



POLITICAL DYNAMICS OF LAW AND SIYASAH SHAR'IYYAH IN EGYPTIAN ISLAMIC LAW REFORM: THE TRANSFORMATION OF WOMEN'S RIGHTS PROTECTION

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Abstract: Family law reform in Egypt is an important response to social dynamics and the demands of modernity that require adjustments to Islamic legal regulations to be more contextual and responsive to the current conditions of society. This research uses a juridical-normative method with a literature review approach to analyse the historical development, reform process, and implementation of family law regulations in Egypt, especially those based on the principle of benefit (maslahah) in siyasah shar'iyyah. The results of the study show that Egypt has undergone various stages of family law reform, ranging from initial codification, amendments, to regulatory innovations that emphasise the protection of women's and children's rights, regulation of bride and groom's consent, restrictions on polygamy, and the establishment of a minimum age of marriage. This reform succeeded in harmonising the principles of sharia with contemporary social demands through an adaptive and progressive model of siyasah shar'iyyah. In conclusion, family law reform in Egypt is not just a formal adjustment, but also a substantive transformation that strengthens legal certainty and social justice. This study makes a significant contribution to the study of Islamic law and family law reform in Muslim countries by offering a contextual and applicable model of siyasah shar'iyyah implementation.

Keywords: Family Law Reform; Egypt; Siyasah shar'iyyah; Maslahah; Islamic Law.

Abstrak: Reformasi hukum keluarga di Mesir merupakan respons penting terhadap dinamika sosial dan tuntutan modernitas yang menuntut penyesuaian regulasi hukum Islam agar lebih kontekstual dan responsif terhadap kondisi masyarakat saat ini. Penelitian ini menggunakan metode yuridis-normatif dengan pendekatan kajian kepustakaan untuk menganalisis perkembangan historis, proses

reformasi, dan implementasi regulasi hukum keluarga di Mesir, khususnya yang berlandaskan prinsip kemaslahatan (masalah) dalam Siyasaḥ Shar'iyah. Hasil kajian menunjukkan bahwa Mesir telah menjalani berbagai tahapan reformasi hukum keluarga, mulai dari kodifikasi awal, amandemen, hingga inovasi regulasi yang menitikberatkan pada perlindungan hak perempuan dan anak, pengaturan persetujuan mempelai, pembatasan poligami, serta penetapan batas usia minimal pernikahan. Reformasi ini berhasil menyelaraskan prinsip-prinsip syariah dengan tuntutan sosial kontemporer melalui model Siyasaḥ Shar'iyah yang adaptif dan progresif. Kesimpulannya, reformasi hukum keluarga di Mesir bukan sekadar penyesuaian formal, tetapi juga transformasi substantif yang memperkuat kepastian hukum dan keadilan sosial. Studi ini memberikan kontribusi signifikan bagi kajian hukum Islam dan reformasi hukum keluarga di negara-negara Muslim dengan menawarkan model implementasi Siyasaḥ Shar'iyah yang kontekstual dan aplikatif

Kata Kunci: Reformasi Hukum Keluarga; Mesir; Siyasaḥ Shar'iyah; Masalah; Hukum Islam.

INTRODUCTION

The importance of reforming Islamic family law in Egypt in the face of social change and the demands of modernity. Egypt, as a country with a long history in the application of Islamic law, has experienced various phases of family law changes colored by the influence of different dynasties, cultures, and social values. Initially, family law in Egypt was compiled based on *fiqh* books from various madhhabs, such as Hanafi and Maliki, which were developed by *fuqaha* according to the needs of the times. However, with the development of the times, this legal thinking from the past is no longer considered capable of responding to the various dynamics of modern society and tends to result in legal uncertainty and significant differences of opinion in solving family problems.¹

Amidst the pervasive influence of westernisation and secularism on various aspects of life, Egypt has taken important steps in codifying and reforming its family law. This move aims to create a legal system that is not only in accordance with Islamic principles but also relevant to the country's current social, cultural, and political conditions. These reforms include the enactment of new laws governing maintenance, marriage age, divorce, and inheritance, which are expected to provide legal certainty, justice, and protection of individual rights in society.²

¹ Lama Abu-Odeh, "Modernizing Muslim Family Law: The Case of Egypt," Oxford University Comparative Law Forum, 2004, <https://ouclf.law.ox.ac.uk/modernizing-muslim-family-law-the-case-of-egypt/>.

² Fuad Riyadi et al., "Constitutional Ijtihad and the Reform of Islamic Family Law : A Comparative Analysis of Indonesia and Egypt in Advancing SDG 16" 26, no. 2 (2025): 353-70, <https://doi.org/10.23917/profetika.v26i02.11106>.

Islamic law reform in Egypt, especially in the field of family law, is a response to the dynamics of the times that require transformation from conventional *fiqh* to regulations that are more contextual and relevant to the needs of modern society. The literature shows that the reform methods used in Egypt are very diverse, including *takhayyur* (selection of inter-mazhab opinions), *talfiq* (compilation of mazhab opinions), *takhsis al-qada'* (limiting court jurisdiction), *siyasah shar'iyah* (administrative policies for the benefit), as well as reinterpretation of *nash* and thematic-holistic approaches. These methods are not only intra-doctrinal (still referring to *fiqh* doctrine), but also extra-doctrinal (adopting approaches outside classical *fiqh*), as seen in the renewal of the marriage age limit, marriage registration, and restrictions on polygamy, which emphasise aspects of benefit and protection of women's rights.³

In the Egyptian context, *siyasah shar'iyah* became one of the important instruments in encouraging changes in family law, especially in presenting new rules that were not explicitly found in classical *fiqh*, such as mandatory wills and restrictions on polygamy practices. Anderson notes that family law reform in Egypt also touches procedural aspects, for example, by adopting a marriage registration system and documentary proof in divorce, which is a form of modernising sharia law through legal administration and updating judicial procedures. This distinguishes Egypt from other Muslim countries that tend to be more conservative in family law reform.⁴

The literature also highlights that family law reform in Egypt is not always consistent in its application of reform methods. In some cases, the determination of the law is carried out by combining several approaches at once, for example, in determining the minimum age of marriage, which is sometimes based on *siyasah shar'iyah*, reinterpretation of the *nash*, or even a combination of both. In addition, family law reform in Egypt is also categorised as extra-doctrinal reform when it no longer refers to conventional *fiqh* concepts, such as in the restrictions on polygamy and the establishment of mandatory wills, while intra-doctrinal reform is still used in cases such as divorce before the court.

