

Compilation of Islamic Law within the Framework of State Typology: A Critical Analysis of the Reform of Islamic Family Law in Indonesia

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Abstract

Problem statement: The ambiguous legal status of the Compilation of Islamic Law (KHI) within Indonesia's national legal system has generated epistemic and normative tensions in the reform of Islamic family law.

Objective: This article examines the position of KHI as a product of the state's engagement with Islamic law through the analytical framework of state typology. **Methods:** Employing doctrinal and socio-legal approaches, the study explores how the political-religious relationship in Indonesia shapes the codification and transformation of Islamic family law. **Results:** The findings demonstrate that Indonesia occupies a distinctive position among Muslim-majority countries, representing a synthesis between secular regulation and religious accommodation. Three key findings emerge from this study: (1) KHI remains in an uncertain position within the Indonesian legal hierarchy, limiting its enforceability; (2) recent Constitutional Court decisions have reshaped the trajectory of Islamic family law reform by often bypassing formal legislative mechanisms; and (3) a more responsive legal reform requires a methodological shift from textual-normative interpretation to a contextual-substantive approach. **Conclusion:** The article concludes that future reform of Islamic family law in Indonesia must strike a balance between religious values, constitutional principles, international human rights standards, and local wisdom in order to maintain sociological legitimacy while pursuing legal certainty and justice.

Keywords: Islamic Law Compilation, Legal Reform, State Typology.

Abstrak

Ketidakjelasan status hukum Kompilasi Hukum Islam (KHI) dalam sistem hukum nasional Indonesia telah menimbulkan ketegangan epistemik dan normatif dalam proses pembaruan hukum keluarga Islam. Artikel ini mengkaji posisi KHI sebagai produk interaksi negara dengan hukum Islam melalui analisis kerangka tipologi negara. Menggunakan pendekatan doktrinal dan sosio-legal, penelitian ini mengungkap bagaimana relasi politik-agama di Indonesia memengaruhi kodifikasi dan dinamika reformasi hukum keluarga Islam. Kajian menunjukkan bahwa Indonesia menempati posisi khas di antara negara-negara Muslim mayoritas, merepresentasikan sintesis antara regulasi sekular dan akomodasi religius. Tiga temuan penting penelitian ini: (1) KHI masih berada dalam posisi tidak pasti dalam hierarki hukum Indonesia yang membatasi kapasitas penegakannya; (2) putusan-putusan Mahkamah Konstitusi terkini telah mengubah arah reformasi hukum keluarga Islam dengan sering melewati proses legislatif formal; dan (3) pendekatan yang lebih responsif terhadap pembaruan hukum keluarga Islam memerlukan pergeseran metodologis dari interpretasi tekstual-normatif ke kontekstual-substantif. Artikel menyimpulkan bahwa reformasi hukum keluarga Islam masa depan di Indonesia harus menyeimbangkan nilai agama, prinsip konstitusional, standar HAM internasional, dan kearifan lokal untuk mempertahankan legitimasi sosiologis sambil mengejar kepastian hukum dan keadilan.

Kata Kunci: Kompilasi Hukum Islam, Pembaharuan Hukum, Hukum Keluarga Islam.

Introduction

The relationship between state and religion constitutes one of the most dynamic discourses in contemporary Islamic legal studies, particularly within countries characterized by Muslim-majority populations. (Sezgin, 2023) This discourse becomes increasingly intricate when linked to state initiatives aimed at regulating and reforming Islamic family law—a domain of law that is historically and culturally intertwined with the religious identity of Muslim societies.(Kocamaner, 2019)

Indonesia, recognized as the nation with the largest Muslim population globally, exemplifies a distinct pattern of interaction between state authority and religious governance in the development and implementation of Islamic family law. The Compilation of Islamic Law (KHI), established through Presidential Instruction No. 1 of 1991, serves as a tangible representation of state intervention in Islamic family law in Indonesia. As a legal construct that does not conform strictly to a top-down (state to society) or bottom-up (society to state) dynamic, the KHI reflects the complexities inherent in Indonesia's state typology concerning Islamic law (Salim, 2008)

According to Butt (2019) the ambiguous status of the KHI within the national legal hierarchy—being merely a Presidential Instruction—highlights the unique political dynamics surrounding law in Indonesia, wherein the state endeavors to accommodate Islamic law without fundamentally altering the pluralistic character of the national legal system.

