Fiqh	Using Shafi'i fiqh with modern judicial <i>ijtihad</i>	Refers to Hanafi fiqh but is reinterpreted through modern family law reform.
Transformation Latest	The concept of “responsible divorce” emerged in family law practice and literature.	The existence of a system of prevention of divorce impulsive through institutional counseling and a cooling-off period

In Egypt, divorce (*talāq*) by the husband is still recognized as a right, but it is restricted through administrative requirements such as the obligation to officially register the divorce with the *ma'dhūn* (marriage registrar) and to notify the wife, as stipulated in Law No. 1/2000. These measures aim to prevent unilateral divorce without clear legal consequences and include mechanisms such as counseling and a cooling-off period to deter impulsive divorces. In Indonesia, the Marriage Law No. 1 of 1974 and the Compilation of Islamic Law further regulate that a husband may only pronounce *talāq* through a petition to the Religious Court, which examines the grounds for divorce and ensures the resolution of the rights of the wife and children. Both countries, normatively, seek to limit unilateral divorce to uphold justice and family stability, while also supporting the development of inclusive, transparent, and just judicial institutions as outlined in the goals of SDG 16 [39].

Sue For Divorce (Khulu' / Divorce on Request Wife)

Divorce is known as the wife's right to file for divorce from her husband through the Religious Court as set up in Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). Reasons for divorce that can be submitted wife include violence, neglect, continuous conflict, or violation of obligation husband. The Religious Court requires the existence of mediation; moreover, first assess whether the reason for divorce is strong enough for processed. In practice, divorce lawsuits in Indonesia are more Lots submitted by the wife, and the judicial approach is directed at protecting the rights of women, including the right to iddah maintenance, mut'ah, and the rights foster child. Procedure for sue divorce is formal and structured, reflecting the state's commitment to protecting the family in a way institutional [40].

Meanwhile in Egypt, the form of divorce on request wife is known with term khulu', that is, divorce filed wife with return of dowry (dowry to husband. Khulu' is arranged in Law no. 1 of 2000, and provides the right to a wife for divorce without having to prove that error husband, enough with the state that he cannot live harmoniously again. However, the wife must give up certain financial rights, such as mahr and mut'ah. The khulu' system in Egypt is an important innovation in Islamic family law because it provides a quicker way out for women, although it is still based on classical fiqh principles. However, khulu' must still be decided through the courts, and in some cases, the judge can encourage mediation before deciding on a divorce.

Table 5. Divorce Lawsuit (Khulu') Egypt and Indonesia

Aspect	Indonesia	Egypt
Term	Divorce suit (by wife)	Khulu'
Legal basis	Law No. 1 of 1974 Compilation of Islamic Law Articles 116–119	Law No. 1 of 2000
Wife's Rights	A wife can file for divorce if there are valid reasons: violence, disputes, neglect, etc.	A wife can ask for a divorce without any special reason, simply stating that she cannot live together.

Return of Dowry	Not mandatory return	Mandatory return of dowry to husband
Other Financial Rights	Still entitled to living iddah, mut'ah, and a place of stay if they fulfil the condition.	Lost mut'ah rights and maintenance, except on agreement or a judge's decision
Role of the Court	Mandatory through mediation and evidence-based reasons for divorce	It can be processed immediately if the wife declares khulu' and returns the dowry
Completion Time	Longer due to the proof and mediation process	Relatively faster if the condition khulu' filled
Purpose of Law	Protecting women in marriage and divorce proceedings	Giving the wife the right to leave the marriage without any reason is burdensome according to Sharia law.

Based on the above discussion, both legal systems reflect efforts to harmonize the principles of Sharia with the values of substantive justice and non-discrimination, which are essential in building a responsive and gender-just family law system. These efforts also support the realization of a peaceful and just society in line with the objectives of SDG 16.

Legal Status of Children: Children Born during the Iddah Period

Indonesia has undergone a progressive transformation in regulating the status of children through the Constitutional Court Decision No. 46/PUU-VIII/2010, which expanded the recognition of illegitimate children. In the context of children born during the iddah period, the Compilation of Islamic Law provides full recognition of the legal status of the child as a child of the previous husband if the birth occurs within a maximum of 180 days from the marriage or during the iddah period of divorce, by Article 99 of the Compilation of Islamic Law (KHI). This recognition is based on the principle of *lineage* in Shafi'i fiqh and is maintained to protect children's rights, including inheritance rights and legal identity. In addition, in the practice of religious courts, judges tend to decide the status of children inclusively by considering medical evidence such as DNA and expert testimony. This progressive approach is in line with the values of justice and welfare that are the basis for the transformation of Islamic family law in Indonesia [41].