The novelty of this research lies in the critical analysis of the integration of reform methods that are not only oriented towards *fiqh* doctrine, but also consider the political aspects of law and the social dynamics developing in Egypt. In contrast to previous studies that highlighted more normative-doctrinal aspects, this study emphasises the importance of *siyasah shar'iyah* as a state strategy to respond to demands

³ Ahmad Fauziyah dan Badrul Bazikh, *Reformasi Hukum Keluarga Islam di Mesir: Pendekatan Siyasah Syar'iyah* (Cairo: Dar al-Hikmah, 2023), 45.

⁴ Riyadi et al., "Constitutional Ijtihad and the Reform of Islamic Family Law : A Comparative Analysis of Indonesia and Egypt in Advancing SDG 16."

for the protection of women's rights through more progressive and adaptive family law policies. Thus, this research offers a new perspective in seeing the transformation of women's rights protection in Egypt, namely through a dynamic and contextual approach of legal politics and *siyasaḥ shar'iyah*.

RESEARCH METHODS

This research employs a literature review, utilising a juridical-normative approach. The research focuses on analysing the Egyptian Family Law (*Qanun al-Aḥwal al-Syakhsīyyah al-Mishriyyah*), particularly regarding its historical development and the regulations it contains. During the data collection process, the researcher employed documentation techniques by selecting various relevant reference sources. This study provides a brief review of the history of family law reform in Egypt. In addition, this study also comprehensively examines various provisions in the Law, including aspects of marriage registration, the consent of the bride and groom, the minimum age of marriage, the imposition of polygamy requirements, the determination of the amount of *mahar*, and the obligation to resolve divorce through the judiciary.

DISCUSSION

Islamic Law Reform in Egypt

Egypt, or the Arab Republic of Egypt, and its constitution was established on 11 September 1971.⁵ Egypt is located on the eastern coast of the African continent, with the Mediterranean Sea to the north, Sudan to the south, and Libya to the west. The country has a total area of approximately 997,739 square kilometres. In 1990, the population reached 54,609,000, of which approximately 90% were Muslim (*Sunni*). The main ethnic groups consist of Egyptians, Bedouins, and Nubians. The capital is Cairo, and the official language is Arabic.⁶ Islam entered Egypt during the reign of Caliph Umar bin Khattab. After that, Egypt was successively ruled by the Umayyad and Abbasid dynasties, followed by the Tulunid dynasty from 935 to 969, the Fatimid dynasty from 909 to 1171, the Ayyubid dynasty from 1174 to 1250, which was marked by the Crusades, and the Mamluk dynasty from 1250 to 1571. After that, Egypt became part of the Ottoman Empire.⁷

In the past, laws concerning marriage and divorce, albeit in a more limited sense, were largely contained in various law books within a country.

⁵ Muhammad Tahir Azhariy, *Negara Hukum: Suatu Study Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam, Implementasinya Pada Periode Negara Madinah Dan Masa Kini*, (Jakarta: Bulan Bintang), 1992. h.165

⁶ Abdul Aziz, "Perbandingan Hukum Keluarga Islam Di Mesir Dosen Pembimbing:," . (2023)., p. 5.

⁷ Aziz, p 6.

These books were the result of the efforts of mujahideen at various levels to meet the legal needs of the Muslim community at that time. Today, these family laws can be found and studied in law books from various schools of thought, including the four Sunni *imams* (Hanafi, Maliki, Shafi'i, and Hanbali) and the three *Shi'a imams* (Itsna Asyari, Ismaili, and Zaidiyyah).⁸ However, the reasoning of the *fuqaha* in the past was very appropriate and could meet the needs of Muslims at that time; today, that reasoning is no longer relevant to the developments of the times and the needs of Muslims today. Furthermore, their conclusions often varied, as they were influenced by their respective levels of knowledge and experience, even within the same school of thought. This can lead to dissatisfaction with the content and substance of their reasoning, as well as legal uncertainty due to differences of opinion. As a result, many Muslims tend to follow customary laws that have been passed down from generation to generation.⁹

Legal developments in Muslim countries today show broad dynamics, where legal reforms and modifications are not only occurring in the realm of family law, but also impacting the legal, social and administrative systems of the state. These reforms are a response to the tide of Westernisation and secularism that is influencing various aspects of Muslim society, as well as an effort to adapt the law to contemporary changes and social needs.¹⁰

Under the rule of Umar bin Ash, Egypt separated religious and civil affairs and handled interfaith disputes, making it the first Arab country to reform Islamic law. As science progressed, scholars in Egypt updated family law. Initially adhering to the Maliki school of thought, Egyptian society switched to the Hanafi school since the Tulunid dynasty. Turkish influence also encouraged the adaptation of Islamic law to Western law, so that legal experts sought a system that was more responsive and culturally appropriate to Egypt in order to achieve justice for individuals.¹¹

The reform of Egyptian family law began in 1915 with Sheikh al-Maraghi, rector of al-Azhar University, as the reformist team. As a result, Law No. 25 of 1920 on alimony and divorce was passed, followed by Law No. 56 of 1923 on the age of marriage, and Law No. 25 of 1929 on divorce. Reforms continued with Law No. 77 of 1943 on inheritance and Law No. 71 of 1946 on wills.¹² Family law reform in Egypt continued, with amendments

⁸ Mohamad Faisal Aulia, "Analisis Perbandingan Penerapan Hukum Keluarga Di Mesir Dan Di Indonesia," *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 2, no. 2 (2022): 123–32, <https://doi.org/10.15575/as.v2i2.14327>.

⁹ Aulia., p. 4.

¹⁰ Aulia., h 6.

¹¹ Mop. Zarkasi Mop. Mujibur Rohman, "Reformasi Hukum Keluarga Di Dunia Islam (Studi Normatif Perbandingan Hukum Perceraian Mesir-Indonesia)," *AL-SYAKHSHIYYAH: Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 3, no. 1 (2021)., p. 4.