Research concerning the KHI within the framework of state typology has gained increasing relevance in light of the rising demands for reform of Islamic family law across various Muslim countries, including Indonesia. These demands have emerged as responses to the social, economic, and political transformations that have influenced the structure and function of contemporary Muslim families. However, the trajectory of Islamic family law reform in each nation is significantly shaped by the prevailing typology of state-religion relations (Kharlie, 2020)

Previous scholarship predominantly approaches the KHI through comparative analyses of legal materials with classical fiqh (Rosyadi, 2022), socio-legal evaluations of its implementation in Religious Courts (Nurlaelawati, 2010), or assessments of its impact on women's rights (Mulia, 2006). Nonetheless, studies specifically situating the KHI within the framework of state typology as a basis for analyzing the dynamics and direction of Islamic family law reform in Indonesia remain limited.

The principal questions to be addressed in this study are: How does Indonesia's position within the state-religion typology influence the characteristics of the KHI and its reform trajectory? How have the Constitutional Court's rulings on Islamic family law transformed the landscape of KHI reform? And, how can a more responsive methodological approach be cultivated for the future reform of Islamic family law in Indonesia?

Methods

This study employs a legal-normative and socio-legal approach utilizing qualitative research methods. The legal-normative method is applied to analyze the position of the Compilation of Islamic Law (KHI) within the Indonesian legal system and its

associated legal implications, whereas the socio-legal approach seeks to elucidate the socio-political context that shapes the formation and implementation of the KHI, as well as the dynamics surrounding its reform.

The research data comprises primary, secondary, and tertiary legal materials. Primary legal materials include legislation pertinent to Islamic family law in Indonesia, specifically Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, Law No. 1 of 1974 on Marriage and its subsequent amendments (Law No. 16 of 2019), as well as relevant decisions from the Constitutional Court regarding Islamic family law.

Secondary legal materials encompass scholarly works, research findings, and the perspectives of Islamic legal scholars on the KHI and the reform of Islamic family law. Tertiary legal materials consist of legal dictionaries, encyclopedias, and additional supplementary reference sources. Data collection was conducted through a literature review, involving the compilation and analysis of written materials pertinent to the research subject.

The gathered data is subsequently analyzed using descriptive-analytical and comparative methodologies. The descriptive-analytical method facilitates the description and analysis of the KHI's position within the Indonesian legal system and its relationship with the typology of state-religion interactions. The comparative method, on the other hand, enables a juxtaposition of the characteristics of Islamic family law reform in Indonesia with those in other Muslim-majority countries.

This study draws upon the four-fold state-religion typology—as conceptualized by Fox (2011) and the International IDEA framework (2016)—to situate Indonesia's KHI within a spectrum ranging from religious state to secular state, specifically: (1) religious state; (2) state with established religion; (3) religiously neutral state; and (4) secular state.

Typology of States and Characteristics of Islamic Family Law Reform

The relationship between the state and religion constitutes a fundamental and enduring factor that shapes the very architecture of a nation's legal system. This is especially salient in the realm of family law. This domain has historically functioned as the legal arena most intimately intertwined with religious doctrines, ethical norms, and communal values in Muslim societies (Stilt & Griffin, 2011). In contexts where religion permeates both private and public life, the formulation, interpretation, and reform of family law are seldom neutral processes; they are inevitably situated within broader state strategies of regulating religious authority and negotiating legitimacy.

In this regard, Künkler and Sezgin (2014) provide a compelling analytical framework for understanding the dynamics of family law reform across Muslim-majority countries by proposing a typology of state-religion relations. This typology serves as a heuristic device to discern how institutional configurations of religious authority vis-à-vis the state inform the orientation, speed, and content of legal reform, particularly in matters of personal status law. While the precise taxonomy may vary slightly across studies, a fourfold classification emerges as a useful comparative model, drawing from the work of Künkler & Sezgin (2014), Fox (2011) and the International IDEA framework (2016)

The first category comprises religious states, where a specific religion serves not only as the spiritual foundation of national identity but also as the constitutional and ideological cornerstone of the state apparatus itself. In these states, such as Saudi Arabia, Iran, and Pakistan, Islamic law (*sharīʿa*) is enshrined as the principal source of legislation. Family law in such contexts tends to remain conservative and resistant to substantive reform, as legal innovation is often constrained by the imperative to maintain fidelity to orthodox or traditionalist interpretations of religious doctrine. The close alignment between religious orthodoxy and state legitimacy renders any significant reform politically risky and socially contentious (Fox, 2011).

