

Reforming Islamic Family Law: The Relevance of Ibn Qayyim al-Jawziyyah's Concept of Legal Change

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|| Received: 21-01-2025

| Revised: 10-04-2025

|| Accepted: 16-04-2025

|| Published On: 19-06-2025

Abstract: Ibn Qayyim al-Jawziyyah's concept of legal change—asserting that Islamic law can evolve in response to variations in place, time, conditions, motives, and customs—offers a foundational framework for contemporary Islamic legal thought. This principle provides significant theoretical support for the ongoing renewal of Islamic family law. This study aims to critically examine the implementation of Ibn Qayyim's legal change theory in the reform of Islamic family law to meet the demands of modern social contexts. Using a library research method and a doctrinal-deductive approach, this study analyzes classical and contemporary texts to extract relevant insights. Data collection was conducted through document analysis, and triangulation of sources was employed for validation. The findings reveal that Ibn Qayyim's theory is not only relevant but essential to the dynamic nature of Islamic family law, particularly in responding to social transformations and preventing legal stagnation. His approach enables the contextualization of legal rulings, thereby aligning them with contemporary realities without detaching from Islamic legal principles. The study contributes to the discourse on Islamic legal reform by offering a normative-empirical argument for adapting Islamic family law to changing societal needs. It underscores the legitimacy of legal flexibility within Islamic jurisprudence and advocates for a responsive, contextualized approach to lawmaking. By grounding reform in social reality, this study affirms that differences and changes in Islamic family law are not only inevitable but also necessary for its continued relevance and justice in the modern world.

Keywords: Contextualization; Ibn Qayyim; Islamic Family Law; Legal Change; Reform of Islamic Law

Abstrak: Konsep perubahan hukum menurut Ibn Qayyim al-Jawziyyah—yang menyatakan bahwa hukum Islam dapat berubah sesuai dengan tempat, waktu, kondisi, motif, dan adat—menjadi kerangka fundamental dalam pemikiran hukum Islam kontemporer. Prinsip ini memberikan landasan teoritis yang kuat bagi pembaruan hukum keluarga Islam. Penelitian ini bertujuan untuk mengkaji secara kritis implementasi teori perubahan hukum Ibn Qayyim dalam reformasi hukum keluarga Islam agar mampu menjawab tantangan realitas sosial modern. Penelitian ini merupakan studi pustaka dengan pendekatan yuridis-deduktif, yang menganalisis teks-teks klasik dan kontemporer guna menggali relevansi normatif dan praktis konsep tersebut. Pengumpulan data dilakukan melalui analisis dokumen, dengan metode triangulasi sumber sebagai validasi. Hasil penelitian menunjukkan bahwa teori Ibn Qayyim tidak hanya relevan, tetapi juga krusial dalam menjawab dinamika hukum keluarga Islam, khususnya dalam merespons perubahan sosial dan menghindari stagnasi hukum. Pendekatan Ibn Qayyim memungkinkan kontekstualisasi hukum Islam tanpa meninggalkan prinsip-prinsip syariah. Studi ini memberikan kontribusi penting dalam wacana reformasi hukum Islam dengan menawarkan argumen normatif-empiris untuk adaptasi hukum keluarga Islam yang responsif dan kontekstual. Dengan mendasarkan pembaruan hukum pada kenyataan sosial, penelitian ini menegaskan bahwa perbedaan dan perubahan dalam hukum keluarga Islam bukanlah sesuatu yang harus diperdebatkan, melainkan suatu keniscayaan untuk menjaga relevansi dan keadilan hukum di era modern.

Kata kunci : Ibnu Qayyim; Hukum Keluarga Islam; Kontekstualisasi; Perubahan Hukum; Reformasi Hukum Islam

How to cite this article:

Ayu Sari Ningsih and Others, Reconstruction of Obligatory Bequest in the Perspective of the Objectives of Islamic Law: Contextualizing Islamic Law in a Case Study of The Secret Wife in Polygamous Marriage, *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, 12.2 (2025), 392-405

Doi: <http://dx.doi.org/10.29300/mzn.v12i1.7087>



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Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan

Published by Faculty of Sharia, State Islamic University of Fatmawati Sukarno Bengkulu

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Introduction

The reform of Islamic family law is an undeniable necessity. The purpose of this renewal is intended so that Islamic teachings in the field of the family remain and are accepted by modern society. To restore the actuality of Islamic Law or to bridge the theoretical teachings in the books of *fiqh* resulting from mujtahid thought with the needs of the present. The development of society dominated by the development of science and technology and the unification of the culture of the world community in the global era has an impact on patterns and behaviors and the need for rules that align with these global dynamics in the family realm. This social reality demands the renewal of family law, especially in the Islamic world, whose estuary is to accommodate the changing needs of rules relating to the family itself.¹

Thus, the reform of Islamic family law must be carried out in response to the demands of change in society. It is said that one form of the universality of Islamic family law is seen in the adaptability and flexibility of Islamic family law itself. That means that Islamic legal thought is not constant in one epoch, place, and circumstance but constantly changes dynamically with changing times, places, and circumstances. This is following the opinion of al-Jauziyah, who said:

Changes in fatwas and their differences according to changes in times, space, circumstances, intentions, and needs). Even further, al-Jauziyah says that not understanding change is a grave mistake in

the *Shari'ah*.² In addition, Ibn Qoyim argues,

"Sharia is enforced for the benefit of servants in this world and hereafter."³

The change in fatwas due to factors such as place, time, conditions, motivation (intention), and tradition (custom) is one example of the brilliant thought of Ibn Qayyim. This rule can prove Islamic Law's universality and flexibility as a Sharia adaptable in every space and time, in all situations and conditions.⁴

He was a devoted student of Ibn Taymiyyah, following and supporting his teacher's views in many aspects, including criticism of bid'ah practices and a rational approach to understanding religion. His works cover various fields of Islamic studies, such as *Zad Al-Ma'ad*, *Tariq Al-Hijratin*, *I'lam Al-Muwaqqi'in*, and *Madarij Al-Salikin*, which extensively discuss *aqidah*, *fiqh*, and Sufism based on evidence from the Qur'an and Hadith.

If explored more deeply, Ibn Qoyyim's extraordinary thought has not been studied by relating the reform of Islamic family law. The research that has been done only dissects the concepts offered by Ibn Qoyyim and is rarely applied to problems in Muslim societies. For example, research conducted by Abdi Wijaya entitled "Changes in Law in the View of Ibn Qayyim". An important finding in this study is that Ibn Qayyim argues that there are transformations and differences in Islamic

¹ Intan Cahyani, "Pembaharuan Hukum Dalam Kompilasi Hukum Islam," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 5, no. 2 (14 Desember 2016): 301–13, <https://doi.org/10.24252/ad.v5i2.4850>.

² Ibnu Qayyim Al-Jauziyyah, *I'lam al-Muwaqqi'in 'an Rab al-'Alamin* (Bairut: Dar al-Fikr, 2006), 14.

³ Yusuf Qardhawi, *Membumikan Syari'at Islam Keluwesan Aturan Ilahi untuk Manusia* (Bandung: Mizan Pustaka, 2023), 216.

⁴ Haris Muslim Zaelani, "Pemikiran Ibnu Qayyim Al-Jauziyah (W 751 H/1350 M) Tentang Perubahan Fatwa Dan Relevansinya Dengan Penerapan Hukum Islam Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam dan Pranata Sosial* 8, no. 02 (18 November 2020): 287–314, <https://doi.org/10.30868/am.v8i02.809>.

Law, so Islamic Law can adapt to technological and scientific developments and respond to contemporary problems.⁵ Rahmawati conducted the following research titled Paradigm of Changes in Islamic Law (Exploration of the Thought of Ibn Qayyim al-Jauziyah). The findings of this study are that for al-Jauziyah, Islamic Law does not stagnate in a certain place, situation and time but always develops with changes that surround humans. Therefore, al-Jauziyah's idea of legal change is essentially an attempt to contextualize Islamic Law according to the reality of human life. Thus, the progress of Muslim civilization, marked by advances in science and technology, requires a creative study of Islamic Law.⁶

Based on a review of previous studies, it can be concluded that the novelty of this research lies in implementing the theory of legal change in the context of Islamic family law reform. This study not only explains the theory of legal change proposed by Ibn Qoyyim al-Jauziyyah but also explores in greater depth how this theory can be practically applied to the ongoing development of Islamic family law today. The approach used in this research aims to bridge classical Islamic legal thought with the needs of modern legal systems. It takes the theory of legal change as a conceptual foundation to assess how relevant and flexible Islamic law can be in responding to contemporary challenges. Through a critical study of Ibn Qoyyim's ideas, the research examines his theory's philosophical, methodological, and

practical aspects and connects them with current social and legal issues in Muslim communities, especially in family matters. Therefore, this study not only adds to the academic understanding of Islamic legal studies but also offers practical contributions to the discourse on Islamic family law reform in a more adaptive and relevant way to current contexts. Focusing on Ibn Qoyyim's theory of legal change as its main analytical framework, this research stands out from previous works that tend to remain normative and have not combined theoretical approaches with real-world applications.

Method

This study is library research, which involves collecting information and data from various relevant literary sources, both primary and secondary. The literature reviewed includes scholarly works, books, journals, articles, and other documents related to the theory of legal change and its application in the reform of Islamic family law. The analytical approach used in this study is the doctrinal-deductive method. The term doctrinal refers to a normative legal research approach that studies legal doctrines, rules, principles, and theories. Meanwhile, deductive refers to the method of reasoning used—drawing conclusions from general principles or theories and applying them to specific cases or contexts.

The use of the theory of legal change as the theoretical framework of this study has methodological implications, namely the adoption of the doctrinal method. This method is a form of normative legal research whose scope is universal, allowing the researcher to explore legal principles derived from classical thought, such as the ideas of Ibn Qoyyim al-Jawziyyah, and assess their

⁵ Abdi Wijaya, "Perubahan Hukum Dalam Pandangan Ibnu Qayyim," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 6, no. 2 (2017): 387–94, <https://doi.org/10.24252/ad.v6i2.4891>.