¹² Mop. Zarkasi Mop. Mujibur Rohman, p. 4

to Law No. 25 of 1920 and Law No. 25 of 1929 in 1979, resulting in Law No. 44 or the "Hukm Jihan Sadat." Then, in 1985, Personal Status Law No. 100 was introduced, and in 2005, Law No. 4 amended the provisions on the age of guardianship. President Abdel Fattah el-Sisi's attempt to reform divorce law by legalising verbal divorce (*bi al-lisan*) was rejected by the Council of Ulama.¹³

Legal reformers in Egypt often faced opposition, such as Qasim Amin (1885–1908), a social activist and feminist figure, who was considered too liberal when he published his work *Tahrir al-Mar'ah* (The Liberation of Women). Nevertheless, the ideas of Amin and Muhammad Abduh (1849–1905) influenced the enactment of Law No. 20 of 1929 in Egypt.¹⁴

In addition to Qasim Amin, other reformers in Egyptian family law were Muhammad Abduh and Sayyid Ameer Ali (1849–1908), who helped push for reforms in Islamic law leading up to the legislation of family law in 1920–1929. These reforms were influenced by Ottoman rule and the reformers' struggle for individual rights. The following discussion will focus on divorce law. The journey of family law reform in Egypt demonstrates the state's efforts to balance religious principles with social demands. Egypt became a pioneer of Islamic legal reform, moving from the Maliki school of thought to the Hanafi school, and adopting the influence of Western law for local relevance. Beginning in 1915 with the figure of Sheikh al-Maraghi, the reforms resulted in laws on alimony, marriage age, and divorce. Despite much resistance, such as that experienced by Qasim Amin, these reforms affirmed Egypt's commitment to establishing family laws that were fair and in line with the development of society.

Egypt adopted a similar approach to Pakistan in reforming family law, as described by John L. Esposito in his work "Women in Muslim Family Law". This reform process relies on three main methodologies: first is *Siyasaḥ Syar'iyah*, second is *Takhayyur*, and third is *Talfiq*.¹⁵ The application of *Siyasaḥ Syar'iyah* is evident in inheritance regulations, particularly those related to the obligation of *wasiat wajibah*, which governs the inheritance rights of grandchildren through the female line. The implementation of the methods of *Takhayyur* and *Talfiq* is reflected in provisions that restrict the practice of polygamy.

In the context of family law reform in Egypt, there are seven fundamental aspects that have undergone significant changes. First, the legal system emphasises the importance of marriage documentation as a legal instrument of proof that cannot be ignored. Second, regulations allow interfaith marriages, particularly with followers of the Abrahamic religions.

¹³ Mop. Zarkasi Mop. Mujibur Rohman, p. 5.

¹⁴ Mop. Zarkasi Mop. Mujibur Rohman, p. 5.

¹⁵ Miftahul Huda, *Hukum Keluarga Potret Keragaman PerUndang-Undangan di.....*, p. 83.

Third, prospective wives are given the freedom to propose anti-polygamy clauses in prenuptial agreements with their prospective husbands.

Fourth, the rules regarding witnesses in marriage have become more flexible, whereby the composition and number of witnesses may vary without distinction based on gender. Fifth, the practice of polygamy is defined as an act that may cause harm or loss if undertaken without the consent of the existing wife. Sixth, child custody (*hadhanah*) rights are prioritised to the mother, with the exception of if the mother is not Muslim. Finally, the scope of the *wasiat wajibah* system has been expanded to include grandchildren from the daughter's line as heirs.¹⁶

1. The Theory of Family Law Reform in Egypt

Family law in this context refers to the legal provisions applicable in Egypt. These provisions are used by the courts as a reference for resolving various issues or disputes related to family matters that arise in Egypt. The family regulations applied to Egyptian society, whether codified in whole or in part, are essentially the result of the development of Islamic family law that has existed since ancient times (traditional).¹⁷

The discussion will cover several important topics in Egyptian family law, including:¹⁸ Minimum age requirements for marriage, procedures for registering or recording marriages, provisions regarding divorce, rules on marriage with more than one wife (polygamy), provisions regarding the consent of both parties to the marriage, and regulations limiting the amount of *mahar* in marriage.

a. Marriage Registration

Marriage registration is crucial, as it prevents many problems that can arise if a marriage is not officially registered. These problems can include determining the status of children, alimony obligations, inheritance distribution, and various other issues. In the history of Egyptian law, several regulations related to marriage registration have been issued. First, the 1880 ordinance regulated marriage registrars, including the appointment process and procedures for carrying out their duties. Then, in 1897, a new ordinance was issued, which in Article 31 stipulated that the court would not accept marriage lawsuits or acknowledgements of marriage after one of the parties had died, unless there were evidence of a valid marriage. Subsequently, the

¹⁶ Miftahul Huda, p. 56.

¹⁷ K Kurniati, "Hukum Keluarga Di Mesir," *Al Daulah: Jurnal Hukum Pidana Dan ...* 3, no. 01 (2014): 24-34, https://journal3.uin-alauddin.ac.id/index.php/al_daulah/article/view/1497.

¹⁸ K Kurniati, "Hukum Keluarga Di Mesir," p. 27

1921 ordinance reinforced the previous rules by requiring an official marriage certificate issued by the competent authority.¹⁹

In Indonesia, Article 2 paragraph (2) of Marriage Law No. 1 of 1974 clearly stipulates that every marriage must be registered in accordance with applicable legal provisions. Although Islamic scholars in Indonesia generally agree with and do not openly oppose this provision, in practice, there is still ambivalence among Indonesian Muslims. This is because the requirement to register marriages is not found in classical *fiqh* literature, which has long been the main reference for Muslims in matters of marriage.²⁰

b. Marriage Registration

In Egypt, the country's constitution prohibits forced marriage and guarantees the right of individuals to choose their life partner. Applicable regulations also stipulate a minimum age of 18 for both men and women to marry. However, the implementation of this regulation faces various obstacles, including limited resources and cultural resistance from communities that still uphold the concept of *ijbar* (the right of parents/guardians to force) marriage. This situation is exacerbated by weak law enforcement, characterised by the absence of strict sanctions for those involved in forced marriage practices, allowing this custom to continue in society.

The Egyptian government has implemented legal reforms regarding marriage rules based on Islamic jurisprudence. Previously, the law gave parents or guardians the authority to use their right of *ijbar*, which is to determine the marriage of their daughters. However, the application of the concept of "coercion" in this context needs to be reviewed, taking into account the fundamental principles of Islamic law that prioritise aspects of benefit and wisdom. In Egypt, the phenomenon of forced marriage remains a difficult problem to eradicate. This is inseparable from the strong influence of social traditions and conditions, coupled with the weak implementation of laws to address this negative practice. Concrete steps are needed, such as changing public perceptions, providing broader educational opportunities, and strengthening legal protections for those who are potentially victims. A deep understanding of the situation of forced marriage in Egypt can encourage the creation of an

¹⁹ Mohamad Salman Podungge, Panji Nugraha Ruhiat, and Si'ah Khosyiah, "Hukum Perkawinan & Kewarisan Dalam Tata Hukum Mesir Dan Sudan," *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 1 (2022): 19-32, <https://doi.org/10.15575/as.v3i1.17476>.