The second classification includes states with an established religion, wherein the constitution formally recognizes a particular religion as the state religion, while also articulating guarantees for freedom of religion. Malaysia, Egypt, and Morocco exemplify this model. In these contexts, family law reform is typically approached with caution and is often mediated through state-sanctioned religious institutions or councils. Reform efforts frequently take the form of selective reinterpretation (*ijtihād*) by religious authorities, operating within boundaries deemed acceptable by the state (Sezgin & Künkler, 2014).

The third category—religiously neutral states—refers to those constitutional systems that refrain from endorsing an official religion, yet actively acknowledge and accommodate the role of religion in the public sphere. These states, including Indonesia, Senegal, and Lebanon, present a more complex and hybridized model. Here, religion is not excluded from public life but is instead managed and negotiated through bureaucratic and judicial channels. In Indonesia, for instance, the state simultaneously promotes Pancasila as a unifying civil ideology while institutionalizing Islamic law through mechanisms such as the Compilation of Islamic Law (KHI), promulgated via Presidential Instruction No. 1 of 1991. This model tends to generate more dynamic and adaptive legal reforms, as legislative and judicial processes are more responsive to evolving social realities while still seeking to preserve religious legitimacy (Salim, 2008).

Finally, secular states are characterized by a strong and formalized separation between state institutions and religious authorities. In such systems, including pre-2011 Tunisia, Turkey, and several post-Soviet Central Asian republics, religion is largely confined to the private domain and excluded from legislative influence. Legal reforms in the field of family law are thus often shaped by universalist principles such as gender equality, individual autonomy, and human rights frameworks. These reforms are implemented with minimal, if any, reference to religious sources, reflecting a distinctively modernist and often Western-influenced legal orientation (Fox, 2011).

Taken together, this typology elucidates how the architecture of state-religion relations serves not merely as a background variable but as a structuring force that conditions the contours of Islamic family law reform. It also foregrounds the ideological, institutional, and sociopolitical stakes embedded in such reform processes—stakes that are often negotiated at the intersection of divine law, national identity, and constitutional order.

Indonesia's Position within the State-Religion Typology Spectrum

Indonesia exhibits distinctive characteristics within the spectrum of state-religion typologies. Although the Indonesian constitution does not designate any specific religion as the official state religion, the state actively accommodates and supports religious life through various institutions and public policies. The principle of 'Ketuhanan Yang Maha Esa' (Belief in One Supreme God), as the first tenet of Pancasila, affirms that Indonesia is neither a secular state in the sense of completely separating religion from state affairs nor a religious state that bases its legal system exclusively on a particular religious law.

Mahfud MD (1998) characterizes Indonesia's position as a state adhering to the 'theo-constitutional' paradigm, wherein religious values are incorporated within a pluralistic and inclusive constitutional framework. In this context, religious law may serve as a material source for the formation of national law; however, it must undergo transformation and codification under constitutional principles.

Latif (2011) further elucidates that the model of state-religion relations in Indonesia can be described as 'cooperative engagement,' whereby the state neither identifies itself with a particular religion nor adopts an indifferent stance toward religion. Instead, the state acknowledges the significant role of religion in social life and facilitates the development of religious life, including through the recognition of religious law in certain domains.

Indonesia's position in this state-religion typology has profound implications for the characteristics of Islamic family law reform. On one hand, its status as a religiously neutral state provides considerable latitude for adaptive Islamic family law reform in alignment with social developments. Conversely, the state's active accommodation of religion renders religious legitimacy a crucial consideration in the legislative and legal reform processes, including those about family law.

The Implications of State Typology on the Characteristics of the Compilation of Indonesian Islamic Law

The Compilation of Islamic Law (KHI), as a codification of Islamic family law in Indonesia, exemplifies the characteristics of a religiously neutral state that engages in cooperative involvement. Several implications of this typology for the characteristics of the KHI are as follows:

First, the formal status of the KHI within the hierarchy of Indonesian legislation underscores the state's ambivalence regarding the incorporation of religious law as positive law. Established through Presidential Instruction No. 1 of 1991 rather than through a law passed via the formal legislative process in parliament, this legal status reflects the state's cautious approach to integrating religious law within the national legal system.