⁶ Sitti Rahmawati, "Paradigma Perubahan Hukum Islam (Eksplorasi Pemikiran Ibnu Qayyim al-Jauziyah)," *Al-Bayyinah* 1, no. 2 (1 Desember 2017): 17–28.

relevance to contemporary legal issues. The data collection technique is documentation, where important information is gathered and recorded from written sources. To ensure the validity of the data, this study uses the source triangulation method, which involves comparing and cross-checking data from different sources to achieve a more objective and reliable result. With this methodological approach, the study aims to comprehensively analyze Ibn Qayyim's theory of legal change and its significance in the reform of contemporary Islamic family law.

Result and Discussion

The Profil of Ibnu Qoyim Al-Jauziyah

Ibn Qayyim al-Jawziyyah (1292–1350 CE), whose full name was Abu Abdullah Syamsuddin Muhammad bin Abi Bakar bin Ayyub bin Sa'ad bin Hariz az-Zur'i ad-Dimasyqi al-Hanbali, was a distinguished scholar, renowned intellectual, and Sunni theologian from Damascus, Syria. He is widely recognized as one of the foremost students of Ibn Taymiyyah and a central figure in classical Islamic thought, particularly in *fiqh* (Islamic jurisprudence), Sufism, and *aqeedah* (Islamic creed). Born in 1292 CE in Damascus, Ibn Qayyim showed remarkable intellectual promise from an early age. He pursued rigorous studies in various Islamic sciences, including tafsir (Qur'anic exegesis), hadith, *fiqh*, and Sufism. One of the defining features of his intellectual journey was his close association with his teacher, Ibn Taymiyyah, whose influence profoundly shaped his thought. Through this mentorship, Ibn Qayyim developed a unique scholarly approach that sought to harmonize traditional Islamic teachings with rational inquiry, with a strong focus on the primary sources of Islam—the

Qur'an and Hadith.⁷

As a prolific scholar, Ibn Qayyim authored numerous important works that continue to be referenced today. Among his most notable writings are "Zad al-Ma'ad", an encyclopedic account of the life and Sunnah of the Prophet Muhammad (peace be upon him); "I'lam al-Muwaqqi'in", a foundational text on Islamic legal theory and the role of jurists; and "Al-Fawa'id", a collection of spiritual reflections and profound insights on morality and human behavior. Ibn Qayyim was also known for his critical stance against bid'ah (religious innovation) and his strong advocacy for purifying Islamic teachings from foreign influences that were inconsistent with the authentic message of Islam. He called for a return to a pure, text-based understanding of the religion that remained faithful to the Qur'an and Sunnah while also employing reason to interpret.⁸ He passed away in 1350 CE in Damascus. Despite the passage of centuries, his works and thoughts remain influential and are still widely studied, especially in *fiqh*, spirituality, and Islamic theology. His legacy continues to shape contemporary Islamic discourse and bridges classical scholarship and modern intellectual inquiry.⁹

⁷ Rizal Darwis, "Pemikiran Ibnu Qayyim Al-Jauziyah Terhadap Paradigma Perubahan Hukum," *Adzkiya: Jurnal Hukum dan Ekonomi Syariah* 5, no. 1 (1 Maret 2017): 67–86, <https://doi.org/10.32332/adzkiya.v5i1.1006>.

⁸ Nailul Ilmiyah, "Relevansi Pemikiran Ibnu Qayyim Al-Jauziyah Tentang Peranan Keyakinan Hakim Dengan Sistem Pembuktian Dalam Hukum Acara Pidana Di Indonesia," *Al-Jinayah: Jurnal Hukum Pidana Islam* 6, no. 2 (14 Desember 2020): 420–49, <https://doi.org/10.15642/aj.2020.6.2.420-449>.

⁹ Rusdaya Basri, "Ibnu Qayyim Al-Jawziyyah Tentang Pengaruh Perubahan Sosial," *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 2 (2015): 193–206, <https://doi.org/10.24090/mnh.v9i2.489>.

The Understanding of Islamic Family Law

The reform of Islamic Law means the *ijtihad* movement to establish legal provisions that can answer new problems and developments brought about by advancing modern science and technology, both setting laws on new problems to replace old legal provisions that no longer follow the current human conditions and benefits.¹⁰ Then, what is meant by legal provisions here is the provision of Islamic Law in the category of jurisprudence (*Furuiyah*), which is the result of the *ijtihad* of scholars, not the provisions of Islamic Law in the category of Sharia (*Ushuiyah*). Renewal can also be done with *tahqiq* (checking) efforts. With this *ordaining* effort, the authenticity and purity of Islamic teachings will be seen. This method is more straightforward, compared to *ijtihad*.¹¹ This method, however, probably falls within the realm of *ijtihad*. It is said to be more accessible because it only corrects an opinion. It will be even easier if there are the above facilities. The movement to revive *ijtihad* to develop Islamic Law is called the Islamic legal reform movement because the movement emerged to establish legal provisions that can answer new problems and developments brought about by modern scientific and technological advances.¹² Establishing legal provisions that

can answer new problems and developments contains two elements: establishing laws on new problems that do not yet have legal provisions and establishing or seeking new legal provisions for a problem that already has legal provisions but is no longer following current human conditions and benefits.¹³