²⁰ Aulia, "Analisis Perbandingan Penerapan Hukum Keluarga Di Mesir Dan Di Indonesia."

environment that respects individual freedom in determining one's path in life, without coercion or discrimination.²¹

In Indonesia, the consent of the bride and groom is regulated in the Compilation of Islamic Law (KHI) Article 11 on marriage proposals, which states: "Marriage proposals can be made directly by those who wish to find a spouse, but can also be made by a trusted intermediary". Article 11 provides flexibility for prospective spouses or interested parties to propose marriage, either directly or through a trusted intermediary, in line with customs that require the role of a third party in introductions.

Then, in Article 16 paragraphs (1) and (2) of Chapter IV of the KHI concerning the pillars and requirements of marriage, the second part concerns the prospective bride and groom:

- 1) Marriage shall be based on the consent of the prospective spouses.
- 2) The form of consent of the prospective bride may be in the form of an explicit and clear statement in writing, verbally or by gesture, but may also be in the form of silence, provided that there is no explicit refusal.²²

The provisions of the KHI emphasise the importance of consent as the main basis for marriage. Article 16, paragraph (1) states that marriage must be based on the consent of both prospective spouses. This signifies the KHI's commitment to individual rights and freedoms in choosing a life partner. In the case of the consent of the prospective bride, Article 16 paragraph (2) provides wise flexibility, whereby consent can be expressed explicitly in writing, verbally, or through gestures, and even through silence as long as there is no explicit refusal. This provision shows appreciation for the various forms of communication and cultures that exist in Indonesia.

Then, in Article 17 paragraphs (1), (2), and (3) of the KHI concerning the pillars and requirements of marriage for the second part of the bride and groom:

- 1) Before the marriage ceremony takes place, the Registrar asks for the consent of the bride and groom in the presence of two witnesses.

²¹ Nada Foundation, "Unveiling the Reality: Forced Marriages in Egypt", [nadafund.org.uk](https://nadafund.org.uk/unveiling-the-reality-forced-marriages-in-egypt/), July 14, 2023, <https://nadafund.org.uk/unveiling-the-reality-forced-marriages-in-egypt/> Accessed at: 18/10/2024.

²² Aulia, "Analisis Perbandingan Penerapan Hukum Keluarga Di Mesir Dan Di Indonesia.", p. 67.

- 2) If it transpires that the marriage is not approved by one of the prospective spouses, then the marriage cannot take place.
- 3) For prospective brides and grooms who are speech-impaired or deaf, consent may be expressed in writing or through understandable gestures.²³

Furthermore, Article 17 paragraphs (1) to (3) stipulate that before the marriage takes place, the consent of the prospective bride and groom must be formally requested in the presence of the Registrar and two witnesses. If either the prospective bride or groom does not give their consent, the marriage cannot take place. This emphasises that marriage must not be forced, and ensures clear and documented consent rights. For prospective spouses with communication limitations, such as those who are deaf or mute, this provision wisely allows consent to be given in writing or through easily understood gestures. Overall, this provision demonstrates that the KHI is based on the principles of voluntariness and individual rights in marriage, while still considering aspects of inclusivity and humanity.

c. Marriage Age Restriction

Although there are no explicit provisions in the Qur'an and hadith regarding the minimum age for marriage, in order to achieve a harmonious and lasting family life, Islamic legal experts in Egypt have formulated regulations on the minimum age for marriage. This provision is contained in Article 99(5) of the 1931 Law, which stipulates that men must be at least 18 years old and women at least 16 years old to be able to marry.²⁴

Furthermore, in paragraph (5) Article 99 of the Law on the Organisation of the / Religion of 1931, it is stated: "No hearing shall be held for family matters where the wife is under sixteen years of age or the husband is under eighteen years of age". If the wife is under sixteen years of age or the husband is under eighteen years of age".²⁵ This law stipulates that the court will not accept family cases if the wife is under 16 years of age or the husband is under 18 years of age. This provision was made with the main objective of ensuring harmony in married life.

In Indonesia, in paragraphs (1), (2), and (3) of Law No. 16 of 2019 concerning amendments to Law No. 1 of 1974 concerning Marriage, the latest version of pasal 7:

²³ Aulia, p. 67.

²⁴ Kurniati, "Hukum Keluarga.....", p. 27

²⁵ Kurniati, p. 27.

- 1) Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.
- 2) In the event of a deviation from the age requirements as referred to in paragraph (1), the parents of the man and/or the parents of the woman may request a dispensation from the Court on the grounds of extreme urgency, accompanied by evidence. Reasons that are urgent and accompanied by supporting evidence that is sufficient.
- 3) The granting of dispensation by the court as referred to in paragraph (2) shall be subject to the following conditions: The Court, as referred to in paragraph (2), must hear the opinions of both prospective spouses who will enter into marriage.
- 4) The provisions regarding the circumstances of one or both parents of the bride and groom, as referred to in Article 6 paragraph (3) and paragraph (4), also apply to provisions regarding requests for dispensation as referred to in paragraph (2) without prejudice to the provisions as referred to in /Article 6 paragraph (6)."²⁶

The above article stipulates that the minimum age for marriage in Indonesia is 19 years for both men and women, which is the result of the latest revision to Indonesian family law. The history of regulating the minimum age for marriage in Indonesia began with the enactment of Law No. 1 of 1974 on Marriage, which marked the beginning of family law regulations in Indonesia. After 45 years, the government finally made revisions through Law No. 16 of 2019, which changed the provisions on the minimum age for marriage.²⁷

The amendment to Article 7 aims to strengthen the protection of children, particularly by raising the minimum age of marriage to 19 years for both men and women. This provision is important to protect the physical, mental and social health of prospective spouses, who are expected to be better prepared to

²⁶ Sekretariat Negara Republik Indonesia, "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Undang-Undang Republik Indonesia*, no. 006265 (2019): 2-6.