In Egypt, the status of a child born during the iddah period is also recognized as a legitimate child of the ex-husband, as long as the birth occurs within a maximum of one year after the divorce or death of the husband, as explained in the Hanafi fiqh, which is the basis of the Egyptian family law system. Egyptian law does not explicitly mention the limits of the iddah period for establishing lineage, but the courts still adopt a classical approach with some flexibility, such as accepting scientific evidence and testimony to establish the father-child relationship (*nasab*). Although Egypt tends to be conservative, several judicial reforms and fatwas from Al-Azhar show an openness to adapt to modern medical conditions and the protection of children's rights.

Both sets of regulations reflect a harmonization between Sharia principles and the principles of child protection and substantive justice, supporting the development of a responsive, just, and inclusive family law system as mandated by SDG 16.

Inheritance Status: Wajibah Will

In the Islamic family law system in Egypt, the concept of wajibah will was formalized through the -Inheritance Law No. 71/1946 which was amended in 1985, giving special rights to orphan grandchildren (*dzawīl arḥam*) to receive inheritance through the wajibah will mechanism of a maximum of one-third of the testator's assets, to protect their rights that are hindered by classical fiqh. On the other hand, Indonesia adopted this concept

through the Compilation of Islamic Law (KHI) Article 209, but its application is focused on adopted children and adoptive parents, while grandchildren are included in the category of substitute heirs (*wilāyah*), not as recipients of *wajibah* wills [42]. Comparative studies show differences in the recipient objects (grandchildren in Egypt vs. adopted children in Indonesia), the method of distribution, and the legal basis. Egypt prioritizes legal reform based on *ijtihād* and *rechtsvinding*, while Indonesia emphasizes harmonization between sharia, custom, and the value of welfare in the KHI. Despite similarities such as a maximum limit of one-third and a social function to complement deficiencies in inheritance, the two countries still show significant variations in recipient structures, legal provisions, and implementing normative frameworks.

Table 6. Mandatory Will Law in Islamic Family Law in Indonesia and Egypt

Aspect	Indonesia	Egypt
Legal basis	Compilation of Islamic Law (KHI)	Law no. 71 of 1946 concerning Obligatory Inheritance and Wills
Recipient Mandatory Will	Adopted child (KHI article 209 no. 2) Orphaned grandchild of a child who died before his parents (KHI article 185)	Only orphaned grandchildren of children who died before their grandparents
Amount of Rights	Maximum 1/3 of treasure legacy, no may harm expert another heir	Maximum 1/3 of the testator's assets, if there is no explicit will
The Nature of a Will	Mandatory in law, although not bequeathed in any way explicit by the heir (based on social justice)	Mandatory in law, but limited to category grandchild orphan; not applicable for child lift
Legal Transformation	Expanded through the Supreme Court decision for children, the court can accept part through analogy, <i>maqashid sharia</i> .	Modernization of administrative aspects and inheritance calculations, but the legal substance remains conservative.
Approach Fiqh	Using a contemporary <i>ijtihād</i> approach, considering social justice and the modern family context.	Referring to the Hanafi school and classical <i>fiqh</i> with strict limitations on the subject and object of mandatory wills
Purpose of Regulation	Give protection to a weak party (child, adoptee, grandson, orphan) in the Spirit of <i>Maqashid sharia</i> .	Maintaining lineage and order of inheritance law according to classical provisions while opening up space for modern administration.

Both countries have adopted these rules as a form of harmonization between Sharia principles and the values of social justice to protect vulnerable groups, as well as to promote the establishment of an inclusive, equitable, and rights-oriented legal system, by the objectives of SDG 16.

In-Depth Analysis. The comparative transformation of Islamic family law in Egypt and Indonesia demonstrates a shared yet distinct trajectory of constitutional *ijtihād*, where both legal systems integrate Sharia with modern state imperatives and human rights frameworks. Three focal areas—*khulu'* (wife-initiated divorce), the legal status of children born during the *iddah* period, and the *waṣiyyah wājibah* (mandatory will)—reveal how each country negotiates between classical *fiqh* and contemporary demands for gender equity and social justice.