Reform of Islamic Family Law

Family law in the narrow sense, namely the Law of marriage and divorce, is found in various books of *fiqh* in a country.¹⁴ In general, these books resulted from *ijtihad* at *mujtâhid* of various levels to meet the legal needs of the Muslim community of his time. Such family law can be traced in the books of the jurisprudence of various schools of thought, such as the four schools of Sunni (Hanafi, Maliki, Shafi'i, and Hambali) and three in Shia (Itsna Ashari, Ismaili, and Zaidi). Although the reasoning of the *fuqaha* in the past has met the needs of the Muslim community at that time, it is considered not necessarily appropriate in the present context. In addition, the contents also differ from each other because of the level of reasoning, even though they are in the same school. There is dissatisfaction with the content it contains due to differences of opinion, causing Muslim people who do not understand to follow customary Law for generations, the Christian (Western) legal system, which is compiled systematically and clearly in one book or

¹⁰ Ahmad Rusyaid Idris, Muhammad Khusaini, dan Syaiful Anwar Al-Mansyuri, "Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage," *MILRev: Metro Islamic Law Review* 3, no. 1 (4 April 2024): 1–21, <https://doi.org/10.32332/milrev.v3i1.8907>.

¹¹ Suud Sarim Karimullah, "The Implications of Islamic Law on the Rights of Religious Minorities in Muslim-Majority Countries," *MILRev: Metro Islamic Law Review* 2, no. 2 (9 November 2023): 90–114, <https://doi.org/10.32332/milrev.v2i2.7847>.

¹² I Jalili and others, 'The Implementation of Tanqih Al-Manath Theory in Ushul Fiqh: An Analysis of Marriage Law Issues in Indonesia', *Jurnal Ilmiah Mizani*, 11.2 (2024), pp. 401–20, doi:10.29300/mzn.v11i2.4828.

¹³ Fathul Muin Fathul Muin, "Pembaruan Hukum Keluarga Islam Di Indonesia Dalam Peningkatan Status Perempuan," *Legal Studies Journal* 2, no. 1 (28 Maret 2022): 15, <https://ejournal.unuja.ac.id/index.php/ljsj/article/view/3390>.

¹⁴ Munadi Usman and others, 'The Role of Customary Law in Family Resilience and Divorce Prevention: Phenomenological Studies in Indonesia', *Al-Istinbath: Jurnal Hukum Islam*, 9 (2024), pp. 823–40, doi:10.29240/jhi.v9i2.9685.

legislation.¹⁵

Indonesia is a country with a majority Muslim population, but the country's Constitution does not declare itself as an Islamic state but as a state that recognizes religious authority in building the nation's character.¹⁶ Indonesia accommodates religious laws as a source of national, customary, and Western laws.¹⁷ Such conditions cause Islamic Law as one of the legal systems in this world to "disappear" on the surface except family law.

In reforming Islamic Law, Indonesia tends to take the path of compromise between Sharia and secular Law. Family law in Indonesia to formulate, in addition to referring to classical jurisprudence books, modern jurisprudence, fatwa sets, and court decisions, interviews were also taken with all Indonesian scholars. The appropriation of secular Western Law cannot be directly proven.

However, in Indonesia, it has been quite a long time since civil law (*Burgelijk Wetboek*) was translated into a civil code, civil procedure law of Dutch heritage, and other laws based on the principle of concordance, there is an influence of Western Law that cannot be denied casually. It also encompasses registration matters related to marriage, inheritance, *waqf*, wills, and other similar areas. Efforts to accommodate or reconcile Islamic family law to suit the times to create

public order are proof of this uniqueness.¹⁸

Objects of Islamic Family Law Reform

In the context of reforming Islamic family law, at least four objects can be renewed or actualized. The four categories include *Fiqh*, Fatwa, Jurisprudence and Legislation. *Fiqh* is the result of the *ijtihad* of a mujtahid who is very aware of the community's social conditions in the mujtahid's lifetime, so sometimes it is necessary to update or recontextualize with the current modern era.¹⁹ At the same time, the fatwa is the result of the *ijtihad* of a mufti in connection with legal events submitted to him. The product of Islamic legal thought in the fatwa category, among its characteristics, is casuistic because it is a response or answer to questions the fatwa requester asks. In Indonesia, the reform of Islamic Law in the fatwa category was carried out by community organizations such as NU, Muhammadiyah, and precisely. Each organization has a unique institution that reforms Islamic Law in the form of fatwas. Within NU, it is conducted by Majels Syuriah and *Majlis Ahlu al-Hall wa al-'Aqdi*, within MUI by the Fatwa Commission, in Muhammadiyah by Majlis Tarjih, and precisely by Dewan Hisbah. The reform of Islamic Law through this organization has practical uses, especially for those who need it, both by the government and by leaders and members of the community.

Judges' rulings (Jurisprudence) sometimes also need to be reconsecrated. Jurisprudence as a product of Islamic legal

¹⁵ Muhammad Daud Ali, *Hukum Islam dan Peradilan Agama* (PT Raja Grafindo Persada, 1997), 91.

¹⁶ Agus Hermanto dkk., "Muli Mekhanai Sekuakhian Paradigm as Ta'aruf Method in Lampung Pepadun Indigenous People in Maqashid Al-Shari'ah," *Istinbath: Jurnal Hukum* 21, no. 02 (14 November 2024): 20–39, <https://doi.org/10.32332/istinbath.v21i02.9850>.