Second, with respect to its content, the KHI exhibits eclectic characteristics by amalgamating various sources that extend beyond a singular school of fiqh. As elucidated by Ahmad Imam Mawardi & Achmad Kemal Riza (2019) the material underpinning the KHI is derived from fiqh texts across diverse madhāhib, jurisprudence of Religious Courts, comparative analyses with family law in other Muslim countries, and interviews with Indonesian scholars. This eclectic nature illustrates the state's endeavor to accommodate the plurality of religious interpretations within Indonesian Muslim society.

Third, the KHI employs an adaptive approach to Islamic legal principles, striving to align them with the socio-cultural context of Indonesia and the exigencies of national legal development. Nurlaelawati (2010) identifies several innovations within the KHI that exemplify the adaptation of Islamic law to the Indonesian context, such as the concept of joint property (*gono-gini*), regulations governing marriage registration, and provisions concerning polygamy.

Fourth, the drafting process of the KHI entailed collaboration between the state (represented by the Ministry of Religion and the Supreme Court) and religious authorities (including ulama and Islamic organizations). This cooperative engagement reflects a model of state-religion interaction in which the state neither dominates the formulation of Islamic family law nor cedes complete control to religious authorities.

Fifth, the implementation of the KHI through Religious Courts illustrates the state's institutional support for Islamic family law, alongside an acknowledgment of the plurality of legal systems within the national legal framework. This aligns with the concept of 'quasi-legal pluralism' posited by Lindsey & Pausacker (2016) wherein legal plurality is recognized while being integrated into a cohesive national legal structure.

The Dialectical Relationship of KHI Reform within the Framework of Constitutional Democracy in Indonesia

Since its enactment through Presidential Instruction No. 1 of 1991, the Compilation of Islamic Law (KHI) has undergone various reform efforts that reflect Indonesia's socio-political dynamics and advancements in contemporary Islamic legal discourse. These reform initiatives can be categorized into two primary trajectories: the legislative trajectory and the judicialization trajectory.

Within the legislative trajectory, several significant initiatives have been proposed to reform the KHI. The first initiative, the Counter Legal Draft KHI (CLD-KHI), was developed by the Gender Mainstreaming Team of the Ministry of Religious Affairs of the Republic of Indonesia in 2004. The CLD-KHI presents an alternative to the KHI, incorporating a more explicit perspective on gender equality and human rights. Notable and controversial proposals within the CLD-KHI include a prohibition on polygamy, equal inheritance rights for men and women, and the elimination of the requirement for a husband's consent for a wife to engage in employment outside the home. According to Abshar (2020) the CLD-KHI embodies a progressive approach to the reform of Islamic family law, prioritizing the reinterpretation of Islamic law based on the principles of justice and public interest. Nevertheless, this initiative encountered significant resistance from conservative factions and was ultimately not adopted as positive law.

The second initiative was the Draft Law on the Application of Religious Courts (RUU HTPA), developed between 2003 and 2008. This draft law sought to establish a stronger legal foundation for the KHI by elevating its status from a Presidential Instruction to formal legislation. However, the RUU HTPA failed to garner sufficient political support due to concerns that the formalization of Islamic law in legislative form would exacerbate societal polarization and potentially undermine Indonesia's cultural diversity.

On the judicial front, the KHI has been updated through rulings by the Constitutional Court (MK), which have provided constitutional interpretations of laws pertaining to family law. Significant MK rulings include:

1. MK Decision Number 46/PUU-VIII/2010, which conferred legal status upon children born out of wedlock by recognizing the civil relationship between such children and their biological fathers. This ruling fundamentally altered provisions within the KHI that had previously disregarded the relationship between children born out of wedlock and their biological fathers.
2. MK Decision No. 22/PUU-XV/2017, which amended the minimum marriage age for women from 16 to 19 years, thereby aligning it with the minimum marriage age for men. This decision was subsequently implemented through amendments to the Marriage Law via Law No. 16 of 2019.