²⁷ Salman Alfansuri Muhammad et al., "Pembatasan Usia Minimal Perkawinan Dalam Hukum Keluarga Islam Studi Komparasi Indonesia Dan Yordania" 6 (2024): 1448-60, <https://doi.org/10.47476/assyari.v6i2.6443>.

take on the roles of marriage at that age. In certain situations, parents may apply to the court for a dispensation if there are compelling reasons, but the application must be accompanied by strong evidence to prevent abuse. The dispensation provision, which requires the court to hear the opinions of both prospective spouses, aims to protect them from coercion in marriage, which often occurs in early marriages. In addition, this provision is in line with Article 6 regarding the circumstances of the parents of the prospective bride and groom, to ensure that the dispensation request process still takes into account legal aspects if there are obstacles in obtaining parental consent..

d. Polygamy Restrictions

According to the view of the Islamic reformer from Egypt, Muhammad Abduh, the practice of polygamy is actually not permitted for ordinary people and is reserved only for the Prophet Muhammad SAW. He analogises polygamy as a form of oppression, which contradicts Islamic teachings that reject all forms of slavery. In his thinking, Muhammad Abduh put forward three main arguments regarding the prohibition of polygamy. First, the fundamental requirement of polygamy is the ability to be fair, a condition that is almost impossible for ordinary humans to fulfil. Second, it is common for husbands to treat their wives unfairly due to their inability to meet their physical and emotional needs equally and fairly. Finally, the practice of polygamy has the potential to cause psychological trauma to children raised in an environment full of conflict, both between their mother and father and with other wives.²⁸

In the formulation of regulations on polygamous marriage in Egypt, scholars debated the issue, influenced by the three factors described above. The outcome of these discussions resulted in a legal provision that provides protection to wives. Women in polygamous marriages have the right to file for divorce on the condition that they can prove that they have suffered negative effects, such as unmet financial needs, violence, unmet biological needs, or other similar suffering.²⁹

Egypt began to regulate polygamy through Amendment No. 100 of 1985 strictly. This regulation contains several important provisions: first, a wife may file for divorce if her

²⁸ Rahmawati, *Perbandingan Hukum Keluarga Islam*, (Parepare: IAIN Parepare Nusantara Press, 2020), p. 187-188.

²⁹ Fathul Mu'in, Hendriyadi, "Analisis Perbandingan Batas Usia Perkawinan di Mesir.....", p. 76.

husband's polygamy causes economic hardship, without the need to include it in the *ta'lik talak*. Second, the court is required to inform the first wife of her husband's plans for polygamy. Violations of these rules are punishable by a maximum of six months' imprisonment and/or a fine of 200 Egyptian pounds. Similar penalties apply to those who provide false information to marriage registrars. Meanwhile, officials who are negligent in their duties may be subject to one month's imprisonment, a maximum fine of 50 Egyptian pounds, and temporary dismissal for a maximum of one year. The wife is given one year to prove that polygamy has caused economic hardship as grounds for divorce.³⁰

Polygamy regulations in Indonesia are governed by Law No. 1 of 1974 on Marriage, which essentially adheres to the principle of monogamy as stated in Article 3, paragraph 1. However, polygamy is still possible under strict conditions as stipulated in Article 3, paragraph 2. A husband who wishes to practise polygamy must meet two main requirements: obtain the consent of his existing wife and obtain permission from the court.³¹

The court will only grant permission for polygamy if one of the following three conditions is met: (1) The wife is unable to bear children due to illness. (2) The wife suffers from an incurable illness. (3) The wife is unable to fulfil her obligations as a wife.³² These regulations are not intended to discriminate against or demean women, nor to give special treatment to men, but rather as an effort to protect the rights of all parties in marriage.

e. Limiting the amount of *mahar*

Regulations concerning *mahar* in the Egyptian legal system are limited to Law No. 25 of 1929 on Family Law. Specifically, this provision is contained in Article 19, which regulates the mechanism for resolving *mahar* disputes between husband and wife. This article stipulates that in the event of a dispute over the amount of *mahar*, the wife has the right to present witnesses. However, if the wife is unable to present witnesses, the court will accept the husband's statement, which is confirmed by an oath. An exception is made if the amount of *mahar* claimed by

³⁰ Apit Farid and Siah Khosyi'ah, "Dinamika Penerapan Hukum Keluarga Di Mesir Dan Sudan" 9, no. 1 (2024): 133-47, <https://doi.org/http://dx.doi.org/10.29300/qys.v9i1.4294>.

³¹ Suud Sarim Karimullah, "Poligami Perspektif Fikih Dan Hukum Keluarga Negara Muslim," *Journal of Islamic Family Law* 02, no. 01 (2021): 2775-7161.

³² Suud Sarim Karimullah,

the husband is deemed inappropriate for a woman of equal status to his wife.

However, the regulation does not specify a specific limit on the amount of *mahar*. To fill the legal void in family matters that are not explicitly regulated in the law, the Egyptian government has issued Law No. 1 of 2000 on the Conditions and Procedures of the Court in the Settlement of Family Law Matters. Article 3 of this law mandates that the settlement of cases that have no positive legal basis shall refer to the strongest opinion in the Hanafi school of thought.

According to the Hanafi school of thought, the provision of a *mahar* is a right possessed by a wife and an obligation of the husband as a form of respect for his partner. This concept contradicts the view of some people who see the *mahar* as a form of payment for obtaining pleasure from the wife. Such an understanding is not in line with the dignity and honour of a woman. This can be proven by the provision that the husband is still obliged to pay half of the *mahar* even if the divorce occurs after the marriage contract but before the consummation of the marriage (*dukhul*). If the *mahar* were considered the price of pleasure, then in such a case, the husband would not need to pay the *mahar* at all because no physical relationship had taken place. Furthermore, in a marriage, pleasure or enjoyment is not only felt by the husband, but by both parties. Thus, if the *mahar* is considered compensation for pleasure, then the wife should not be entitled to receive any *mahar*.³³

According to the Hanafi school of thought, the *mahar* is not included in the pillars or conditions that determine the validity of a marriage. Consequently, a marriage contract is still considered valid even if the *mahar* is not mentioned during the contract process. In terms of determining the amount of the *mahar*, there are no specific provisions limiting its maximum value. However, it is recommended that the *mahar* not be set at an excessive amount. As for the minimum *mahar*, the Hanafi school of thought has set a minimum standard of 10 dirhams, which is equivalent to 1 dinar.