¹⁷ O Sulaeman and others, 'Negotiating Gender Justice in Minangkabau Marital Disputes: Between Adat, Islamic, and State Law', *Juris: Jurnal Ilmiah Syariah*, 24.1 (2025), pp. 39–49, doi:10.31958/juris.v24i1.11848.

¹⁸ Abdullah Saeed, *Pemikiran Islam: Sebuah Pengantar* (Yogyakarta: Baitul Hikmah, 2014), 103.

¹⁹ I Setiawan and others, 'Reforming Marriage Law in Indonesia: A Critical Examination of Islamic Law on the Ban of Interfaith Marriages', *Al-Manahij: Jurnal Kajian Hukum Islam*, 18.2 (2024), pp. 179–98, doi:10.24090/mnh.v18i2.11134.

thought can be dynamic because it is a response to real matters faced by society. Jurisprudence does not cover all aspects of Islamic legal thought nor jurisprudence, but in terms of strength, it is more binding, especially for litigants. In addition to the juris foundation, the Law does not specify the possibility of renewal. Among the products of Islamic legal thought that have been accommodated in the category of laws and regulations include Law No. 1 of 1974 concerning marriage, Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law which regulates inheritance, marriage, waqf, grants, sadaqah, wills, and others. As a product of Islamic legal thinking, the Law provides sanctions against people committing violations. Like collective products, the Act has a broader binding force in court decisions.²⁰ In this case, the most essential thing that the Constitution must have as a product of Islamic legal thought is that it is of high quality and can reflect the legal reality that grows and develops in society.²¹

Integrally, various Islamic countries passed family law laws and carried out marriage, inheritance, and divorce reforms. In some countries, it is only limited to marriage and divorce. Some countries do it slowly, one by one, starting with special rules, such as registration of marriage registration, divorce, and so on, followed by other regulations still related to marriage and divorce. Then, discuss

the issue of inheritance. Some of the regulations and legal reforms implemented in various other Islamic countries are the issue of early marriage, registration and registration of marriages, and polygamy.

In its development, regulations and family law reforms were first implemented since the 20th century in various Muslim-majority countries, covering at least no less than thirteen issues, including: Issues of marriage registration and marriage registration, Economic issues and dowry in marriage, The function of guardians and their role in marriage, Issues of age limits for marriage for men and women,²² including the age range between the two candidates who want to carry out marriage, Rights covering the livelihood of wives and families including residences, Legality of divorce and talaq before the court, Issues of polygamy and fulfillment of their rights when polygamy, Issues of Hadhanah/child care and maintenance after divorce, Issues of the period of pregnancy and the legal consequences it causes, Women's Rights after being divorced by their husbands, Issues of the validity of family waqf management, Inheritance issues for sons and daughters, including for grandchildren of deceased children (broken titi), Issues of wills intended for heirs of *ashabul furudh*.

Khairuddin Nasution explained that, from so many subjects that have undergone renewal, laws and regulations related to Islamic family law in various countries where the majority of the population is Muslim, in essence, bring the position of women to a

²⁰ H M Muhajir and others, 'The Role of Religious Affairs Office (KUA) of Makassar City in Preventing Marriage Violation under the Mashlahah Mursalah Principle', *Al-'Adalah*, 21.1 (2024), pp. 125–48, doi:10.24042/adalah.v21i1.17017.

²¹ Intan Cahyani, "Pembaharuan Hukum Dalam Kompilasi Hukum Islam," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 5, no. 2 (14 Desember 2016): 308, <https://doi.org/10.24252/ad.v5i2.4850>.

²² A Widiyanto, S Zumrotun, and H Saputra, 'The Prevention Of Underage Marriage In Indonesia: State, Religious Authority, and Human Rights', *Justicia Islamica*, 21.2 (2024), pp. 401–22, doi:10.21154/justicia.v21i2.9771.

higher and more equal situation with men.²³

Ibn Qayyim Al-Jawziyya emphasized that Islamic law is flexible and can change according to social conditions and the community's welfare. In the context of Islamic family law in Indonesia, the change in the minimum marriage age reflects this principle. Previously, Law No. 1 of 1974 set the minimum marriage age at 16 for women and 19 for men, but this regulation was revised through Law No. 16 of 2019, which equalized the marriage age to 19 for both men and women. This change aims to protect children's health and well-being and prevent child marriages, which often lead to high maternal and infant mortality rates, divorce, and low levels of education among women. Ibn Qayyim's thoughts, which emphasize *maqashid syariah*, particularly protecting life (*hifz al-nafs*) and lineage (*hifz al-nasl*), are highly relevant to this policy. In the past, early marriage was considered normal due to different social conditions, but today, mental readiness, education, and health have become crucial factors. Through this legal revision, the Indonesian government has exercised *ijtihad* in line with the spirit of sharia, providing better protection for the younger generation and fostering a higher quality of family life.

Methods of Reforming Islamic Family Law

The renewal of Islamic legal thought in contemporary times generally takes the form of new methodological offers that differ from classical methodology. The paradigm used is more likely to emphasize revelation in terms of context. The relationship between the text

of revelation and social change is not only conceived and understood through literal interpretation but also through the interpretation of the universal message of the text of revelation. There are two concepts in the update, namely (1) conventional concepts and (2) contemporary concepts that emerged in reforming contemporary Islamic family law in the form of codification.