Butt (2019) characterize this phenomenon as “judicial activism” in the context of Islamic family law in Indonesia, wherein the MK plays an active role in advancing family law reform through constitutional interpretation, thereby addressing the void left by the sluggish pace of formal legislative processes. This trend signifies a shift in the domain of Islamic family law reform from the political sphere (legislation) to the legal sphere (judicialization).

Paradigmatic Tension in the Revision of Islamic Law Compilation

Efforts to revise the Compilation of Islamic Law (KHI) in Indonesia have never been purely legalistic or administrative. Rather, they unfold within a broader field of intellectual contestation, reflecting deep-seated paradigmatic tensions over how Islamic law ought to be understood, interpreted, and applied in a modern, pluralistic nation-state. These tensions, which permeate both academic discourse and public debates, reveal divergent epistemologies about the authority of tradition, the role of context, and the relevance of universal values such as gender equality and human rights.

This paradigmatic contestation becomes particularly visible in the debates surrounding the *Counter Legal Draft of KHI* (CLD-KHI), an initiative introduced by the Gender Mainstreaming Team of the Ministry of Religious Affairs in 2004. Designed as a corrective to the normative gaps and gender asymmetries in the existing KHI, the CLD-KHI presented a more progressive and rights-oriented approach to Islamic family law reform. It advocated controversial changes such as the prohibition of polygamy, equal inheritance rights for men and women, and the removal of a husband's legal authority to restrict his wife's employment outside the home. While the draft was ultimately not adopted as binding law, it ignited national debates and revealed the fragmented ideological landscape of Islamic legal thought in Indonesia. (Marni et al., 2023)

Scholars have identified at least three distinct paradigms within this ongoing discourse. The first is the textual-conservative paradigm, which grounds legal legitimacy in the authoritative texts of classical *fiqh* and the cumulative tradition of legal orthodoxy (*taqlīd*). This paradigm tends to resist major reforms in Islamic family law, arguing that the KHI, as it stands, already embodies valid interpretations of *sharī'ah*, and thus needs only minor technical refinements. Adherents to this view generally perceive the CLD-KHI not as a legitimate exercise in *ijtihād*, but as a

transgression of established religious boundaries and a capitulation to Western liberalism.

In contrast, the contextual-moderate paradigm operates within the established methodologies of *uṣūl al-fiqh*, but calls for greater sensitivity to socio-cultural realities. It affirms the importance of *maqāṣid al-sharī'ah* (the higher objectives of Islamic law), and endorses *ijtihād* that takes into account shifting family structures, gender roles, and demographic pressures. This paradigm does not seek to discard classical jurisprudence, but rather to reinterpret it through a more historically conscious and sociologically aware lens. The KHI itself, to some extent, reflects this paradigm, particularly in its inclusion of concepts such as *marriage registration*, *joint property (gono-gini)*, and judicial oversight of polygamy.

The third paradigm is the liberal-progressive paradigm, which questions the sufficiency of classical fiqh and even the traditional *uṣūl* framework for addressing contemporary issues of justice, equality, and personal autonomy. Proponents of this view emphasize universal principles—such as human dignity, gender equality, and democratic participation—as foundational norms for reconstructing Islamic family law. They regard the CLD-KHI not merely as a legal reform, but as a theological and epistemological intervention. In this paradigm, reinterpretation (*ta'wīl*) is not confined to within the fiqh framework, but is situated in broader interdisciplinary approaches that draw from feminist hermeneutics, critical legal theory, and international human rights law. (Mir-Hosseini et al., 2015)

These paradigms are not merely abstract categories. They manifest in institutional alignments, public rhetoric, and legislative lobbying, thus shaping the political terrain of Islamic family law reform in Indonesia. As observed by Marni, Hanani, and Nofiardi (2023), the collision between these paradigms—particularly between the conservative and progressive blocs—has impeded the development of a unified, coherent, and widely accepted framework for reforming the KHI. The failure of the CLD-KHI to gain traction, despite its academic and normative sophistication, illustrates how religious authority, political power, and gender ideology intersect in complex and often contentious ways.

In sum, any attempt to reform Islamic family law in Indonesia must contend not only with institutional inertia or legal ambiguity, but also with the profound epistemological fault lines that undergird the field. Recognizing and navigating these paradigmatic tensions is essential for envisioning a future legal framework that is both normatively legitimate and socially responsive.