In Indonesian legislation, provisions regarding *mahar* are regulated in the Compilation of Islamic Law (KHI) in Chapter V,

³³ Futuh as-Syazali, "Hak-hak perempuan di bidang Hukum Keluarga pada Ketentuan pernikahan dari sudut pandang hukum", The National Council For Women, April 22, 2020, <https://ncw.gov.eg/Page/502/حقوق-المرأة-في-مجال-الأحوال-الشخصية-أحكام-الزواج-من-الوجه> diakses pada: 24/10/2024.

specifically Articles 30-38. Issues related to *mahar* are also mentioned in Chapter I on general provisions in Article 1d, which provides a definition of *mahar*. In Chapter IV, which discusses the pillars and requirements of marriage, it is emphasised that *mahar* is not included in the pillars of marriage. The principle of *mahar* is simplicity and convenience, and its ownership is entirely the right of the wife. *Mahar* should be given in cash, although it can be deferred or paid in instalments. It is emphasised again that *mahar* is not an essential element of marriage.³⁴

Then, the *mahar* is viewed from a *fiqh* perspective. According to Imam Al-Syîrâzî, a scholar from the Shafi'i school of thought, the marriage contract is *'aqd mu'âwadhah*, which is a contract of exchange between husband and wife.³⁵ Thus, the marriage contract gives the husband and wife the right to exchange, not to possess each other. This means that even though the husband gives a *mahar* to his wife, this does not mean that he owns his wife as if she were a possession.³⁶

According to Q.S. al-Nisâ' [4]: 20, the *mahar* that must be given should be something of value or worth. However, it is recommended that the amount should not exceed the *mahar* that the Prophet Muhammad gave to his wives and daughters, which was a maximum of 500 dirhams. The *mahar* can also be in the form of simple items, such as a piece of iron, or even in the form of wages or services.³⁷

According to Ibn Qudâmah of the Hanbalî school of thought, the first obligation of a husband towards his wife is to provide a *mahar*. He argues that a suitable *mahar* is a mandatory requirement in marriage, even though its presence at the time of the contract is not necessary. A new husband is only obliged to pay the *mahar* if he has had sexual relations with his wife. Conversely, if no relations have taken place, then the obligation to pay the *mahar* does not apply. This legal basis is based on the hadith of the Prophet, which commands the husband to pay the *mahar* after having relations. Thus, the obligation to give the *mahar* does not apply at the time of the contract, but after the husband and wife have had relations (*wath'*).³⁸

³⁴ Qodariah Barkah, "Kedudukan Dan Jumlah Mahar Di Negara Muslim," *AHKAM : Jurnal Ilmu Syariah* 14, no. 2 (2014): p. 6., <https://doi.org/10.15408/ajis.v14i2.1286>.

³⁵ Abû Ishâq Ibrâhîm al-Syîrâzî, *Al-Muhadzdzab fî Fiqh al-Imâm al-Syâfi'i*, (Semarang: Thoha Putra,t.t.), Jilid II, p. 33

³⁶ Abû Ishâq Ibrâhîm al-Syîrâzî, p. 2.

³⁷ Abû Ishâq Ibrâhîm al-Syîrâzî

³⁸ Muwaffaq al-Dîn Abû Muḥammad 'Abd Allâh ibn Aḥmad ibn Qudâmah, *Al-Mughnî wa al-Syarḥ al-Kabîr*, (Beirut: Dâr al-Fikr, 1984 M), Jilid VII, p. 344.

f. The necessity of divorce before the court

In regulating divorce matters, Egypt chose not to follow the Hanafi school of thought but instead adopted the Maliki school of thought. This decision was realised through the enactment of two laws in 1920 and 1929, which gave wives the right to file for divorce in court. Based on these two laws, a wife can file for divorce on several grounds: the husband does not provide financial support, the husband has been missing for one year, the husband is serving a minimum of three years in prison with a final and binding verdict, or the husband is unable to fulfil his wife's biological needs. The Maliki school of jurisprudence was deliberately chosen as the basis for this law because it was considered to be more accommodating of the social needs and interests of Egyptian society.³⁹

When discussing divorce in Indonesia, there are two main regulations that govern it, namely Marriage Law No. 1 of 1974 and the Compilation of Islamic Law (KHI) established through Presidential Instruction No. 1 of 1991. The Marriage Law applies to all religious adherents in Indonesia, while the KHI specifically regulates substantive law for Muslims in Islamic civil cases in the Religious Court.⁴⁰

Provisions regarding divorce in the Marriage Law are contained in Chapter VIII, which discusses the termination of marriage and its effects, particularly in Articles 38 to 41. Meanwhile, in the KHI, divorce is described in more detail in Chapter XVI on Termination of Marriage. Both the Marriage Law and the KHI stipulate that divorce must be carried out before a court after reconciliation efforts have been made. Both also allow the wife to file for divorce.⁴¹

Egypt's decision to adopt the Maliki school of thought on divorce, rather than the Hanafi school, provides a legal framework that is more responsive to the social needs of society. Under this legal basis, wives are granted clear rights to file for divorce in court on reasonable grounds, such as the husband's absence or inability to provide financial support. This reflects the state's

³⁹ Kurniati, "Hukum Keluarga....." p. 28.

⁴⁰ Dwi Aryanti Ramadhani Daniel, Revolusi Shandi Negara, Cheryl Michaelia Ongkowiguno, Muhammad Fadhil Ardian, Fareta Angelica Ichwana Putri, Muhammad Yanri Chairyatna, Muhammad Fadhil Bagaskara, "Studi Komparatif Perbandingan Mengenai Pengaturan Perceraian Dalam Hukum Keluarga Antara Negara Indonesia Dengan Mesir," *Causa: Jurnal Hukum Dan Kewarganegaraan* 1, no. 4 (2023): 1-11.

⁴¹ Dwi Aryanti Ramadhani Daniel, p. 8.

efforts to protect the rights of wives in difficult situations, with a legal foundation that meets the needs of society.

On the other hand, Indonesia implements Marriage Law No. 1 of 1974 and the Compilation of Islamic Law (KHI), which regulates the divorce process in the Religious Court after peaceful efforts have been made. These two regulations allow wives to file for divorce, similar to Egypt, thereby providing legal access for wives who experience problems in their marriage.

In understanding the dynamics of family law reform in Egypt, it is important to map out the stages of legal policy development that underlie these regulatory changes. This reform did not happen instantly, but rather through a long historical process with phases of renewal rooted in various social, political and religious factors. Table 1 below summarises the main stages of family law reform in Egypt, from initial codification efforts, modernisation through amendments, the application of the principle of *Siyasah Syar'iyah*, to the challenges of implementation and Egypt's position as a model for contemporary Islamic legal reform.