Applying the conventional method, scholars are seen in *berijtihad* and apply their legal guidance by recording verses of the Quran and Sunnah. Experts determine there are several characteristics or characteristic methods of establishing Islamic Law (*fiqh*), namely, Using a partial (global) approach, less attention to history, too much emphasis on text/literal studies, the methodology of *fiqh* seems to be separate from the methodology of *tafsir*, too much influenced by local cultures and traditions, and in some cases permeates superstitious practices, heresy, and *kufarat*, especially those related to worship. The inclusion of political elements in it or the influence of the ruler's interests in applying *fiqh* theories. While the contemporary method is in principle, the renewal method used in codifying contemporary Islamic family law in Indonesia is: first, superstition is choosing the views of one of the *fiqh* scholars, including scholars outside the *madzhab*; superstition is substantially called *tarjih*. Second, *tafiiq*, combines several scholarly opinions (two or more) in establishing the Law of one issue. Third, *Takhshish al-qadla* is the state's right to limit the judiciary's authority regarding person, territory, jurisdiction, and procedural Law established. Fourth, *Siyasah Syariah* is the policy of the ruler to implement regulations that benefit the people and do not contradict the *Shari'ah*, the reinterpretation of *nash* to *nash* (Quran and sunnah).

²³ Ihab Habudin, "Menimbang Metode Tematik-Holistik Dalam Pembaruan Hukum Keluarga Muslim (Telaah Pemikiran Khoiruddin Nasution)," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 8, no. 1 (14 Juni 2015): 49–62, <https://doi.org/10.14421/ahwal.2015.08104>.

The nature and methods of reform used in modern Muslim countries (including Indonesia) in reforming Islamic family law can be grouped into two, namely: first, *intra-doctrinal reform* still refers to the concept of conventional *fiqh* by *Tahyir* (choosing the views of one of the scholars of *fiqh*, including scholars outside the madhhab), can also be called *tarjih*, and *talfiq*, (combining several opinions). *Intra-doctrinal reform* is a reform of Islamic family law carried out by combining theories from various schools of thought in Islam, choosing to understand ideas other than those of the School followed. Second, *Extra doctrinal reform* in principle no longer refers to conventional concepts of *fiqh* but refers to the nash of the Qur'an and sunnah by reinterpreting the nash (reinterpretation) of by providing actual translation and reinterpretation of the postulates in the holy book.²⁴

Table 1. Uniformity of the implementation of the School

No	The Uniformity Side	Examples of its implementation
1	Uniformity within one specific School	The Hanafi, Hambali, Maliki, and Shafi'i schools.
2	The faction that sought to integrate the various schools within Sunni because there were many followers	Iraq and Iran, where there are two major streams.
3	Uniformity is carried out to unite two main streams in the historical roots of Islam, namely, between the views of Sunni and Shi'a groups.	Iraq and Iran, where there are two major streams.
4	Uniformity of family law that applies to every citizen regardless of religious beliefs	Country Tunisia

Source: Author's Interpretation

The factors driving the current reform of Islamic family law are as follows: first, to anticipate a legal vacuum because the norms contained in the books of *fiqh* do not regulate it, while the community's need for Law related to the current problem is urgent to implement. Second is the influence of globalization and science and technology, so there needs to be a rule of Law regulating it, especially for problems that do not yet have a rule of Law. Third, the influence of reforms in various fields that provide opportunities for Islamic family law to be used as reference material in making national laws. Third, the influence of the renewal of Islamic family law was carried out by mujtahids at national and international levels.²⁵

History of Islamic Family Law Reform

The history of the formation and renewal of Islamic family law in the archipelago has undergone various phases of evaluation and evolution, from applying the inculturation model to being reduced to the acculturation model. The acculturation phase is the longest and strongest phase because of the dominance of learning Islamic sciences, including family law, from one School of Jurisprudence, the *ash-syafi'iyyah* School. However, it does not mean that Islamic thinkers do not criticize and evaluate the stagnation of knowledge because, in the era of the 50s, Hazairin and Hasbi Ash Shiddieqy emerged, which gave rise to Islamic legal terms and theories that characterize Indonesia. In the reform era Islamic thinkers

²⁴ Al Fitri, S.Ag., S.H., M.H.I., "Pembaruan Hukum Keluarga di Indonesia Melalui Kompilasi Hukum Islam," 2019, <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/pembaruan-hukum-keluarga-di-indonesia-melalui-kompilasi-hukum-islam-oleh-al-fitri-s-ag-s-h-m-h-i-16-10>.

²⁵ Fathul Muin Fathul Muin, "Pembaruan Hukum Keluarga Islam Di Indonesia Dalam Peningkatan Status Perempuan," *Legal Studies Journal* 2, no. 1 (28 Maret 2022), <https://ejournal.unuja.ac.id/index.php/ljsj/article/view/3390>.

were born who again challenged family law in Indonesia by presenting CLD-KHI, Although everything politically fails to be institutionalized in legislation.²⁶

The first Law in force in Indonesia regarding marriage and divorce was Law No. 22 of 1946, which was also the forerunner of efforts to reform family law in Indonesia; initially, this Law was limited to Java only, only after the birth of Law No. 32 of 1954 this Law finally applied throughout Indonesia. Among them are laws on marriage registration, divorce, and reconciliation. The presence of Law No. 2 of 1946 is a continuation of the *staatsblad*. No. 198 of 1895, and was a continuation of the *Huwelijk Ordonantie staatsblad*. No. 348 of 1929 *Juncto Staatsblad*. No. 467 of 1931, and *Vorstenlandse Huwelijks Ordonantie Staatsblad*. No. 98 of 1933.