The Role of the Constitutional Court in the Reconfiguration of Islamic Family Law in Indonesia

Since the post-reform era, the Constitutional Court (MK), endowed with the power to review constitutionality, has played a pivotal and proactive role in reshaping Islamic family law. Rather than merely nullifying problematic statutes (*negative legislator*), the MK has instigated societal and legal shifts through its landmark jurisprudence.

One of the most significant cases is Decision No. 46/PUU-VIII/2010, which reinterpreted the civil rights of children born out of wedlock. Prior to this ruling, Article 43(1) of the Marriage Law restricted these children to maternal lineage only. The Court, however, concluded that such limitation was unconstitutional, declaring that a child may also have civil ties with their father, provided that biological

paternity is scientifically proven. (Hidayat et al., 2022) This ruling established a new legal norm: children born outside marriage are entitled to both maternal and paternal civil rights, setting a precedent for inclusive family law reform.

Subsequent studies document that the implementation of Decision 46/PUU-VIII/2010 has led to varied judicial interpretations across Religious Courts. While some judges have adhered to conservative norms, limiting rights to those of the mother, others adopted a progressive stance, acknowledging equal status and inheritance rights for children who have proven paternity. (Rohmawati & Rofiq, 2021) These divergent applications underscore the transformative yet contested nature of judicial reform in Islamic family law.

This judicialization marks a paradigm shift: the Court is now not only responding to constitutional imperatives but also *catalyzing* family law reform. Its decisions, such as the minimum marriage age equalization and the inclusion of civil rights for illegitimate children, reflect a broader progressive constitutional interpretation. However, these reforms also raise questions of religious and democratic legitimacy. Do judicial rulings reflect the aspirations of the Indonesian Muslim majority? Do the Court's methods align with principles of *usul fiqh* or do they represent a form of judicial activism detached from religious epistemology?

This complexity identifies a tension between juridical progressiveness and communal legitimacy, highlighting the challenge of anchoring reform in both constitutional rights and religious authenticity. The Constitutional Court has, undeniably, become a driver of socio-legal change in the domain of Islamic family law, but with its legitimacy continually under scrutiny.

Methodological Critique of the Compilation of Islamic Law and Initiatives for Its Reform

Although the Compilation of Islamic Law (Kompilasi Hukum Islam, or KHI) has made a significant contribution to the codification and unification of Islamic family law in Indonesia, several methodological criticisms warrant consideration for the advancement of more responsive and progressive reforms in the future.

One major critique concerns the eclectic-pragmatic approach employed in the formulation of the KHI. This method, which merges provisions from various schools of fiqh without an articulated or coherent methodological framework, is seen by some scholars as producing a doctrinal patchwork that lacks philosophical clarity and normative consistency. While this eclecticism was perhaps intended to accommodate Indonesia's legal pluralism, it often privileges juridical compromise over foundational values such as gender justice and human dignity. Mawardi et al. (2019) note that such eclecticism risks reducing legal reasoning to a selective and instrumental process, undermining both doctrinal depth and public legitimacy.

A second critique points to the predominance of a textual-normative paradigm within the KHI. Although the compilation includes certain contextual innovations, the majority of its provisions continue to reflect traditionalist fiqh interpretations rooted in classical texts. This tendency is considered insufficient to address the complex realities of contemporary Muslim family life in a rapidly transforming Indonesian society. As Zulfa et al. (2025) argue, the KHI reflects a cautious reformism that falls short of the transformative potentials of contextual *ijtihad*.

Third, the KHI exhibits a limited integration of contemporary methodologies developed within the field of *usul al-fiqh*. Imam Mawardi (2010), for instance, demonstrates that two significant paradigms in contemporary Islamic legal thought, namely *maqāṣid al-sharī'ah* and *fiqh al-aqalliyyāt* (minority jurisprudence), have not been optimally incorporated into the KHI's interpretive structure. These approaches, which emphasize purposive reasoning and sociological responsiveness, offer a more flexible and future-oriented foundation for Islamic legal reform, particularly in diverse and democratic contexts like Indonesia.