Table 1.
Stages of political development in family law reform in Egypt

Stages of Political Development of Law	Year/Period	Brief Description	Examples of Policies/Regulations
The Beginning of Family Law Codification	Early 20th century (1915-1929)	The development of family law that adopts the school of thought and the application of initial regulations to govern alimony, marriage, and divorce.	Law No. 25 of 1920 (Alimony and Divorce), Law No. 56 of 1923 (Marriage Age), Law No. 25 of 1929 (Divorce)
Modernisation and Amendments	1940-an - 1980-an	Amendments and updates to the law accommodate contemporary social needs, including restrictions on polygamy and wives' rights.	Law No. 77 of 1943 (Inheritance), Law No. 71 of 1946 (Wills), Law No. 44 of 1979 (Jihan Sadat Law), Law No. 100 of 1985 (Polygamy)
Reform Based on Sharia Politics	1980-an - 2000-an	The approach of <i>Siyasah Syar'iyah</i> as a legal policy instrument that is responsive and oriented towards the benefit of the people	The obligation to register marriages, the consent of the bride and groom, restrictions on the age of marriage,

			restrictions on polygamy with sanctions.
Challenges and Adjustments	2000-an - Sekarang	Full implementation faces resistance from traditional groups, adjustments to human rights demands and modern social changes.	Rejection of verbal divorce, revision of the minimum age for marriage, strengthening protection for women and children.
A Model of Reform for the Muslim World	Kontemporer	Egyptian family law has become a benchmark model for Islamic legal reform that harmonizes Sharia and modernity.	Comprehensive use of the Takhayyur, Talfiq, and Siyasaah Syar'iyah methodologies in legislation and legal practice.

Source: Researcher-processed data

The Impact of Legal Reform from the Perspective of Siyasaah Syar'iyah

1. Strengthening the Principle of Public Interest (*Maslahah*) in Regulation

In the context of Islamic family law reform, strengthening the principle of *maslahah* (*maslahah*) is the main foundation that inspires every new policy and regulation that is implemented. The principle of *maslahah* in *Siyasaah Syar'iyah* requires that every legal rule aims to provide the greatest benefit to society while preventing social harm and damage. This is clearly reflected in various legal reform regulations, particularly in Egypt, which can be used as an example of the comprehensive implementation of this principle.

One of the most tangible implementations is the obligation to officially register marriages, which aims to provide legal certainty for marital status and descent. With legal registration, various legal issues such as inheritance disputes, alimony, and the protection of women and children can be minimised. This regulation is in line with the *maqashid syariah* (objectives of Islamic law) in protecting lineage, life, and property, while also providing legal protection that has been lacking in unregistered marriages.⁴²

In addition, family law reforms also emphasise the importance of consent from both parties in a marriage, which reflects respect for the rights of individuals, especially women, to freely choose their life partner without coercion.⁴³ This is an important step in eradicating the practice of forced marriage, which has had a negative impact on the psychological and social

⁴² Khoiruddin Nasution, "Metode Pembaruan Hukum Keluarga Islam Kontemporer," *Jurnal UNISIA*, Volume 30 No 66, 2015, p. 334-339.

⁴³ John L. Esposito, *Women in Muslim Family Law*, (New York : Syracuse University Press, 1982), p. 89-91

well-being of women. This provision directly protects the rights and freedoms of individuals within the household as part of the common good.

Another important aspect is the setting of a minimum age for marriage, which is designed to protect children from health risks, psychological immaturity, and structural poverty that may arise as a result of early marriage. This provision also demonstrates sensitivity to social conditions that prioritise the welfare and physical and mental readiness of prospective spouses as part of the public interest.

Equally important is the restriction of polygamy with strict requirements and legal sanctions for violators. This regulation adopts the idea that polygamy without justice has the potential to cause harm in the form of psychological and social distress, especially for women and children. This restriction is a form of protection for the rights of victims of polygamy, which have been neglected, while ensuring justice within the family.⁴⁴

From all these aspects, it is clear that family law reform is not merely a matter of adapting the rules to the demands of modern times, but also of truly making the principle of public interest the main foundation. This reform reflects how *Siyasah Syar'iyah* plays a strategic role in combining the demands of sharia with the needs of contemporary society, so that the laws applied are flexible and responsive to social changes as long as they do not conflict with the basic principles of sharia. In this way, legal reform can realise the objectives of Sharia to provide equitable public interest and justice within society.

2. Adapting to Social Change and the Challenges of the Times

Legal reform within the framework of *Siyasah Syar'iyah* demonstrates the ability of Islamic law to adapt to social developments and contemporary challenges without losing the essence of sharia. The principle of siyasah requires that the law be dynamic and responsive to social conditions and global developments, such as the influence of Westernisation and secularism. For example, the reform of family law in Egypt not only introduced new rules, but also adapted traditional rules to contemporary social needs.⁴⁵

The implementation of regulations such as the obligation to register marriages, the consent of both parties, the setting of a minimum age for marriage, and restrictions on polygamy are concrete responses to issues such as the protection of women's and children's rights and the prevention of early marriage. In Indonesia, the change in the minimum age for marriage to 19 years and the tightening of polygamy requirements are

⁴⁴ John L. Esposito, *Women in Muslim Family Law*, p. 90

⁴⁵ Ahmad Fauziyah dan Badrul Bazikh, *Reformasi Hukum Keluarga Islam di Mesir Pendekatan Siyasah Syariyyah*, Cairo Dar al-Hikmah, 2023.

examples of how Islamic law is being adapted contextually in accordance with social needs and human rights.⁴⁶

Despite resistance from traditionalist groups and discrepancies between legal texts and community practices, these reforms were implemented as part of the state's commitment to harmonising the law with the maqashid sharia, protecting the interests of the people and rejecting harm.⁴⁷ With *Siyasaḥ Syar'iyah*, the adaptation of Islamic law to modernity is not merely cosmetic, but a substantive transformation that integrates Sharia norms with socio-political conditions without reducing religious values.

3. Adapting to Social Change and the Challenges of the Times

From the perspective of *Siyasaḥ Syar'iyah*, the state (*ulil amri*) has a central position as the authority to establish, regulate, and enforce laws for the benefit of the people. The state does not only play a passive regulatory role, but actively innovates legal policies that are not always explicitly found in classical *fiqh* literature, but are justified based on the principle of public interest (*maslahah ammah*). With this authority, the state can issue administrative regulations, establish new legal procedures, and impose sanctions in an effort to ensure legal compliance in order to maintain order and social justice.