Law No. 1 of 1974 on marriage continues with Law No. 22 of 1946. The scope of this Law includes elements of marriage and divorce in force from October 1, 1975. The existence of this regulation was followed by the emergence of Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974. This was followed by Law No. 7 of 1989 concerning Religious Courts. The Law, passed on December 14, 1989, generally contains a general court system, including court decisions, procedural Law, marriage issues, and court structure. At the end of 1991, the compilation of Islamic Law (KHI) concerning Marriage, Divorce, inheritance, waqf, etc., was effectively summarized following Official Presidential Instruction No. 1 of 1991, which was further followed by the issuance of Regulation of the Minister of

Religious Affairs of the Republic of Indonesia Number 154 of 1991 concerning the Implementation of Presidential Instruction of the Republic of Indonesia Number 1 of 1991.²⁷

The Relevance of the Concept of Ibn Qayyim Al Jauziyah's Law to the Reform of Islamic Family Law

Since the reformers emerged, the reform of Islamic regulations and laws has been within the framework of regulations and laws related to *muamalah* only and in various other fields, including family law. Reforms in the realm of family law are evident in some Muslim countries. In some literature, the form of legislation dominates various forms of reform.²⁸

In Indonesia, historically, Islamic family law came to the fore starting from the official recognition of the religious court as one of the executors of "judicial power" in the rule of Law through Article 10 of Law No. 14 of 1970. Furthermore, its position, authority or jurisdiction and organization have been regulated and described in Law No. 7 of 1989, Law No. 3 of 2006, which has the authority to adjudicate certain matters: (1) marriage, (2) inheritance, (3) will, (4) grant, (5) waqf, (6) infaq, (7) sadaqah, (8) zakat and (9) *Shari'ah* economy, for residents who are Muslim.²⁹

²⁶ Ahmad Rajafi, "Sejarah Pembentukan Dan Pembaruan Hukum Keluarga Islam di Nusantara," *Aqlam: Journal of Islam and Plurality* 2, no. 1 (1 Februari 2018): 17, <https://doi.org/10.30984/ajip.v2i1.507>.

²⁷ Muhammad Nasir, Aulia Rizki, dan M. Anzaikhan, "Pembaharuan Hukum Keluarga Islam Kontemporer," *TAQNIN: Jurnal Syariah dan Hukum* 4, no. 02 (30 Desember 2022), <https://doi.org/10.30821/taqnin.v4i02.12137>.

²⁸ Abdi Wijaya, "Perubahan Hukum Dalam Pandangan Ibnu Qayyim," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 6, no. 2 (2017): 387–94, <https://doi.org/10.24252/ad.v6i2.4891>.

²⁹ Eko Setiawan, "Dinamika Pembaharuan Hukum Keluarga Islam Di Indonesia," *De Jure: Jurnal Hukum Dan Syari'ah* 6, no. 2 (30 Desember 2014), <https://doi.org/10.18860/j-fsh.v6i2.3207>.

Ibn al-Qayyim al-Jauziyyah's thoughts on legal changes to the social development of Islamic Law are outlined in his book *'Ilam al-Muwaqq'in* 'a Rabbi al-'Alamin, namely: "Changes and differences in fatwas based on changes in time, place, conditions, intentions, and customs". The essence of Ibn al-Qayyim al-Jauziyyah's view is that the establishment of Law is associated with five things, namely *al-azmina* (the situation of the times), *al-amkinah* (the situation of the place), *al-ahwāl* (conditions), *al-niyāt* (motivation/intention), and *al-'awāid* (customs). These five things are the cause (al-illah) of changing the legal fatwa. Legal fatwas change along with changes in the situation of the times, the situation of the place, conditions, motivations/intentions, and customs of local traditions. Ibn al-Qayyim states that the Sharia is enforced for the benefit of the servants in this world and the Hereafter.

Furthermore, it is affirmed that Sharia's proper foundation and principles are the Law and the benefit of the servant in the life of the world and the hereafter. Sharia brings justice, mercy, wisdom, and benefit to all. The statement shows that benefit as a basis for changing legal fatwas according to changes in time, place, circumstances, and customs that apply in a place following the goals and benefits desired by the makers of Sharia when promulgating a law. Therefore, the Shari'a provides laws for different situations, conditions, and activities.^{30,31}

Ibn al-Qayyim al-Jauziyyah, in his legal thought, asserted that the Law influenced by

these five factors is a law that is adjusted to the demands of benefit in certain situations of time, place, and circumstances such as the size, type, and nature of punishment. In this condition, the Shari'a gives freedom to choose the one that best suits its benefit. The Law is standard and does not change because of the times, places, and scholars' *ijtihad*, such as mandatory and haram matters sanctions for criminal acts that Sharia and others have stipulated. Such laws have not changed and do not make room for other, different *ijtihads*.³²