A fourth point of contention lies in the KHI's limited interdisciplinary orientation. Scholars have observed that the formulation of its provisions lacks serious engagement with insights from the social sciences, such as anthropology, sociology, and psychology, which are essential for grasping the empirical realities of family life and gender relations. This deficiency results in legal formulations that may be formally valid but socially disconnected. As noted in a recent study by Angkupi and Taufiq Angkupi, (2025). the absence of an interdisciplinary perspective narrows the ability of Islamic family law to respond to the evolving psychological and cultural configurations of Muslim families in Indonesia.

Lastly, the legal legitimacy of the KHI remains precarious. The compilation was issued not through legislative deliberation but by Presidential Instruction No. 1 of 1991, a status that places it in a legally ambiguous position within the Indonesian hierarchy of laws and regulations. Because of this, its implementation is often inconsistent and vulnerable to conflicting interpretations across religious courts and bureaucratic institutions. This legal fragility reflects what Angkupi and Taufiq interpret as the state's ambivalence toward the formal integration of Islamic law into the national legal system. (Angkupi & Taufiq, 2025)

In sum, while the KHI remains a landmark in Indonesia's Islamic legal history, these methodological concerns highlight the urgency of pursuing a more coherent, inclusive, and interdisciplinary reform agenda, one that can reconcile doctrinal integrity with constitutional values and socio-cultural realities.

The Direction of KHI Reform within the Context of Indonesian State Typology

Based on an analysis of Indonesia's typology as a religiously neutral state with cooperative engagement with religion, and reflecting methodological critiques of the *Kompilasi Hukum Islam* (KHI), several strategic directions emerge for reform:

First, enhancing the legal status of the KHI within the national legal framework is paramount. Angkupi and Taufiq (2025) argue that the current form of KHI as a Presidential Instruction (No. 1/1991) lacks sufficient legislative authority, resulting in inconsistent enforcement across religious courts. They recommend upgrading the KHI into a fully regulated Presidential Regulation or, ideally, a formal law to ensure stronger legal legitimacy and uniform application.

Second, establishing an integrative methodology for reform is essential. (Angkupi & Taufiq, 2025) Further propose that reforms should blend classical *fiqh* traditions with contemporary *uṣūl al-fiqh*, especially *maqāṣid al-sharī'ah*, and incorporate insights from social sciences to craft Islamic family law that is both theologically sound and socially relevant.

Third, prioritizing constitutional and human rights perspectives remains crucial. The Constitutional Court's jurisprudence, particularly in granting rights to children born out of wedlock and reaffirming minimum marriage ages,

demonstrates that aligning the KHI with state constitutional principles is feasible and normative. These rulings illustrate that *maqāṣid* objectives and human dignity are mutually reinforcing, legitimizing reform in a democratic context.

Fourth, incorporating local wisdom into KHI reform is both feasible and necessary. Feener & Cammack (2007) highlight how Indonesian Islamic law has organically integrated local practices, such as *gono-gini* (marital shared property), into everyday jurisprudence. They emphasize that acknowledging these indigenous legal traditions enriches KHI's cultural resonance and legitimacy.

Fifth, reinforcing an evidence-based approach is imperative. Angkupi and Taufiq (2025) emphasize the integration of socio-legal field research and judicial audits into the reform process. Grounding revisions in empirical realities ensures that the KHI responds to the actual needs of Muslim families, enhancing relevance and effectiveness.

In conclusion, the reform of the *Kompilasi Hukum Islam* (KHI) must be situated within Indonesia's unique typology as a religiously neutral yet cooperatively engaged state. This positioning demands not merely legal formalization, but also methodological renewal that harmonizes classical Islamic jurisprudence with contemporary constitutional values, human rights principles, local wisdom, and empirical socio-legal insights. Reform, therefore, should not be seen as a departure from Islamic tradition, but rather as a dynamic re-engagement, one that preserves religious authenticity while responding constructively to the lived realities of Indonesian Muslim families in a plural and democratic society.

A Responsive KHI Update Model within the Framework of Indonesian State Typology

Based on Indonesia's classification as a religiously neutral state that cooperatively integrates religious values, and grounded in existing critiques of the *Kompilasi Hukum Islam* (KHI), a progressive reform model emerges that aligns with the nation's pluralist identity and democratic values.