A concrete example of family law reform in Egypt is the issuance of laws and ordinances addressing the obligation to register marriages, restrictions on the minimum age for marriage, and strict regulations on polygamy and its penalties. The Egyptian state systematically regulates the implementation of marriage registration by appointing special officers, establishing legal requirements, and imposing sanctions on violators, thereby strengthening legal certainty and protecting the rights of citizens.⁴⁸ This demonstrates how the state carries out its political functions by adopting administrative policies that are relevant to the social realities of modern society.

In Indonesia, the role of the state as *ulil amri* is also manifested in laws and regulations such as the Marriage Law, the Compilation of Islamic Law, and the mechanism for granting permission for polygamy through the courts. The state provides clear space for the protection of individual rights by establishing procedures for the consent of the bride and groom, a system

⁴⁶ Mohamad Faisal Aulia, Analisis Perbandingan Penerapan Hukum Keluarga Di Mesir Dan Di Indonesia, *Al-Aḥwal Al-Syakhsiyah Jurnal Hukum Keluarga Dan Peradilan Islam* 2, no. 2 (2022): 123-132.

⁴⁷ Mop. Zarkasi Mop. Mujibur Rohman, Reformasi Hukum Keluarga Di Dunia Islam Studi Normatif Perbandingan Hukum Perceraian Mesir-Indonesia, *AL-SYAKHSHIYYAH Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 3, no. 1 (2021). 59-77. <https://doi.org/10.35673/as-hki.v3i1.1433>

⁴⁸ Mohamad Faisal Aulia, "Analisis Perbandingan Penerapan Hukum Keluarga di Mesir dan Indonesia,"

of age dispensation, and supervision through religious courts.⁴⁹ This process establishes the state as the protector of justice and human rights, as well as the regulator of social norms through systematic legal mechanisms.

The strengthening of the state's role in law enforcement in accordance with the principle of *Siyasah* shows that Islamic law in the modern era is not only understood as normative law derived from religious texts, but also as a realistic legal system that is responsive to the complex needs of society. The state, as the actor of *siyasah*, is given the legitimacy to regulate law contextually as long as it aims to achieve benefits and reject harm to society at large. Thus, strengthening the role of the state *ulil amri* is not merely a matter of political power, but a manifestation of the state's function as the guardian of social order and justice, which also implements Sharia values within a framework that is adaptive to the developments of the times and modern social needs.

4. Prevention of Harmful Practices (*Sadd al-Dzari'ah*)

Legal reforms in Egypt and Indonesia also serve as preventive measures to close loopholes (*Sadd al-Dzari'ah*) against practices that have the potential to cause harm or social damage, especially in family matters. In *Siyasah Syar'iyah*, the principle of *Sadd al-Dzari'ah* emphasises the importance of preventing all forms of actions that could lead to damage or violation of individual rights.⁵⁰ The principle of *sadd al-dzariah*, or the prevention of causes of harm, holds an important position in the perspective of *Siyasah Syar'iyah* as a basis for closing legal loopholes that have the potential to cause social harm. In the context of family law reform in Egypt and Indonesia, this principle is applied in practice as a preventive measure to avoid practices that are detrimental to individual rights and social welfare at large.⁵¹

Legal reforms established the obligation to register marriages as the primary instrument for preventing disputes over the status of children, inheritance, and alimony rights, which often cause conflict and injustice.⁵² In addition, strictly enforcing the minimum age for marriage is a measure to protect children from early marriage, which carries a high risk of physical, psychological and socio-economic harm. This measure not only protects children's rights, but also prevents wider negative impacts on families and communities.

Restrictions on the practice of polygamy with strict requirements and clear legal sanctions are part of this principle to reject injustice and suffering

⁴⁹ Mop. Zarkasi Mop. Mujibur Rohman,

⁵⁰ Mohamad Faisal Aulia,

⁵¹ Peraturan Perundang-undangan Indonesia No.16 Tahun 2019 tentang Perubahan Undang-Undang No.1 Tahun 1974 tentang Perkawinan.

⁵² Mohamad Faisal Aulia,

experienced by wives and children in unfair polygamous households. Regulations requiring the consent of both parties and prohibiting forced marriage are both aimed at protecting human rights and preventing discriminatory practices that are deeply rooted in the culture of society.

Enforcing the law with strict sanctions, such as fines or imprisonment for violators, demonstrates the state's attitude that is not only reactive but also proactive in protecting the welfare of the people and preventing social damage. Thus, from the perspective of *Siyasah Syar'iyah*, legal reform is not only oriented towards administrative change, but also serves as an important mechanism for preventing harm, maintaining social stability, and realising substantive justice in society.

5. Transforming Traditional Values Towards Substantive Justice

From the perspective of *Siyasah Syar'iyah*, this change is a form of collective *ijtihad* to adapt Islamic law to the needs and challenges of the times, without losing the essence of the principles of sharia. Various new provisions, such as marriage registration requirements, minimum age limits for marriage, protection of the bride's right to consent, restrictions on polygamy, and regulations on dowries, are concrete examples of how rigid traditional values have been reinterpreted to be more in line with the principles of justice, protection of human rights, and the welfare of the people. Marriage registration regulations, for example, which were previously unknown in classical *fiqh*, have now become an important instrument for ensuring legal certainty and protection for women and children. Similarly, restrictions on polygamy and the strengthening of women's rights to file for divorce in cases of injustice reflect the state's efforts to achieve substantive justice, not just formal justice. Thus, legal reforms in both countries prove that Islamic law is capable of dynamic transformation, responding to social changes and community needs, while remaining grounded in *maqashid sharia*. The principle of *Siyasah Syar'iyah* legitimises these changes, as long as they aim to achieve greater public welfare and justice for the people.

CONCLUSION

Family law reform in Egypt is a fundamental process of change from a system based on classical *fiqh* to regulations that are more adaptive, contextual, and responsive to contemporary social dynamics. The application of the principle of *maslahah* (public interest) in *Siyasah Syar'iyah* (Islamic political science) is the main foundation of this legal reform, which focuses on achieving maximum benefits for society while minimising social harm, particularly in protecting the rights of women and children. The stages of codification, amendment, and regulatory innovation, such as the

obligation to register marriages, the regulation of spousal consent, the setting of a minimum age for marriage, and restrictions on polygamy, demonstrate Egypt's commitment to balancing the demands of sharia and the needs of the times. Despite facing challenges in the form of cultural resistance and conservative social practices, these reforms have strengthened access to justice and legal certainty in the realm of family law and made Egypt a reference model for Muslim countries in harmonising Islamic law with modernity.

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