In Indonesia, wife-initiated divorce (*gugatan cerai*) requires legally valid grounds such as violence, neglect, or persistent conflict, as stipulated in Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). The process is evidence-based, includes mandatory mediation, and prioritizes women's post-divorce rights—such as *iddah* maintenance, *mut'ah*, and child custody. This structured approach reflects the state's protective role, yet also prolongs resolution. By contrast, Egypt's *khulu'* under Law No. 1 of 2000 allows a wife to dissolve marriage without proving fault, provided she returns the dowry and relinquishes certain financial claims. This expedites proceedings and empowers women's exit from harmful marriages but at the cost of some economic rights. Regarding children born during *iddah*, both jurisdictions uphold legitimacy to preserve lineage and inheritance rights, though procedural nuances differ. Indonesia's KHI follows Shafi'i fiqh and Constitutional Court precedents, embracing medical evidence and a more inclusive stance, while Egypt applies Hanafi rules but shows measured openness to scientific proof, signaling gradual doctrinal adaptation.

In inheritance, Egypt's *waṣiyyah wājibah* extends rights to orphaned grandchildren, correcting gaps in classical law, while Indonesia applies it mainly to adopted children, treating grandchildren as substitute heirs under KHI provisions. The divergence stems from differing fiqh bases—Egypt retaining stricter Hanafi limits, Indonesia using contemporary *ijtihad* to integrate welfare considerations. Across these domains, both legal systems pursue harmonization of Sharia with the principles of substantive justice, non-discrimination, and the protection of vulnerable groups, aligning with SDG 16. Yet, their distinct socio-legal contexts, political frameworks, and interpretative traditions yield varied reform paths—Egypt leaning on codified conservatism tempered by selective innovation, and Indonesia blending pluralistic norms with judicial activism to advance family law responsiveness.

CONCLUSION

The transformation of Islamic family law through legislation represents a profound exercise in constitutional *ijtihad*, where religious principles are interpreted and adapted to meet the needs of contemporary governance. By codifying these reforms into positive law, Egypt and Indonesia have endowed them with binding authority, ensuring their applicability within the formal legal system. This process reflects not only a legal shift but also a sociopolitical negotiation—balancing fidelity to Sharia with the imperatives of social justice, legal certainty, and the realities of a modern nation-state. Within this context, the reforms align closely with the objectives of Sustainable Development Goal (SDG) 16, which emphasizes peace, justice, and strong institutions. Both Egypt and Indonesia have undertaken significant legislative changes in core aspects of Islamic family law. These include raising the minimum age of marriage, instituting mandatory marriage registration, regulating polygamy to prevent abuse, restricting the practice of unilateral *ṭalāq*, recognizing a wife's right to seek divorce through *khulu'*, clarifying the legal status of children born during the *iddah* period, and innovating inheritance law through *waṣiyyah wājibah*. Such measures illustrate a shared commitment to crafting a legal framework that is inclusive, equitable, and responsive to contemporary human rights standards. Despite their shared objectives, the two nations diverge in approach due to differing legal traditions, political environments, and interpretations of fiqh. Egypt's long-standing tradition of centralized legal codification has allowed for more uniform reforms, whereas Indonesia's plural legal system and decentralized governance structure often require greater negotiation among stakeholders. These differences inevitably influence the pace and form of legislative transformation, underscoring the localized nature of constitutional *ijtihad*. However, constitutional *ijtihad* is not without challenges. By its nature, *ijtihad* is interpretive and contingent, lacking the absolute certainty claimed by more purist readings of Sharia. This openness invites debate and sometimes controversy, especially when modern legal reforms are perceived to conflict with traditional religious doctrines. Such tensions highlight the ongoing

struggle to reconcile the authority of divine law with the evolving principles of constitutionalism, democracy, and human rights. In conclusion, the experiences of Egypt and Indonesia demonstrate that constitutional *ijtihad* can serve as a viable mechanism for aligning Islamic legal principles with modern state requirements, while advancing the values of justice and equality. Yet, its success depends on maintaining a delicate balance: respecting the foundational ethos of Sharia, accommodating the social and political realities of each nation, and engaging constructively with divergent interpretations. This dynamic process ensures that Islamic family law remains both faithful to its origins and responsive to the needs of contemporary society.

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Author Contribution

All authors contributed substantially to the research. The first author conceptualized the study and drafted the framework. The second author conducted a comparative legal analysis. The third author collected field data in Indonesia and Egypt. The fourth author reviewed literature, refined arguments, and ensured consistency with SDG 16 objectives. All authors approved the final manuscript.

Conflicts of Interest

The authors declare no known financial or non-financial conflicts of interest in conducting this research. The study was carried out solely for academic purposes, with independence in data interpretation and analysis. Institutional affiliations supported the process without influencing findings, ensuring impartiality in addressing comparative perspectives of Indonesia and Egypt.

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