First, the practice of gradual-substantive reform, changes that are significant yet implemented incrementally, has proven effective in preventing backlash and promoting stability. This aligns with the broader post-Reformasi era of democratic transition, which favored measured and consensual legal updates rather than abrupt shifts. The example of Supreme Court Circulars (SEMA) from 2012–2022—produced to supplement existing family law using *maqāṣid* principles—illustrates how incremental reform can align legal norms with social values without provoking resistance. (Angkupi & Taufiq, 2025)

Second, plural consensus-based reform is crucial in Indonesia's multifaceted religious landscape. Reform legitimacy grows through broad stakeholder engagement, including minority Muslim voices—such as Muslim women scholars recently gaining visibility through the KUPI (Indonesian Women Ulama Congress). (Rohmaniyah et al., 2022) Such inclusive deliberation aligns with Indonesia's democratic ethos and enhances trust in the reform process.

Third, constitutional-religious synergy is clearly demonstrated in recent Constitutional Court rulings that harmonize Islamic principles with constitutional mandates. In particular, Decision No. 46/PUU-VIII/2010 recognized civil rights for children born out of wedlock, allowing them legal ties to both parents when paternity is proven—thereby aligning national law with *maqāṣid al-sharī'ah* and human dignity principles. (Cholis, 2020) Additionally, other decisions raising the

legal marriage age have reinforced the alignment among Sharia objectives, constitutional norms, and children's rights, affirming that Islamic jurisprudence can coexist with universal human rights aims.

Fourth, the principle of local wisdom integration embodies Indonesia's jurisprudential pluralism. The concept of *Islam Nusantara*, promoted since the 33rd Nahdlatul Ulama Conference (2015), encourages embedding local customs, such as communal property sharing (*gono-gini*) and adat inheritance, into Islamic legal interpretations, fostering moderation, cultural compatibility, and community-based jurisprudence. (Arrasyid et al., 2024) Feener and Cammack's (2007) extensive ethnographic and legal studies reinforce that most family law practices in Indonesia have been "indigenized" over time through these vernacular adaptations.

Fifth, an evidence-based reform approach has become increasingly integral. Between 2012 and 2022, the Supreme Court issued ten family-law-focused Circulars (SEMA), producing 109 new rules guided by *maqāṣid al-sharī'ah* and mixed-method research. (Arrasyid et al., 2024) These policy developments reflect a conscious shift toward data-informed jurisprudence that aligns legal provisions with lived realities.

In conclusion, the reform of the Kompilasi Hukum Islam (KHI) within the framework of Indonesia's religiously neutral yet cooperatively engaged state typology reveals a multi-layered model rooted in pluralism, constitutionalism, and responsiveness. Rather than imposing abrupt doctrinal revisions, Indonesia's trajectory favors a gradual-substantive transformation that respects societal tempo and legal continuity, as exemplified by the *maqāṣid*-oriented Supreme Court Circulars. This is complemented by a plural-consensual approach, where legitimacy is nurtured through inclusive deliberation involving not only mainstream authorities but also emerging voices like women ulama. Simultaneously, constitutional-religious synergy has been affirmed through landmark rulings, such as the recognition of out-of-wedlock children's civil rights, demonstrating that *maqāṣid al-sharī'ah* and constitutional human rights need not be antagonistic. The integration of local wisdom through *Islam Nusantara* deepens contextual legitimacy, weaving adat values into Islamic legal reasoning without forfeiting authenticity. Finally, the embrace of an evidence-based reform paradigm, as seen in the empirical grounding of legal updates, underscores a shift toward dynamic, contextual jurisprudence, one that not only honors Indonesia's socio-religious complexity but also aspires toward substantive justice rooted in lived realities.

Conclusion

This article demonstrates that Indonesia's Compilation of Islamic Law (KHI) is a product of cooperative engagement between the state and religion within the framework of a religiously neutral state typology, resulting in a legal instrument that is compromise-based, weak in juridical status, and largely driven by a textual-normative methodology. The study finds that the reform of Islamic family law in Indonesia has shifted from the legislative arena to the judiciary, with the Constitutional Court playing a pivotal role in advancing progressive legal transformation through constitutional interpretation. The novelty of this research lies in its integration of state typology analysis with a methodological critique of KHI, offering a new analytical lens to understand the trajectory of Islamic family law reform in Indonesia. Future research may explore the practical dimension of KHI reform through empirical, field-based studies, particularly to examine how the

application of KHI interacts with social pluralism and religious dynamics at the grassroots level.

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