Table 2. The Relevance of Ibn Qayyim al-Jawziyyah's Legal Change Theory to the Reform of Islamic Family Law

Theoretical Aspect	Ibn Qayyim al-Jawziyyah's View	Implications for Islamic Family Law
Al-Azmina (Time)	Law evolves in accordance with changes in time	Family law must adapt to contemporary social dynamics
Al-Amkinah (Place)	Legal rulings are contextually influenced by location	Islamic family law varies across Muslim-majority societies
Al-Ahwāl (Social Conditions)	Law must respond to prevailing societal conditions	Legal reform responds to crises or shifts in family structures
Al-Niyāt (Intentions/Motivations)	Intention determines legal direction and purpose	Legal provisions must be informed by values such as justice and public interest
Al-'Awāid (Customs/Traditions)	Local customs are integral to legal reasoning	Legal norms must reflect local wisdom within the bounds of Shari'ah
Maqāsid al-Shari'ah (Objectives of Islamic Law)	Law is designed to uphold welfare (maṣlaḥah) in this world and the Hereafter	Reform must embody justice, mercy, wisdom, and benefit

Source: Author's Interpretation

In the context of Islamic family law, changes follow Islamic society's times and social conditions. Related to the theory of Ibn

³⁰ Al-Jauziyyah, *I'lam al-Muwaqqi'in* 'an Rab al-'Alamin, 14.

³¹ Hj Rusdaya Basri, "Urgensi Pemikiran Ibnu Al-Qayyim Al-Jauziyyah Tentang Perubahan Hukum Terhadap Perkembangan Sosial Hukum Islam Di Lingkungan Peradilan Agama Wilayah Sulawesi Selatan," *DIKTUM: Jurnal Syariah Dan Hukum* 16, no. 2 (5 Desember 2018): 187–207, <https://doi.org/10.35905/diktum.v16i2.618>.

³² Al-Imam Yusuf Al-Qardawi, *Madkhal liDirāsah al-Syari'ah al-Islāmiyah* (Al-Qahirah: Maktabah Wahbah, 2009), 202.

Qayyim al-Jauziyyah, which asserts that the most critical factor for formulating legal provisions or the establishment of laws must be associated with five things, namely: *al-azmina* (the situation of the times), *al-amkinah* (the situation of the place), *al-ahwāl* (conditions), *al-niyāt* (motivation/ intention), and *al-awāid* (customs). All these circumstances affect the development of Law. A legal provision has existed in the past, but because the present time and situation are different from the past, the Law changes to be more developed.³³

Conclusion

Indonesia performing Islamic family law tends to take a compromise between Sharia and secular Law. The formulation of family law in Indonesia also refers to classical jurisprudence books, modern jurisprudence, fatwa sets, court decisions (jurisprudence), and interviews with all Indonesian scholars. In addition, the appropriation of secular Western Law cannot be directly proven. However, in Indonesia, it has been quite a long time since civil law (*Burgelijk Wetboek*) was translated into a civil code, civil procedure law (updated Indonesian regulation) of Dutch heritage, and other laws based on the principle of concordance, there is an influence of Western Law that cannot be denied. It also encompasses registration matters related to marriage, inheritance, waqf, wills, and other similar areas.

Efforts to accommodate or reconcile Islamic family law to suit the times to create

public order are proof of this uniqueness. This interpretation of Islamic family law is very relevant to the concept of the collapse of Ibn Qoyyim Al Jauziyah's Law. This Relevance is based on the fact that Islamic family law is highly adaptable in every space, time, situation, and condition. This legal transformation and change is a solution and answers to the legal history in today's contemporary era. These problems must be responded to and given solutions so there is no legal vacuum. Legal issues must be established based on the context. The amendment of Islamic family law must be based on the reality of people's social lives. Thus, the differences and changes in Islamic family law are logical issues and need not be debated.

Credit Authorship Contribution

Ayu Sari Ningsih conceptualized the research framework, conducted the primary literature review on Islamic family law, and drafted the initial manuscript. Nancy Dela Oktora contributed to the methodological design, analyzed Ibn Qayyim al-Jawziyyah's theory of legal change, and helped revise the discussion section. Sakirman provided theoretical validation, cross-referenced classical Islamic legal sources, and ensured the consistency of doctrinal interpretations. Nyimas Lidya Putri Pertiwi assisted in data interpretation, finalized the formatting, and coordinated the correspondence and submission process.

Declaration of Competing Interest

The authors declare no competing interests related to this study. There are no financial or personal relationships that could have appeared to influence the work reported in this paper.

³³ Hj Rusdaya Basri, "Urgensi Pemikiran Ibnu Al-Qayyim Al-Jauziyyah Tentang Perubahan Hukum Terhadap Perkembangan Sosial Hukum Islam Di Lingkungan Peradilan Agama Wilayah Sulawesi Selatan," *DIKTUM: Jurnal Syariah Dan Hukum* 16, no. 2 (5 Desember 2018): 187–207, <https://doi.org/10.35905/diktum.v16i2.618>.

Acknowledgements

The author would like to express sincere gratitude to the UIN Jurai Siwo Lampung, Indonesia, for providing continuous academic support and an enabling research environment. Appreciation is also extended to colleagues and reviewers whose valuable insights and critical feedback have significantly enhanced the quality and depth of this study.

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